

NORWICH PLANNING COMMISSION
AGENDA
Tuesday May 11, 2021
NOTE DATE & START TIME 6:30pm

Topic: Planning Commission
Time: May 11, 2021 06:30 PM

Join Zoom Meeting https://us02web.zoom.us/j/89339717735 888 475 4499 US Toll-free 877 853 5257 US Toll-free Meeting ID: 893 3971 7735

1. Approve Agenda
2. Meeting Objectives:
 - i) Appoint Planning Commission Chair and Vice-Chair
 - ii) Planning Commissioner code of conduct, ethics
3. Comments from the Public [5 mins]
4. Review and approve Minutes April 13, 2021 [5 mins]
5. Announcements, Reports, Updates & Correspondence [5 mins]
 - i) Correspondence
 - ii) Updates
 - a. Town of Hartford re: Norwich wastewater study
6. Appoint Planning Commission Chair, Vice-Chair [10 mins]
7. Planning Commissioner code of conduct, ethics [20 mins]
8. Dialog with neighboring town planning commissions [5 mins]
9. Other Business [5 mins]
10. Future Meeting Schedule & Agendas [5 mins]
11. Comments from the Public [5 mins]
12. Adjourn

Future Meetings:

June 15, 2021

July 20, 2021

Encl:

Draft Minutes, April 13
Planning Commission Bylaws
Selectboard Conflict of Interest Policy

NORWICH PLANNING COMMISSION
Tuesday April 13, 2021, 6:30pm

DRAFT MINUTES

Zoom Meeting

<https://us02web.zoom.us/j/89339717735>

Meeting ID: 893 3971 7735

Members Present: Brian Loeb, Jaci Allen, Jeff Lubell, Leah Romano, Ernie Ciccotelli, Jeff Goodrich
Public Present: Mary Layton, Stuart Richards, Linda Cook, Roger Arnold, Claudette Brochu, Robert Gere, Elissa Close
Staff: Rod Francis

Meeting Opened: 6:33pm

1. Approve Agenda:

Allen moved and Goodrich seconded a motion to amend the agenda to defer the election of officers to the May meeting. Motion carried 6 - 0.

Lubell moved and Loeb seconded a motion to defer item 7, Planning Commissioner code of conduct, ethics to the May meeting. Motion carried 6 - 0.

Goodrich moved and Loeb seconded a motion to treat item 8 wastewater study as separate items: i) any deliberation or action on the wastewater situation with regard to the Marion Cross School (MCS) which may include Lubell's suggested resolution, and ii) general discussion concerning a wastewater study.

Goodrich sought clarification with regard to the discussion of item 8 wastewater study asking if it included the proposed resolution from Lubell circulated in the packet. If so, he would recuse himself from any action taken by the commission with regard to MCS, but sought to be recognized as a member of the public in any more general discussion of wastewater.

Allen sought clarification with regard to what recusal means and the extent to which a commissioner who seeks recusal can then subsequently participate in the deliberation and discussion.

Goodrich responded that he cannot participate in the deliberative process or any action (vote) that involved his client the Norwich School District (NSD) - Marion Cross School, he asked that he be allowed to sit in the audience and be afforded the same recognition as a member of the public.

Allen sought further clarification with regard to a commissioner participating as a member of the public.

Francis clarified that a commissioner is an appointed member of a commission who is compelled to recuse themselves due to an observed conflict they should remain silent or preferably absent themselves so that there is no suggestion that they have influenced the deliberations or actions of the commission.

Goodrich suggested that in his time working in Vermont and New Hampshire he had seen various commissioners and board members step down from their roll on the commission or board, represent a client or application to the board or commission, not participate in the deliberations or actions, and then resume their appointed seat.

Goodrich agreed to withdraw his motion and it was decided not to break up item 8 discussion of wastewater study into two parts.

Lubell moved and Loeb seconded a motion to approve the agenda as amended by the preceding two motions. Motion carried 6 - 0.

2. Meeting Objectives:

- Discussion of wastewater issues

3. **Public Comment:** Stuart Richards asked for clarification that there will be no public input sought on the substantive item (wastewater issues) on the agenda, and expressed disappointment with the decision not to allow public comment.
4. **Review and approve Minutes March 4, 2021:**
Allen moved and Lubell seconded a motion to approve the minutes of March 4, 2021. Motion carried 5 – 0 – 1.
5. **Announcements, Reports, Updates & Correspondence:**
 - Updates: Loeb informed the meeting on the work of the Childcare Committee which includes:
 - i. one-on-one interviews with childcare providers
 - ii. designing a survey for childcare customers
 - iii. working with Let's Grow Kids on identifying the most effective forms of municipal support for childcare delivery

6. **Discussion of wastewater study**

Francis informed the meeting about the Clean Water State Revolving Loan Fund (CWSRLF) and discussions he had with Tom Brown the Team Lead for the program operated by the Agency of Natural Resources (ANR) Department of Environmental Conservation (DEC).

