

**MINUTES OF WORKSHOP  
HELD BY THE PLANNING AND ZONING COMMISSION  
JUNE 3, 2024**

**MEMBERS PRESENT:**

In Person: Patrick Kennedy, Acting Chairman  
Michael Stebe, Secretary  
Teresa Ike  
Daniela Luna  
Michael Farina

**ALTERNATE MEMBERS PRESENT:**

Electronically: Maliha Ahsan

**ABSENT:**

Eric Prause, Chairman  
Chris Schoeneberger  
Zachary Schurin

**ALSO PRESENT:**

In Person: Gary Anderson, Director of Planning and Economic  
Development  
Megan Pilla, Principal Development Planner  
Electronically: David Laiuppa, Environmental Planner/Wetlands  
Agent  
Nancy Martel, Recording Secretary

The Chairman opened the Workshop at 9:00 P.M.

**RULES OF PROCEDURE**

Ms. Pilla noted that this was a topic requested by Commission members. Staff reviewed the Rules of Procedure to prepare and have minor suggestions for updates. The only major suggestion is to consider whether it would be appropriate to pull the design guidelines out of the Rules of Procedure. She suggested that, during the Zoning Regulations update, we ask the consultant to consider how they might be incorporated into the Special Exception Criteria.

Mr. Anderson stated that staff does not have many substantive suggestions. There are a few places where wording needs to be changed. He noted that many of them are edits, such as voting to go past 11 and the secretary taking minutes.

Mr. Farina's microphone was turned off and some of his comments were inaudible. He commented that the goal is to have an ideal set of rules. There is no reason not to have the best rules we possibly can. For example, when he asked Mr. Laiuppa a question, he was interrupted by the Chair saying that there would be a staff report. He noted that it isn't in the rules and asked why he can't ask the question. If it is a rule, he said, it should be put in the rules. Mr. Farina

noted that there are no rules for site visits, noting that he was told he can't talk on a site visit. He mentioned the items at the end of the rules (the design guidelines, the policy, and the 8<sup>th</sup> District information) and said that he would like to see the design review guidelines put together in one document. The hearings are important, as are the agendas and how to get something on the agenda.

Mr. Farina reported that he went back and reviewed the minutes from the meeting when he first asked for this to be a discussion item. The discussion item was not put on the agenda; it was put into a workshop. He asked how that happened, what the rule is, how it went from the Chair wanting a discussion item to a workshop afterwards, and how an agenda is set. He said that, if nobody says they object, it goes on the agenda. If somebody objects, it doesn't go on the agenda. It doesn't make sense to him that one person can silence a minority, whether it's one individual or a party. The two-thirds thing needs to go. How are the alternates chosen? He criticized the grammar in the current rules and read an example. He would like to clean them up and get them straightened out.

Mr. Kennedy stated that he has no inclination to go beyond minor edits and technical corrections. The current Rules of Procedure have worked fine; experience, practice and interpretations come into play. He expressed that he does not want people individually putting things on the agenda. The Commission is an adjudicative body; this is not the Board of Directors or the State Legislature. We don't want people using this as a vehicle for self-promotion by adding all sorts of things to the agenda. He remarked that, if Mr. Farina wants to come back with a collection of technical corrections and edits, we can start with that. If there is an appetite for a wholesale revision, that can be done separately.

Mr. Farina noted that it has been months. The lack of clarity in the rules has caused a lot of tension between him and staff and between him and the Chair. With clarity, that tension will be relieved.

Mr. Kennedy noted there was no tension before Mr. Farina joined the Commission. He did not think it's because of the rules.

Ms. Luna's microphone was turned off and some of her comments were inaudible. She stated that she disagreed and that all of the commissioners have raised concerns about how things are done, although Mr. Farina may be more vocal. She commented on procedures around when questions can be asked during meetings, which she disagrees with.

