



## OAK BLUFFS PLANNING BOARD

Meeting Minutes

APRIL 9, 2020

5:00 p.m. / Virtual Zoom Meeting

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**Members in Attendance:** Ewell Hopkins, Erik Albert, Bill Cleary, Mark Crossland, JoJo Lambert

**Members Absent:**

**Staff in Attendance:** Kim Leaird (*Administrator*)

**Attendees:** Chris Huntress, Richard Toole, A Wilson, Joe Sullivan, Peter Bradford

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*Chairperson Hopkins opened the meeting at 5:02 p.m.*

### **Approval of Minutes**

**Ewell Hopkins – Chairperson:** I'll bring the meeting to order of the Oak Bluffs Planning Board on Thursday, April 9, 2020 at 5:02pm — Zoom meeting virtual. First point of business is to review minutes. Take a minute and look through the Minutes and tell me if you have any questions.

*Bill Cleary made a motion to accept the March 26 2020 meeting minutes as written. JoJo Lambert seconded the motion. All were in favor.*

### **Discussion of the March 27, 2020 APA/MAPD Webinar on “Keeping Planning Responsive to Covid-19”**

**Ewell Hopkins:** The next issue on the agenda is a discussion of the webinar that Kim attended I hope you've all had a chance to at least scan through and listen [as well]. Kim and I highlighted some key points that we wanted to share

JoJo Lambert: I took notes and [listened to] the whole thing.

Mark Crossland: I took notes as well and highlighted stuff.

*Chairperson Hopkins asked if Kim could walk them through some of the highlights.*

Kim Leaird: I attended the webinar before the legislation passed last week (April 3), so a lot of what they were recommending not happen has now been officially sanctioned in the legislation. (*Application time clocks are stayed as of March 10, 2020, on existing applications; boards and committees should consider not holding public hearings until emergency order is lifted; important to ensure that there is appropriate widespread public access for projects, especially contentious ones.*)

Ewell Hopkins: There are definitely some key points that I wanted to bring up for people to see and talk about. One of the issues was how we handle virtual meetings like this. So I just wanted to spend a few moments and make sure people understood what that process was and then also make sure that people are familiar with the open meeting process and what effects to happen and permitting and other operations.

Ewell Hopkins: We have no pending applications that we'd worry about constructive approval and I just want to make sure people understand timeframes. If we don't operate within those deadlines and we miss a deadline and normal circumstances, the applicant is approved, as requested. So it's very critical that we don't let deadlines slip. We're not experiencing any of those now and there are no written decisions pending approval. I think those are the big things for us to understand.

JoJo Lambert: I think the idea of a drop box at Town Hall is a good thing. If [an applicant] can just put five copies of plans in a dropbox, that [would be helpful]. I think the public hearings are going to be really difficult to hold virtually and [will be] a lot of work.

*Kim told them there already is a dropbox installed at the front of the building. Member Crossland asked if she could put that information on Planning Board web page. Discussion about who is checking drop box – there are a few people who are consistently at Town Hall. Chairperson Hopkins asked that Kim confirm the process of how we would be notified.*

Ewell Hopkins: A lot of the webinar spoke to unscrupulous developers that might take advantage of the crisis. So that's why I wanted to make sure that we all understood our roles and responsibilities in this process and how we work -- holding hearings and extending deadlines is also not an issue. My philosophy, and I hope everyone still supports this, is I'm trying to minimize any kind of controversial topics or passionate topics and until we can get a real handle on how we're going to operate going forward, virtual meetings may be the norm for the foreseeable future.

I don't think we're at a point where we want to bring in a controversial application that has many points of view in the public.

JoJo Lambert: I think it would be really hard to have a virtual public hearing. Not everybody can [do that] and when someone needs something we can continue. There may be some people upset with that decision but we are in a crisis right now. And everyone's going to have to understand that it's not an easy thing and I think it would be hard for people.

*Discussion followed about Facebook page and web site. Chairperson Hopkins said that he handles the Facebook page and Kim updates the web site and after Kim puts the dropbox information on the Planning Board web page he will share through social media.*

Mark Crossland: What I mainly took out of [the webinar] was just to avoid these hearings any public hearings, like you just said, Ewell — anything that is controversial. Just try to put it off [until emergency order lifted]. That kept on coming up over and over.

JoJo Lambert: I agree, Mark.

Mark Crossland: And then the 40B developers that [might come in] — that's a key thing that we really need to consider. We have to be smart about that.

