

TOWN OF WILLISTON
Planning Commission
Minutes of May 7, 2024 – 7:00 P.M.
Town Hall Annex Conference Room, 7878 Williston Road, Williston VT 05495
Zoom Meeting ID 873 0175 0819 on www.zoom.us/j/87301750819 or call 1-646-558-8656
Zoom Recording: <https://youtu.be/qSEDM4mEAYo>

Planning Commission Present: Shayla Livingston (co-chair), Jill Pardini (co-chair), Ellie Beckett (Vice Chair), Hana Kessler, Steve Shepard, Chapin Kaynor, Mickey Myat (alternate); **Absent:** Meghan Cope; **Staff:** Matt Boulanger, Emily Heymann; **Public:** Marcy Kass, Kevin Thorley, Barb Giardi, Reed Carr, Brian Forrest, Kim Hornung-Marcy.

CALL TO ORDER

The meeting came to order at 7:00 pm.

PUBLIC COMMENT

No public comment.

MINUTES OF APRIL 2, 2023

With a motion made by Ellie Beckett and seconded by Mickey Myat, the Commission voted 6-0-1 to approve the minutes of April 2, 2024. Jill Pardini abstained.

With a motion made by Chapin Kaynor and seconded by Hana Kessler, the Commission voted 6-0-1 to approve the minutes of April 16, 2024. Jill Pardini abstained.

PETITION FROM SUSTAINABLE WILLISTON RE: ENERGY STANDARDS FOR NEW DEVELOPMENT

- [Petition from Sustainable Williston](#)

Matt Boulanger gave an overview of the petition request that was received. He noted that Melinda Scott, Energy & Community Development Planner, did research on local Clean Heat Standards. Done properly, a local standard must have a qualified person on staff that has training in building construction and mechanical systems. Williston taking up a local clean heating standard would be beyond what the town has done thus far as the town does not have a building code.

At the request of Shayla Livingston, Matt Boulanger gave an overview of the Planning Commission's two main roles: drafting a Town Plan (and annually reviewing the Capital Budget for its compliance with that plan) and writing/revising zoning bylaws. Zoning bylaws are one type of law that municipalities are allowed to have. State law limits zoning authority. Municipalities can also establish local regulations via ordinance. Examples of ordinances (not necessarily adopted in Williston) include noise ordinance, litter control, local speed limits, parking, and property maintenance ordinances. Ordinances typically do not originate with the Planning Commission, rather with the Selectboard on direction of a public request or Town Plan goal. The petition requests adopting a Clean Heat Standard before the adoption of the Town Plan (Town Plan deadline of August 2025).

Shayla Livingston clarified that taking up such a standard through zoning is not something that has been done before. The Energy Committee is not a mere subcommittee of the Planning Commission, it can provide advisory comments to the Selectboard independently of the Planning Commission.

Chapin Kaynor noted that we've done all we can in accordance with the Energy Plan to update the zoning bylaw and incentive clean heat. The situation right now is about 500 housing units proposed that are beyond

getting an incentive through Growth Management. The goal is to effect units that have already received local permits, hence the need to recommend an ordinance. Chapin noted that the urgency about these 100s of homes is because they will find it hard to make a transition to clean heat for another 100 years or more because multi-family units are harder to retrofit mechanical equipment.

Mickey Myat suggested state or local incentives to convert to more efficient/environmentally friendly systems to help, rather than enforce, transition.

Jill Pardini asked about the South Burlington ordinance. Matt Boulanger explained that South Burlington has a very active energy committee and climate-conscious Planning Commission and City Council. In terms of performance, it is a very new system and has many outs for financial infeasibility. Hana Kessler clarified that if it's an ordinance, it is the Selectboard that shepherds it vs. a zoning bylaw amendment which must begin with the Commission.

Shayla Livingston asked about the Energy Committee. Kevin Thorley, Energy Committee and Sustainable Williston member, said the committee has not reviewed the petition. Kevin explained that the Energy Committee's work has focused on the "carrot" incentive side [as opposed to the "stick" enforcement side], including their work on the energy components of the draft Town Plan.

Hana Kessler noted that South Burlington has champions on the City Council, what's the sense of the Selectboard's position? Matt explained that the adoption process in South Burlington was controversial and it's hard to gauge the Williston Selectboard's position. He noted that the Williston town plan/bylaw process has been to go in early on proposed bylaw amendments well before they're finalized, for example Form-Based Code, to gauge their position before finalizing a bylaw amendment and sending a formal transmittal. The Selectboard is very budget and staffing conscious. Managing and enforcing such an ordinance may involve creating a new staff position to hire a building inspector. Matt Boulanger noted that the Human Resources Director position was in the original FY2025 budget but is removed from the revised version (revote on May 21st). The Selectboard would need to be cognizant of current staff capacity and the town's ability to add staffing capacity.

Shayla Livingston opened it to public comment.