Mr. Stebe noted that he has had experiences where he believed the Commission stated one thing and Town staff thought they stated another or did not feel they made an actionable order. Some of it might be rules. Some of it may be a formalization of the process which isn't necessarily a rule. There are the easy things, but the rules are the rules and procedures of how the Commission operates. Some of this may be because the rules written loosely work on a smaller town, but Manchester is no longer that small town. It is a larger, more complex, interwoven system that needs more structure in the rules and how some of the commissions work. That would prevent one person being able to add a bunch of junk onto an agenda because the rules could state how to create agenda items. Currently, unless there's an actual application coming in, there is nothing

that says how to get anything onto an agenda. We could start with taking care of the grammar and moving design into the correct location, but at the same time we need to work on a couple of ideas on how to incorporate some of the discussions we've had over the last 1-1/2 years, when it wasn't clear what the rule or procedure should be for this body. He was not talking about rules or procedures as defined by the State Legislature.

Ms. Pilla stated that is what this workshop is supposed to be. If there are specifics that anyone wants to revise, we can discuss them.

Mr. Stebe remarked that he needs paper with the rules and ideas of edits to work with to build off of.

Ms. Pilla commented that she is not going to draft edits that the members want. She can only draft what she would suggest until she is told to.

Mr. Farina commented that he did that.

Ms. Pilla noted that she did not hear it from the Commission and that is what this workshop is for.

Mr. Kennedy noted that none of this is unanimous, and Mr. Stebe commented that no one said it was.

Ms. Ike stated that none of it has to be unanimous. The commissioners need to understand that they are a commission that now gets trained by the legislature. It is mandated. They will learn how other towns do it, so in terms of the way things used to be done, their eyes have been opened. The last time the Commission looked at the rules, they went through them quickly to change it from 5 to 7 members, and they didn't know they needed to wait for another meeting before they accepted the rules. No one had looked into them deeply enough to say, "We're supposed to have two meetings on this before we can vote." There is a lack of understanding by the whole Commission about what is in the rules and this workshop is needed for everyone's input.

Ms. Pilla clarified that two meetings are not required if it is a unanimous vote.

Ms. Ike added that she didn't know that. The Commission just went right past it because they focused on the one thing being presented, which happens a lot in this Commission, and were not actively looking for questions.

Mr. Anderson remarked that he did not understand what Ms. Ike meant.

Ms. Ike commented that she thinks there's a certain way of pushing through certain rules without the questions.

Mr. Farina e-mailed the edits that he had intended to be circulated as a launch pad for discussion, which he elaborated upon:

- Pg. 1, Table of Contents: The thing that obviously seems to be missing would be “agenda.” That would be a new Art. VIII. That is found in other planning and zoning commissions’ rules of procedure, as well as the Board of Directors’.
- Art. IX, Hearings, needs a lot of work.
- Conducting Public Hearing needs a lot of work.
- There are no rules on conducting the business meeting. He proposed a new Art. XII, Conducting a Business Meeting.
- In Art. III, Office of Agency, change “Planning Development Department” to “Planning & Economic Development Department.”
- Change “Chairman” to “Chair” for more gender-neutral language.
- Art. VII, Meetings:
  - o Sec. 2 currently reads, “the notice shall specify the purpose of the meeting and no other business may be considered except by a majority vote.” It should be a majority affirmative vote, but that’s not legal. It’s a two-thirds affirmative vote, which Assistant Town Attorney Tim O’Neil confirmed.
  - o Sec. 3 – “Whenever practicable, seven members shall sit and vote on each application or business item. When a regular member is absent or disqualified, an alternate shall be designated to act, chosen in rotation by the Chair so that they shall act as nearly equal a number of times as possible.”
  - o Sec. 9 – “The Board may suspend any of the Rules of Procedure adopted by majority vote of the voting members present.” There should be an escape valve in order to suspend the rules to move items, should you have to. Because it’s not a change of the agenda, you don’t need the two-thirds vote.
- Art. VIII (new) – Agenda. He copied these from the Board of Directors and rewrote them appropriate to this commission. A lot of thought has gone into formation of agendas on the Board of Directors.
  - o Sec. 2 – “No item or items other than those included on the Agenda shall be considered at any regular meeting of the Board – except when, by a two-thirds affirmative vote.” Currently, it’s just a majority vote, which is illegal.
  - o Sec. 3 – “Any business item for discussion or action shall be placed upon the Agenda at the request of any regular member, made to the Chair or Secretary or Director of Planning and Economic Development not less than ten (10) days before the date of the meeting at which the item is to be considered. Supporting written materials for any such action item shall also be provided to Department of Planning and Economic Development staff for distribution to all Commissioners and alternates not less than five (5) days before the date of the meeting at which the item is to be considered.” He noted that Mr. Kennedy is concerned about anyone putting anything on an agenda that they want. The Planning & Zoning Commission can table anything that is put on an agenda any time they want.
- Art. IX – “Chair.” “Old Business.” There is no “New Business Items” on the agenda. Attorney O’Neil recommended the Commission look at that.
  - o Sec. 5 is important to review. It has created massive tension between Mr. Farina and Ms. Pilla. The Planning & Economic Development staff shall have the authority, upon approval of the Chair, to withhold from an agenda or to remove from a tentative agenda any application or item which is not complete and