Ewell Hopkins: Yeah, we have to be careful about checking our Dropbox Kim, because we have two potential 40Bs that we could receive during this period of time. Both are in the works. We know them well and I want to make sure that we don't drop the ball during this process.

Mark Crossland: And what day are you going to encourage them to extend it.

Ewell Hopkins: I would if we receive either one back. That would be my first attempt to get them to extend if they agree to extend, it's a non issue. We both would sign off on it if they were unwilling to

extend. We would then bring Michael Goldsmith in per guidance and determine what our options would be. Are there any [other] points that people garnered from the webinar? Hearing none.

### **Planning and Professional staff**

Ewell Hopkins: Bob and Wendy have asked for each department to document the expectations and the work of their professional staff during this period of crisis. I reviewed this document with Kim and signed it and submitted it back as approved, frankly for Kim's sake and ours as well. I would like each of you to read through the document if you haven't already and comment on whether or not you support and endorse this. I think it's critical that Kim in this period of time has the full support of all five of us for what she's doing on a daily basis and what our expectations are. So with that said let me go through it very quickly the board members.

JoJo Lambert: I think that's good. That's a lot for Kim.

Mark Crossland: That's great. That's just perfect. Everything you put in there. And you're doing Zoning Board of Appeals as well, right?

Erik Albert: Yes.

Bill Cleary: I support it.

*Discussion followed — Member Cleary suggested they vote to have Chairperson Hopkins' signature represent all of them. It was agreed that was acceptable.*

Bill Cleary: Okay, can I make a motion for you to sign this document regarding Kim's responsibilities for telecommuting submission form to represent [the entirety of the board's] approval.

*JoJo Lambert seconded the motion and all were in favor.*

Ewell Hopkins: Thank you, Bill. That makes a lot of sense. And I appreciate the full support of the board for the work that she's doing at this particular time.

Ewell Hopkins: Oh, one thing when we talk about webinars in the effectiveness of webinars, the Commission is having two hearings this evening is starting at 5:30 both on sensitive applications in the Town of Oak Bluffs, the takeout window decision for the bar the bone bar and bistro, and also the Menotomy building, Brian's project, is being deliberated on and voted tonight as well. So I plan on tuning in to see how well that works on video conferencing.

### **Subcommittee Participation by Planning Board members**

Ewell Hopkins: It's been a year and it's time to look at our subcommittee participation and involvement. I consider our involvement in these subcommittees to be an opportunity to actually take the planning process of the town of oak bluffs to different forums.

So we are meeting with different organizational groups on issues such as the Advisory Board to the Land Bank so I'm bringing our principles and our policies from the Planning Board to the work that James Langella is doing on the Land Bank. I'd like to look at those subcommittees and ask if people will re-up for another year or if they want to make a change, or if there are any if there are any gaps that still needs to be filled.

Affordable Housing – Mark; Capital Program Committee and Community Preservation committee – Ewell; Copeland – Erik with Ewell as an alternate; Roads and Byways – ?; Sign Committee – JoJo.

Mark Crossland: I was on Roads and byways and nothing ever happened with it.

*Discussion followed about the different subcommittees and where the interest in each lied. Bill Cleary said he would be interested in the Capital Program Committee as it involved less time along with his Green Community designation work. Mark Crossland said he'd stay on Affordable Housing, Erik Albert is staying on Copeland District, JoJo Lambert agreed to stay on Sign committee. Ewell is staying on Land Bank Advisory board and Community Preservation. Mark also said he'd stay on Roads and Byways if they start meeting again.*

Mark Crossland: What about the Zoning Reform Committee.

Ewell Hopkins: That's not a committee at the town level. That's our committee. We have a warrant article that we're soliciting funds to get some money behind us so you have something to work with. I'm hoping

Mark Crossland: I am.

Bill Cleary: I'd like to recognize all the work you and JoJo put into that. I just appreciate all the effort you guys put in.

JoJo Lambert: Thanks, Bill. I want to stay on that subcommittee with Mark. And if you use money to bring someone in I think that needs to be discussed. Don't you feel that way, Mark?

Mark Crossland: Absolutely.

Ewell Hopkins: JoJo, I can't imagine spending a dime of that money without a recommendation from the subcommittee, or why do we even have a subcommittee? So the Planning Board is going to look to you guys to come back with a recommendation for proactively spending money.