Marcy Kass asked about administration and enforcement of an ordinance by a building inspector vs. a zoning bylaw. Matt Boulanger explained the similarities and differences of enforcing zoning vs. an ordinance. Zoning violations on a property prevent any new permits for that property and prevent zoning compliance certification which may hold up refinancing or financed property purchases. Zoning violations are a slow, multi-step process of sending a letter to the property owners. Ordinances can be ticketed or fined immediately, and ultimately processed in the criminal justice system. The key difference is a building inspector is a police style enforcement. Emily Heymann noted that land use vesting (ex. If a subdivision was approved with all pink houses and then the bylaw changed to prohibit pink houses it would retain vesting in the pink-house approval) versus an ordinance can go into effect at any time. There are no statutory requirements for a zoning administrator to have particular training or certification. Zoning bylaws in Williston or throughout Vermont are relatively simple to understand and administer, whereas assessing Building and Fire Safety Code or heating/cooling systems requires technical expertise.

Matt Boulanger noted that Williston was taken to court in the 1990s around the vesting issue. There was a 1990s platted subdivision for large lots to accommodate big box stores. The zoning changed to prohibit big box stores and the landowner sued. The court didn't agree with the landowner but ultimately the decision was settled out of court. Thus, adopting standards into the zoning bylaw and implementing them on projects with partial permits (i.e. a vested discretionary permit but not the final administrative permit to begin structure construction) may be subject to litigation.

Marcy Kass commented that the Selectboard looks to the community to get the sense of what the community wants, especially if it's different and new. Sustainable Williston wants to contact as many people as possible to raise grassroots before approaching the Selectboard.

Kim Hornung-Marcy asked for other administration options aside from a town-employed building inspector. Matt Boulanger explained that another option would be requiring self-certification from the applicant or an independent contractor with costs covered by increasing the permit fees. This is how Vermont's Residential Building Energy Standards and Commercial Building Energy Standards (RBES/CBES) are handled. The Williston Zoning Administrator cannot issue a Certificate of Occupancy unless the RBES/CBES has been filed with the Town Clerk. However, the Zoning Administrator has no authority to refuse the RBES/CBES based on what's written on that form. It's an honor system and generally large builders are honest (lying could risk their licensing or certifications).

Matt Boulanger clarified that Burlington and South Burlington have their own building codes and enforcement. In Vermont municipalities without their own code, owner-occupied single-family homes are exempt, and all other structures (including multi-family and commercial buildings) are subject to the Building and Fire safety Code administered by State of Vermont Division of Fire Safety (i.e. Fire Marshall). South Burlington was able to add the Clean Heat Standard into the existing workflow for building inspections.

Reed Carr, Conservation Commission and Sustainable Williston, asked the Planning Commission if this aligns with the current Town Plan (Energy Plan goals to reduce greenhouse gas emissions) and encouraged a conversation with the Selectboard. Whether by an honor-system, hired staff inspector, or contracted services – the logistics can be figured out as it moves along and not stifle the initial conversation. For example, a wildlife biologist prepares a Habitat Disturbance Assessment and, until recently, that work was handled by the developer/applicant. Now, the Town collects a fee from the applicant and contracts the biologist to ensure the biologist was completely neutral. Reed would like input or a recommendation from the Energy Committee and Planning Commission – either or both – to the Selectboard.

Kevin Thorley, Energy Committee and Sustainable Williston, asked Marcy Kass to forward the petition to Melinda Scott for consideration on an upcoming Energy Committee agenda.

Kevin asked about the enforcement for future developments and the language in the Town Plan. Shayla Livingston responded that all the input we received into the Town Plan (see Williston 2050 Engagement Report) and encourage the Energy Committee to read that section of the report. Shayla responded to carrot vs. stick and the human energy to go after this in a more proactive manner.

Matt Boulanger responded to Kevin's question about future projects. When you're dealing with a large building and a site there is a development agreement between the town and the developer. There are things like independent reviews for town infrastructure. There are ways to address those things in the Development Agreement that aren't articulated in the bylaws. An ordinance or bylaw structure that might point to that. What's the right way for a town of our size and capacity to do something like this?

Chapin Kaynor said that, while the letter is focused on projects that have been approved, the importance of doing this long-term exists still. Shayla noted that the standard may not start out at its strictest, highest implementation goal and different levels may be phased in over time. Chapin Kaynor noted that the Glaser project side-stepped the Growth Management process. It's a different answer for different projects.

Hana Kessler noted that the Glaser project can score points under the existing or future Growth Management criteria, Emily Heymann gave an overview of the Glaser Specific Plan and its ability to score under the past, current, or any future criteria for Energy Efficiency or Sustainable Transportation.

There were no further questions or comments from the Commission or public.

Shayla Livingston reviewed possible next steps:

- 1) Forward a recommendation onto the Selectboard.
- 2) Ask staff to take up something of this nature within our zoning bylaw amendment process.
- 3) Not take it up or make a recommendation.