sufficient. At the training Mr. Farina went to, it was stated very clearly that no one but the Commission itself can withhold anything from an agenda. Renata Bertotti, the presenter, was clear. Ms. Bertotti and Mr. Farina discussed it and she said there could be a checklist for staff to go through first and, if the application doesn't hit all the items on the checklist, it doesn't go to the agenda. It's not a received application. That seemed like a good idea, so he asked if we have one, which we do, but nobody on the Planning & Zoning Commission knew we had one. He read "...which is not complete or sufficient for Planning & Zoning Commission action or any application or item by an applicant which has been revised subsequently and has not received adequate time for comprehensive review." He does not think that staff should have the authority to withhold a business item submitted by a commissioner in writing 10 days prior to the meeting. If any member wants to put something on the agenda, he does not believe someone who is not a commissioner should have the ability to withhold it from the agenda.

Mr. Anderson interjected, stating that the intent is that, for general Planning & Zoning applications, staff does the staff review. The checklist is internal in the system. There must be certain things on the plans, the applicant has to pay for the application, and they have to have a traffic report, as well as other things. The intent is that staff's goal is, when all those things have been accomplished and when the application is fully baked, to bring to the Commission something that they could approve because it meets all the requirements. He did not believe that the Commission would want to decide on a daily basis when or where those applications are. Regarding the piece about withholding a business item, he agreed. He does not believe staff should say that, but he thinks the chairman should be involved, which is what it says at the beginning. Typically, staff speaks with the chairman about what the agenda is going to look like and that's what comes about. He did not look at it as staff withholding anything; he looks at it as staff checking with the chairman and making sure the agenda looks good on behalf of the Commission.

Mr. Farina felt it would be a good idea to clarify that so that what happened doesn't happen.

- Conducting the Public Hearing – This one is important because, as a new member, Mr. Farina had no idea what a public hearing was like and had a lot of questions, such as when to speak, what to say, and what can be said. He didn't know anything about bias, predisposition, etc. None of that is in the rules. There should be training before Day One. It needs to be in the rules. Right now, it states that, "The Chairman shall first call for statements from the applicant and proponents. Opponents shall be given a similar..." This is not what the Commission does. There are cross-examination rules regarding applicants. That needs to be looked at, especially Sec. 4 and Sec. 5. Noting that he has served in the minority in the past, Mr. Farina read from the proposed new Sec. 7, "At any time during the hearing the Chair shall allow Commissioners to be recognized in order to

ask questions.” There is nothing in the rules that says the chair has to recognize a commissioner.