JoJo Lambert: That is what we were trying to do [before] without having to spend money and then, you know, it just went the other way, but if this is the way that it's going which that's got voted on, then you know we want to work with whoever is going to come in. So Mark and I can really work with that person.

Ewell Hopkins: My point is, you're the principal voice in the process and making recommendations. Ultimately, the Planning Board votes on it, but we're going to look for a recommendation from you first, so thank you.

## **Board Updates**

Ewell Hopkins: I've had some individual conversations this week since the last meeting with each of you on different topics. I want to underscore the importance of this point of the meeting where we have board updates.

This is the time to make sure that communication across all board members is shared.

Beyond the meeting packet I include all of my correspondence as a rule in the meeting packet. You can do the same if you choose. But I also think it's very important for each of you to hear from each other. We can't do a lot of deliberation, but we can do some so before I go into my chair correspondence and activities update. I'd like to go around the group here and give each of you an opportunity to express or share any thoughts that you have that you want the full board to hear. Um, and I'll start with my far right, I'll start with Erik.

Erik Albert: I'm just playing guitar all the time. And do some homework on this Planning Board stuff.

Ewell Hopkins: How are you are you experiencing any constituent services or issues from people that you have any confusion around that you want to bring up

JoJo Lambert: Well, I have some thoughts. I would just like everybody to work together [effectively].

Ewell Hopkins: Any suggestion on how we can improve that?

*Discussion followed on the difficulty of not being able to have private conversations with each other outside of public board meetings, that some things feel like they should be hashed out in private when individual board members have issues. A lot of feeling came out of the Zoning Reform subcommittee and that lingers.*

JoJo Lambert: It was heart wrenching for us when [our work] went the other way because we did work hard on it.

Ewell Hopkins: I'll comment on that, and I hope others will chime in as well – first of all, Mass General Law is very clear around the number of members you can have and we can't have arbitrary numbers.

You have two avenues of counsel and guidance on a regular basis. You can pick any board member... and have any conversation and talk about any kind of business you want to and not be in violation of open meeting. What you have to realize is that once you enter into that conversation, whatever the topic is you and that other person have to commit not to discuss that any further until the next board meeting at which time you would in this update discuss it with all of us.

So in addition to that, you have the option to talk to Kim, who is our professional staff member who has a pulse on all of the issues of the board and can at her discretion, bring it to my attention if it's something that needs to be addressed before the next meeting. If not, she'll give you counsel and advice and hold until the next meeting. So don't ever go between meetings and feel as though you can't talk to someone you can talk to any of us. We just can't establish a daisy chain quorum, so we can't have three people involved in the same conversation.

JoJo Lambert: If I go to Kim or I go to whoever I get it but whatever discussion I'm having... once again, it's a public meeting. It has to be said in front of the public. That's what I need to hear --that can be said amongst us.

Ewell Hopkins: That's what I'm saying. You can pick one board member and have a conversation about anything you want and not violate Open Meeting Law. So, so it's not a public meeting.

JoJo Lambert: No, I realized that, but it's one on one... what I'm saying is that if it's something that is bothering me or bothering someone else or whatever it is, then I just think all the board members should know that. Not just between you and you're saying that no, I can only discuss it with one person or I can just, I can discuss it with Kim, I have to let him know that

Mark Crossland: What's bothering us [the goal is] to get it on the agenda. See if you will put it on the agenda.

Ewell Hopkins: That's exactly right. You never need to go two weeks or have to let anything simmer and fester. If you want the full board to discuss it, it absolutely has to be a public meeting. If you just want to get guidance say let me give you a classic example: say you're really frustrated about the stretch code. There is nothing inappropriate for you to call Bill Cleary and say, *I'm really struggling with this and I need to understand it better. I'm feeling a lot of pressure in the community, blah blah blah*, all the things you may not want other people that really understand and before I have to vote on this. I want a better understanding what's going on. You and Bill can have that conversation. And it doesn't have to at that point, ever become a public discussion. You don't have to take it any further. Now if you want to involve

me or Mark or anyone else, then we have to bring it up in a public forum and we have to have a public discussion.

JoJo Lambert: Okay. And it got it.

Ewell Hopkins: Okay. So don't ever feel like you're isolated on yourself and then if the two of you have that discussion. And you're frustrated. You're still frustrated, then to Mark's point you come to me or to Kim and you ask it to be listed as a topic on the agenda. We put it on the agenda. The public is notified that this is what we're going to be discussing and then we discuss it. Because at the end of the day, we're doing the people's work. We're not advancing our thoughts, we're advancing the people's work. So at some point that people need to be brought into the equation. But you can totally prep and be prepared with the counsel of one other Board person.