Shayla noted that Vermont legislature directed for a Clean Heat Standard by 2025, there is a state-wide effort. The state attempted it last year and it failed so it came back as this study to DPS. It's not something we can rely on for an immediate response. Chapin said it might be an incentive for developers to ensure projects are designed to accommodate heat pump or other technology especially for retrofits of multi-family and compact developments.

Reed Carr encouraged the Commission to not worry too much about enforcement and implementation (town staff, contracted services, self-reporting) until we know specifically is the goal and the regulation.

Chapin Kaynor asked staff to start discussion with Erik and Selectboard to see if the things discussed in the petition are consistent with the current town plan, and if so, continue the conversation.

Marcy Kass commented that this proposal should be viewed as a form of consumer protection. Clean Heat Standard is coming. Through a bylaw or the ordinance, however it implemented, is to help people so they don't have too much of a hardship converting when it becomes the law of the land. The issue is protecting homeowners. Chapin Kaynor agreed the cost of converting from fossil fuels is large and typically only done when a system has failed. In 50 years if these homes are trying to get off fossil fuels, we are doing them a favor now.

Mickey Myat asked who pays the price, the developer or the consumer? Shayla is leaning towards forwarding this to the Energy Committee with a recommendation to consider a cost analysis. One big goal of the Planning Commission and Town Plan is housing affordability. Affordability was a major reason the state-wide Clean Heat standard didn't pass and is currently the ongoing study.

Kim Kornung-Marcy said the state-wide Clean Heat Standard is happening and is in effect. Kevin Thorley clarified that prior iterations in past years would have implemented a standard failed, and the current bill is to study implementation.

Hana Kessler agreed with forwarding this to the Energy Committee and also has questions on cost-benefit and affordability.

Chapin Kaynor made a motion on Option #2, forwarding this letter from Sustainable Williston to Energy Committee for their consideration of short- and long-term options and include, as applicable, a cost-benefit/affordability analysis, and for staff to bring this up with the Town Manager. The initial question for all is whether this is in keeping with the current Town Plan as amended by the Enhanced Energy Plan Shayla Livingston seconded the motion and it carried with a unanimous 7-0 vote.

Chapin Kaynor mentioned a study that determined the cost to heat by gas or electric is financially the same, though heat pumps may be more expensive upfront to install. There are incentives for developers from various utilities and programs.

TIF ARPA LETTER

The co-chairs, with Matt Boulanger's assistance, drafted a letter of support for including a TIF Study in the ARPA funding project list, Matt Boulanger explained the goal of a TIF to assist with things such as streets, community center, stormwater, or less existing things like sewer pump stations. TIF Districts based on a rigorous study to determine that enough grand list value would be generated to pay the loan. TIF has limited availability in Vermont and must make a strong "but for" case that these projects would not happen 'but for' the TIF. The study is a "what if" to determine the development would bring enough value to pay for the stuff we went ahead and built. TIF is a powerful tool and, regardless of establishing a TIF, a feasibility study tells a lot about predicted growth and grand list value. What happens if Williston continues on a path of developer-driven build out pattern, versus what happens if the town takes more control of build out in Taft Corners? The community raised a concern during Form-Based Code: it's a big area of 840 acres. 20 new buildings scattered across hundreds of acres would have little impact on the feel and the walkability and creating a town center, whereas four mixed-use buildings on each corner of an intersection has the beginnings of a new town center. The 4 FBC buildings have a combined construction cost of \$20 million. \$20 million on the grand list in a TIF District would increase grand list tax revenue from \$74,000 to \$190,000 each year.

Matt Boulanger says he lives near the South Burlington City Center. It's been a success to catalyze a main street and city center for a place that didn't have one. While it did not pay it fully, it significantly contributed to the success of the Library/Community/Senior Center. St. Albans City is another good example of a successful TIF that is improving a community.

Chapin thanked Matt and staff, including CCRPC, for explaining this to the Selectboard and we may need to take a similar approach with the Clean Heat Standard.

Matt Boulanger said the Town is under very real deadlines. There is a fear that if funds are not obligated by November that the funds may be clawed back. If funded, the timeline for a TIF Study is 6-8 months according to the consultant though technically would have until FY2026 to complete it. The TIF Study is actually a two-phase analysis. This funding would cover Phase 1/General Feasibility. Phase 2 is more technical and looks in detail about potential development and project list to be funded the TIF.

TOWN PLAN

Aggressive challenge to get a chapter done for each meeting May through July. Planning Staff will take the lead on writing the chapter and seek "head nods" from teammates. The goal is to have a solid first draft by the end of the Summer.

ADJOURN

The meeting adjourned at 8:17 pm.

To learn more about the Planning Commission, go to www.town.williston.vt.us and click on "Public Records and Documents," then "Agendas and Minutes." Or contact the Planning & Zoning Office at 7878 Williston Road, Williston VT, 05495 or call (802)878-6704 or email planning@willistonvt.org