- There is no calendar for making application to the fund, applications may be submitted anytime
- The program supports feasibility and preliminary engineering studies
- For studies the program covers 50 percent of eligible costs, municipalities may defer payments on the remaining 50 percent (their contribution) for five years and then make 5 annual payments. The loans are interest free
- Typical studies similar to Norwich are approximately \$30,000
- If the studies result in an approved capital project, the study costs are rolled over into the capital loan for the project, further delaying the repayment
- The program reviews a town's Request for Qualifications (RFQs) and then authorizes the process

Francis commented on the recent decision by the Governor to make village wastewater treatment a priority for the allocation of the expected federal American Rescue Plan Act (ARPA) when they become available, but suggested it was too early to tell how the state proposed to disburse these funds.

Commissioners continued to discuss the CWSRLF program and how it fit with the objectives of the commission. Romano observed that there is a connection between the need for NSD to resolve ongoing wastewater challenges and the purpose of this study. Lubell asked if there had been any further information provided by the Norwich School District. Francis told the meeting that there had been no correspondence from NSD.

Stuart Richards directed the meeting to the most recent minutes from an NSD meeting which indicated that during the month of April there will be extensive testing exploring other properties.

Ciccotelli noted that NSD as a key stakeholder is yet to provide any direction to the Commission or the town.

Lubell introduced the text of a resolution he prepared which was circulated in the packet:

- The Planning Commission recommends that the town of Norwich procure a wastewater study on an expedited basis to assess the need and demand for, and technical feasibility and potential cost of, a wastewater solution for the village center area and along potential routes to connect to either the Hanover or Hartford sewer systems. The study should also look at alternative wastewater solutions, engage Norwich residents to gauge their view and concerns, and identify potential solutions to meet the needs identified, including the needs of the school as well as the needs of other landowners in Norwich. The study will also provide valuable input for the review of the town's land use regulations called for by the Norwich town plan.
- The study will help the Planning Commission make an informed recommendation about how to address the school district's needs and whether and if so how to meet any other wastewater needs identified through the study.

- As the study proceeds, the Planning Commission recommends that the town engage the school district, and other parties working with the district, to better understand their proposal and its technical and financial feasibility.

Commissioners discussed the proposed resolution.

Roger Arnold referenced relevant actions from the 2020 town plan which identify the need for a wastewater study in support of economic development, ensuring the ongoing viability of the village and revising land use regulations. He indicated that the Selectboard is looking for a recommendation from the Planning Commission that furthers work on these action items included in the town plan.

Stuart Richards commented that there have been studies on this topic every ten to fifteen years, in each instance the conclusion was similar, the village doesn't need to hook up to a neighboring town's treatment system, and the costs are too high. MCS does need a wastewater solution, but that doesn't necessarily mean hooking up to a municipal system.

Lubell moved and Loeb seconded a motion to approve the resolution. Motion carried 5 – 0 – 1

7. Other Business: None

Public Comment: Stuart Richards commented that if the Selectboard accepts this recommendation then it first needs to make a determination concerning who agrees to hook up to any municipal system and what are they are willing to pay.

8. Goodrich moved and Allen seconded a motion to adjourn. Motion carried 6 – 0.

Meeting adjourned: 8:29pm

Future Meetings:

Tuesday, May 11, 6:30pm Regular Meeting

Tuesday, June 8, 6:30pm Regular Meeting

Respectfully submitted,

Rod Francis

Subject: FW: Response from Hartford on Norwich Sewer Study

From: Herb Durfee <HDurfee@norwich.vt.us>

Date: 4/29/2021, 10:29 AM

To: Claudette Brochu <cbrochu30@gmail.com>, Marcia Calloway <mbscalloway@gmail.com>, Mary Layton <marydlayton@gmail.com>, Rob Gere <rgere@mac.com>, Roger Arnold <rogerarnoldvt@gmail.com>

CC: Miranda Bergmeier <MBergmeier@norwich.vt.us>, Rod Francis <norwichvtplanner@gmail.com>, Pam Mullen <PMullen@norwich.vt.us>

Board Members,

For your information, see the below e-mail string.