This is a great discussion, and I hope that clarifies things for you.

*Discussion followed about social media, Facebook, and how people who feel strongly about issues yell at others in that forum.*

Ewell Hopkins: The one point that was just brought up in chat, and I do want to clarify. It's a very important point: when I say "discussing issues" that is not deliberating. You can't sit back with another board member and say, how are you going to vote? and then try to persuade the other person to vote a certain way and then agree. *Okay. The two of us. I'm going to make a motion, and then we're both going to vote. I'm going to use second and then we're both going to have a positive vote. So we're coming into the meeting with having deliberated and decided how we're going to vote. You can't do that.*

But you can definitely share your concerns back and forth with one another and be better educated to the issue, but you can't make it advance notice motions and then bring them to the meeting, and it would be my job to make sure that that kind of unscrupulous behavior didn't happen. And I don't think it would. But I just want to make that distinction.

Ewell Hopkins: If you have any additional points, Bill... any updates from you, concerns about how we're working in between meetings, etc.? I know you've given me some really good feedback. In the last two weeks about some of the actions. I've taken and I've appreciated that anything you want to bring up with the full board.

Bill Cleary: One question I have right now is ... trying to understand exactly what the format will be with the concurrent meetings [around the high school athletic fields application]. The five areas that you outlined, how do you see that working just so [all of us on the board have an] understanding what that may be all about.

Ewell Hopkins: Sure there's been a lot of communication I've had with the Commission, since our last meeting talking about process and how we might work together and what our expectations are, what we previously shared with the applicant to be our goals and our expectations that has been communicated back and forth and email. I've included all of that in your board packets. So you could read it in detail.

I didn't want to get too far ahead in those conversations before our next meeting. The application is not scheduled to be discussed in tonight. So it's not on the agenda because of the request that I received from the superintendent, which I plan on discussing with him before our next meeting, because I would like to bring the application back on the agenda. Now we've kept it off for two meetings, but in the meantime I convey to Adam Turner what we had decided and what we still needed to decide. So suffice it to say, I outlined what the responsibilities are of the planning board — which aren't disputable there they are, what they are.

And I shared with him the cover letter of the referral, because the referral letter was sent to his boss. It was not sent to him. And then I outlined the areas of scope that we agreed to that we thought that the application should be scrutinized on. I went on to say that the way in which that scrutiny would take place, whether or not there would be concurrent hearings or not or whether we would work sequentially was all still up in the air, and that the board had to discuss and vote on it so I was not at liberty to say what we were going to do—A or B or C—because we haven't discussed it. My goal is to have that process discussion on the agenda for our next meeting.

Bill Cleary: That is my question. And so it sounds like you're still trying to work things out with Adam and the superintendent as to exactly how it's going to be approached, if I put that right.

Ewell Hopkins: Not with the superintendent and not with the applicant. My conversations have exclusively been the coordination or lack thereof with the Commission. The Commission through Adam and I agreed to collaborate on the due diligence that would have to take place and I have taken some serious exception to the actions he has taken so far in not supporting collaboration, which are totally his rights, [but] if he elects to continue in a certain direction, I will report in the next meeting back to the board and then we as a board will decide what we think and what the implications of that are. It will not, in any instance, be my decision in terms of how we proceed on such an important, important application.

Bill Cleary: And I think the last question I have right now if I understood and read it correctly, not only will they come to find an independent engineer that isn't for or against, just an unbiased engineer, but he also mentioned that they had one group ... that is working, taking a hard look yet, but he also would want to have you involved in that process if that's the right way to put it.

Ewell Hopkins: Yeah, what we agreed to up front is that I wouldn't just be involved after the fact. But that I would be involved in defining the criteria by which we would evaluate proposals. So one of the things that I took exception to in my last letter, if you read through, that is I'm not interested in hearing what he has determined to be the best expert. I'm interested in defining the criteria by which we will evaluate all five proposals submitted to provide technical expertise on this project. Several have already been rejected, [and] I cannot report back to you on the board [the why] or what the reasoning was for the rejecting of the people who were rejected. That is the kind of information that I need to be a part of. Not just to be informed of after the fact.

So that's my last letter to you. Read it, it might have been a little direct say the least. Adam, we are either collaborating or not. I'm not critiquing your work. I'm working with you in lockstep or not so I will have that resolved before our next meeting. And I will be able to report back to you and then collectively we will decide if it's acceptable or not.