Herb

Herbert A. Durfee, III

Town Manager

Town of Norwich

PO Box 376

Norwich, VT 05055

802-649-1419 ext. 102

802-698-3000 (cell)

802-649-0123 (fax)

From: Herb Durfee

Sent: Thursday, April 29, 2021 10:28 AM

To: 'Tracy Yarlott-Davis'

Cc: Dan Fraser; Roger Arnold; Mary Layton; Thomas Candon

Subject: RE: Response from Hartford on Norwich Sewer Study

Thx, Tracy. Just wanted the clarification.

Herb

Herbert A. Durfee, III

Town Manager

Town of Norwich

PO Box 376

Norwich, VT 05055

802-649-1419 ext. 102

802-698-3000 (cell)

802-649-0123 (fax)

From: Tracy Yarlott-Davis [mailto:tyarlott-davis@hartford-vt.org]

Sent: Thursday, April 29, 2021 8:41 AM

To: Herb Durfee

Cc: Dan Fraser; Roger Arnold; Mary Layton; Thomas Candon

Subject: RE: Response from Hartford on Norwich Sewer Study

Hi Herb,

We're all very aware that the School District is a separate entity. Dan and I are chosen to provide communication from us on the issue.

There's been a lot of back and forth so I'm emailing to say that we are not interested in being an option in Norwich's sewer study. <https://www.vnews.com/Norwich-Planning-Commission-endorses-sewer-study-40075836>

Tracy Yarlott-Davis

Town Manager
Town of Hartford
171 Bridge Street
White River Junction, Vermont 05001
802-295-9353

As a COVID-19 safety precaution, Town of Hartford staff members are currently working remotely. Addressing residents' concerns and questions remains a high priority. We appreciate your patience as we adapt to virtual communications.

From: Herb Durfee [mailto:HDurfee@norwich.vt.us]
Sent: Wednesday, April 28, 2021 3:25 PM
To: Tracy Yarlott-Davis <tyarlott-davis@hartford-vt.org>
Cc: Dan Fraser <dfraser@hartford-vt.org>; Roger Arnold <rogerarnoldvt@gmail.com>; Mary Layton <marydayton@gmail.com>; Thomas Candon <thomas.candon@hnsb.org>
Subject: RE: Response from Hartford on Norwich Sewer Study

[EXTERNAL EMAIL: DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi, Tracy. I understand Hartford's position, but for the statement that, "...Hartford must communicate solely with the Norwich Selectboard and its Town Manager". Not only does this seem like an odd statement to make, but in Vermont school districts are considered separate "municipalities" (unless otherwise differently arranged by legislative charter).

So, if you're trying to make a distinction that the Norwich School District operates under the purview of the Town, that is incorrect. They are independent of the Town though we have mutual interests and share the same constituency. Further, if Hartford were to agree to take MCS's wastewater, it's likely the entire wastewater line would locate within the VTrans Route 5 ROW – a situation that clearly interests the Town but has little, if any, jurisdiction over. If there were taps allowed off of that single purpose line then I'm sure the Town and some of its citizens would want to take a more active role, including but not necessarily limited to any required permitting via the Town's Planning/Zoning Dept or that of District Environmental Commission (i.e., Act 250).

Thanks in advance for clarifying. It's appreciated.

Herb

Herbert A. Durfee, III
Town Manager
Town of Norwich
PO Box 376
Norwich, VT 05055
802-649-1419 ext. 102
802-698-3000 (cell)
802-649-0123 (fax)

From: Tracy Yarlott-Davis [mailto:tyarlott-davis@hartford-vt.org]
Sent: Wednesday, April 28, 2021 1:55 PM
To: Herb Durfee; rogerarnoldvt@gmail.com
Cc: Dan Fraser
Subject: Response from Hartford on Norwich Sewer Study

Dear Roger and Herb,

For over 18 months, the Norwich School Board has requested multiple times that Hartford enter into formal discussions to have portions of the Hartford wastewater system be extended into Norwich. This was primarily in response to long-standing septic issues at the Marion Cross School. We have informed the Norwich School District that the Town of Hartford must communicate solely with the Norwich Selectboard and its Town Manager. Additionally, Town Staff and Selectboard members have regularly stated their apprehension in continuing these discussions.

Based on our current town plan, sewer study, current waste water capacity, and current significant capital improvement projects, we cannot entertain future discussions regarding this issue. We wish you all the best in managing your Town Sewer Study.

Dan Fraser
Chair, Selectboard, Town of Hartford

Tracy Yarlott-Davis
Town Manager, Town of Hartford

Tracy Yarlott-Davis

Town Manager
Town of Hartford
171 Bridge Street
White River Junction, Vermont 05001
802-295-9353

As a COVID-19 safety precaution, Town of Hartford staff members are currently working remotely. Addressing residents' concerns and questions remains a high priority. We appreciate your patience as we adapt to virtual communications.

Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

Please note that any response or reply to this electronic message may be subject to disclosure as a public record under the Vermont Public Records Act.

Subject: Open Meeting Law Violations

From: Stuart Richards <stuartlrichards50@gmail.com>

Date: 4/26/2021, 4:31 PM

To: Mary Layton <marydlayton@gmail.com>, Claudette Brochu <cbrochu30@gmail.com>, Bob Gere <rgere@mac.com>, Roger Arnold <rogerarnoldvt@gmail.com>, Marcia Calloway <msbcalloway@gmail.com>, Herb Durfee <HDurfee@norwich.vt.us>, Miranda Bergmeier <mbergmeier@norwich.vt.us>, Melissa Horwitz <horwitzmelissa@gmail.com>, Ernest Ciccotelli <ernieciccotelli@gmail.com>, Jeff Goodrich <Jeff.Goodrich@pathwaysconsult.com>, Jeff Lubell <jefflubell@yahoo.com>, Rod Francis <norwichvtplanner@gmail.com>, Leah Romano <leah.romano@gmail.com>, Leah Romano <leah.romano@gmail.com>, <loebbrian@gmail.com>, Jaci Allen <allenjaci@gmail.com>

CC: Chris Katucki <kals95@startmail.com>

Dear Selectboard and Planning Commission Members,

This email is formal notice of Open Meeting Law (OML) violations by Planning Commission Chair Melissa Horwitz and former Planning Commission Chair Jaci Allen. The email chain below describes the violations and the original discussion between Chris Katucki and Melissa Horwitz which was the original trigger for the violation can be found here: <https://tinyurl.com/2ruhrrdd9>

Please note that personal communication between the individual involved parties would not have resulted in a violation. However the use of email which involved a quorum of the Planning Commission and the use of Planning Commission letterhead which made it look like it represented an official Planning Commission document when in fact it was the opinion of one Commissioner is a violation of the OML. There was not any authorization or discussion of Ms. Horwitz's critique of Chris Katucki's blog concerning Norwich's waste water system by the Planning Commission at any regular or special Planning Commission meeting. Nor has there been any authorization for Ms. Allen to communicate with a quorum of the Planning Commission by email. Norwich has spent considerable money to educate volunteers in the Open Meeting Law. In addition, Norwich is currently being sued over Open Meeting Law violations. One would think that these violations would stop. Kindly act within 10 days to recognize these violations and an additional 14 days to cure the violations. In addition, please make this email chain a part of correspondence for both the Selectboard and the Planning Commission.

Stuart Richards

From: Jaci Allen <allenjaci@gmail.com>

Date: Friday, April 23, 2021 at 12:06 PM

To: Stuart Richards <stuartlrichards50@gmail.com>

Cc: Chris Katucki <kals95@startmail.com>, Mary Layton <marydlayton@gmail.com>, Claudette Brochu <cbrochu30@gmail.com>, Bob Gere <rgere@mac.com>, Roger Arnold <rogerarnoldvt@gmail.com>, Marcia Calloway <msbcalloway@gmail.com>, Melissa Horwitz <horwitzmelissa@gmail.com>, Ernest Ciccotelli <ernieciccotelli@gmail.com>, Jeff Goodrich <Jeff.Goodrich@pathwaysconsult.com>, Jeff Lubell <jefflubell@yahoo.com>, Herb Durfee <HDurfee@norwich.vt.us>, Miranda Bergmeier <mbergmeier@norwich.vt.us>, Rod Francis <norwichvtplanner@gmail.com>

Subject: Re: Marion Cross Wastewater and Norwich Wastewater

Stuart,

I hope you can find it in your heart to back down on this. A conscientious, talented volunteer was trying to do her job. Chris is good. Let's all be good, and reserve our finite energies. Constant confrontation hurts our town, which I think you care a great deal.

Thanks for considering.