Each application is different.

### **Board Updates**

Ewell Hopkins: We have given the Commission carte blanche to review [Menotomy] that at their point because when it comes back to us. It is not a site plan review, but it is a special permit and that is a significantly different degree of scrutiny that takes place. So the applicant in that case is coming back, asking for special dispensation. We're not reviewing in terms of compliance. They have already indicated that they are out of compliance with zoning and they're asking for a special exception, so it's a whole different beast.

And that's actually taking place as we speak.

Discussion followed about board packets and knowing what is important to study and know beforehand. Chairperson Hopkins said everything in the packet is there for a reason and important and that he cannot

anticipate public reaction an advance but we will not waste board's time with anything we publish in a board packet. Being uncomfortable being asked questions is going to continue.

Ewell Hopkins: This is not going to change. When we open up Lagoon Ridge again – If you think we have passion now wait until that happens. ... That's why we spent so much time tonight, talking about due diligence process roles and responsibilities, etc. Because people really have to know the significance of their, the Commission does their due diligence, but in the course of them doing their due diligence they don't relinquish us from any responsibility, we can't look at their work and say, okay, we don't have work to do now.

We have a tremendous work to do after they're finished. The question is what and in what sequence does that happen, so I will never set you up intentionally JoJo. I will never let something contentious that I know is contentious blindsides you. Like an anticipated is my point I'll do my best to always highlight that for you.

Mark Crossland: Affordable Housing Committee. We're trying to get a zoom meeting together ... we do have a presentation that we want to show the planning board and the selectmen and a few others you know in public at the fire station. We have seven years of properties that we want to let you guys know our priorities for the next seven years to try to achieve 11 units per year to counter 40B. It would be better done in a public hearing rather than on zoom, but I guess that'll be discussed next Tuesday.

Ewell Hopkins: If you want to disseminate information, it's going to be a long time before you're going to get 70 people in one room again.

Mark Crossland: So I think it's up to the Affordable Housing Committee, but everybody thinks right now that it should be a public hearing with a presentation. We're going to try a plan for a zoom meeting and I'll let you all know next week.

Ewell Hopkins: Now you guys have also finished your work with RKG report and we have that published on our web page where people can see. In addition to that, we published on our Facebook page, there's a major land developer of workforce and affordable housing out of DC who just set up camp in on the Vineyard. There was a big article in the paper. You might want to look into that a little bit more, Mark. He's already been engaged with a lot of housing initiatives on the island already and he's bringing tremendous expertise and a ton of money with him. Go check him out. It's featured on our Facebook page.

Ewell Hopkins: Great. Okay. And I know you and I had some conversations about the dissemination of information to board members in between meetings. Are you comfortable with the conversation so far, or is there anything else we should bring up.

Mark Crossland: I just wanted clarity on going through this public hearing with the athletic fields in the Commission concurrently. And you explained that to me. So I'm good.

Ewell Hopkins: All right, so from my, my point of view looking through my correspondence that you have, you have my letter dated April 2 to Adam Turner which I talked about in detail. You also have my response back to Bill Cleary on April 3 after that letter; you also have my response back to Adam Turner on the 5th based on his response back to me from the 5th; and then you have one of the proposals that he received for technical expertise on high school project since this packet was put together.

Adam indicated he would like to have multiple experts playing different roles in this process and not rely on just one engineering firm. So we're discussing what those other expertise might be and should be and I will report back to you guys as that develops further I will assure you that no decision will be made on my part, until I report back to all four of you.

Mark Crossland: Are there Lagoon Ridge plans yet?

Ewell Hopkins: There are sort-of plans, but they're not public, to be released yet. I think you're going to really... I don't want to bias you, but I'm not discouraged by anything I've heard so far.

Bill Cleary: Just one quick question. Mark, did you mention you're going to get in touch with us when you schedule your next meeting? I would be interested in that.

Mark Crossland: Yes. As soon as I have a meeting setup for the affordable housing, which I believe is next Tuesday. They're working it out. I will email you.

Ewell Hopkins: Okay, not hearing any other issues, is there a motion.

Mark Crossland: Motion to adjourn.

Seconded by Bill Cleary. All were in favor.

Ewell Hopkins: Thanks, everybody. Be safe.

### Adjourn

Meeting was adjourned at 6:00 p.m.

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*Minutes approved April 23, 2020*

Documents on File: Agenda; board packet