Jaci

On Apr 22, 2021, at 9:10 PM, Stuart Richards <stuartlrichards50@gmail.com> wrote:

Chris,

Glad to hear that Melissa corrected herself to you but since she had copied the entire PC in her original letter and used Planning Commission letterhead it would seem that she needs to directly and publicly acknowledge her error and that her correction to you is a good start but further public action on her part is necessary with a pledge that she will follow the rules in the future.

Stu

From: Chris Katucki <kals95@startmail.com>

Date: Thursday, April 22, 2021 at 7:29 PM

To: Stuart Richards <stuartlrichards50@gmail.com>, Mary Layton <marydlayton@gmail.com>, Claudette Brochu <cbrochu30@gmail.com>, Bob Gere <rgere@mac.com>, Roger Arnold <rogerarnoldvt@gmail.com>, Marcia Calloway <msbcalloway@gmail.com>

Cc: Melissa Horwitz <horwitzmelissa@gmail.com>, Jaci Allen <allenjaci@gmail.com>, Ernest Ciccotelli <ernieciccotelli@gmail.com>, Jeff Goodrich <Jeff.Goodrich@pathwaysconsult.com>, Jeff Lubell <jefflubell@yahoo.com>, Herb Durfee <HDurfee@norwich.vt.us>, Miranda Bergmeier <mbergmeier@norwich.vt.us>

Subject: RE: Marion Cross Wastewater and Norwich Wastewater

Stuart:

Melissa advised me the next day that she was speaking only for herself. I'm good.

Thanks,

Chris

From: Stuart Richards

Sent: Thursday, April 22, 2021 2:43 PM

To: Mary Layton; Claudette Brochu; Bob Gere; Roger Arnold; Marcia Calloway

Cc: Melissa Horwitz; Jaci Allen; Ernest Ciccotelli; Jeff Goodrich; Jeff Lubell; Chris Katucki; Herb Durfee; Miranda Bergmeier

Subject: Marion Cross Wastewater and Norwich Wastewater

Dear Selectboard Members,

The past week Melissa Horwitz, Chair of the Norwich Planning Commission and Chris Katucki, a respected Norwich blogger have engaged in a difference of opinion regarding the advisability of extending a wastewater sewer line connected to neighboring municipalities into downtown Norwich in so far as that "might undermine" efforts to cure the failure of the Marion Cross wastewater system. Further, Ms. Horwitz says Mr. Katucki's blog "contains factual errors and is misleading." Both are attorneys and both are certainly entitled to their respective opinions. However what Ms. Horwitz is not entitled to do is to represent on Norwich Planning Commission stationery that she speaks for the Planning Commission in expressing her views. Please see the attached document and print it out for Selectboard correspondence along with this email. The last Planning Commission meeting occurred on April 13. Mr. Katucki's blog is dated April 18 and Ms. Horwitz's reply is dated April 20. To my knowledge the Planning Commission has not publicly met to discuss rebutting Mr. Katucki's views nor have they authorized Ms. Horwitz authority to rebut Mr. Katucki's views. I ask that the Selectboard prohibit Ms. Horwitz from exercising authority which has not been granted to her and that the

Selectboard take whatever other actions they feel are necessary in this situation.

There's a whole lot more to discuss regarding the advisability of spending \$30,000 or less depending on grants for a study to hookup to neighboring municipalities given that this has been studied at least 3 previous times. The last Sewer Study in 2005 found that it would be prohibitively expensive to hookup the village to neighboring municipalities and that there was no environmental need for municipal wastewater.. The study can be found here: <https://tinyurl.com/ubpjzcn>

In addition, two surveys, one in 2005 with around 1000 respondents and another in 2018 with around 500 respondents found that around 54% wanted to see a relatively stable population. (Question 4-2005 and 6-2018). Moreover, with regard to municipal wastewater in the 2018 Survey Question 33, 69% of respondents said having a Norwich treatment plant was of no priority or low priority. Having a hookup to Hartford/Hanover was of no priority or low priority for 58% of respondents. In the 2005 Survey respondents were asked how much they were willing to have their taxes go up in Question 31. 76% said they didn't want any increase or not much of an increase for a Norwich wastewater system. For a hookup to Hartford/Hanover 70% said they didn't want any increase or not much of any increase in taxes. Given these survey results one has to wonder why there's such a push for (more) intense development in Norwich. The links to the two Surveys are below:

2018 Survey: <https://tinyurl.com/yre44w77>

2005 Survey: <https://tinyurl.com/9eme4583>

Thanks for reading ,

Stuart Richards

Please include this email and the correspondence between Ms. Horwitz and Mr. Katucki