Mr. Anderson questioned whether that has ever been an issue. Mr. Farina stated that it hasn't been an issue, but this is in a lot of rules. He's pulling it from other rules, but it's an important one to have.

- Sec. 11 (the new one Mr. Farina wrote) – “No commissioner participating in a public hearing may voice support for or against an application or business item prior to a public hearing, nor during a public hearing before all evidence is presented. Commissioners participating in a public hearing shall remain impartial and may come to a decision only after all evidence is presented.” In his time here, Mr. Farina has heard commissioners make their opinion and decision known during the public hearing before all evidence is presented. That would be grounds for an appeal.

Giving the example of a recent petition relating to the Downtown, Mr. Farina said someone who circulated a petition should not then vote on that matter because that is bias and predisposition. Mr. Kennedy stated that is not a zoning matter. Mr. Stebe interjected that he said it wasn't going to be. Mr. Farina stated that he could circulate a petition that would be a zoning matter. Mr. Anderson commented that he didn't think that was right. He thought a petitioner would have to have a financial connection.

Mr. Kennedy remarked that the Commission shouldn't try to paraphrase case law in their rules. You can set up independent grounds for appeal. The courts have said you don't have to be completely empty-headed. In fact, they have said that, during a public hearing, if you have concerns about something, that's the time to raise it and it's not bias or prejudice. The applicant would need to be given a chance to answer it.

Mr. Farina stated that he read case law on it, which dealt mostly with politicians who were on a planning and zoning commission and it was part of their campaign platform.

Mr. Anderson pointed out that this commission has never been political and that's something that Manchester can be very proud of. It's not like other towns. There has not been politics driving the PZC but he didn't think that could be said in the rules.

Mr. Farina commented that he's a very political, very partisan person. He's been on the Redevelopment Agency (RDA) for a long time, and he has not been partisan on the RDA.

Ms. Pilla remarked that this is a different commission.

Mr. Farina stated that even the most partisan person can come to a board like this and not have a partisan agenda. As the Commission expands to 9 members, the likelihood of it being politicized increases. Around Connecticut, in other towns where people are elected to planning and zoning commissions with 9 member boards, they are very political commissions.

Mr. Anderson stated that he agreed, but did not think that writing that down will change that.

Mr. Kennedy commented that having people put their own political things onto the agenda won't make that better.

Mr. Farina stated that he didn't put too much thought into Conducting a Business Meeting, Art. 12. It was a placeholder and can be expanded. He has no idea how a business meeting is supposed to be conducted. He stated that the Commission's business meeting is usually "all those in favor, aye, nay, roll call." There's usually no discussion in the business portion of the meeting after an application has gone through public hearing.

Mr. Anderson noted that Mr. Prause would say he needs that discussion during the business meeting on the record, a reason for the vote.

Mr. Stebe commented that, when there is a public hearing, most of it is hashed out there. When the business meeting begins, it's done. We need a recap.

Mr. Anderson stated that needs to be on record in the decision.

Mr. Kennedy noted that the reasons for approval or disapproval are put in the motions.

Mr. Farina acknowledged that no new evidence can be introduced after the public hearing is closed, except by staff and commissioners. The Commission, not the public, could introduce new evidence in the business meeting.

Mr. Anderson agreed that should be clarified.

Mr. Kennedy reiterated that the Commission can't take new evidence after the public hearing.

Mr. Farina commented on not discussing anything before a public hearing. Technically, he said, they could talk about it before it's on an agenda because it's hypothetical.

Mr. Anderson stated that a public hearing item cannot be discussed outside the public hearing.

Mr. Kennedy clarified that it would be before it's an application.

Mr. Farina noted that the reason for that is that the Commission would lose on appeal.

Mr. Pilla interjected that is because it's illegal.

Mr. Farina does not know of any law that says it's illegal. The courts have deemed that it's grounds for an appeal, so don't do it, but he didn't know of any statute that says it's illegal.

Ms. Pilla stated that it is established by case law, with which Mr. Anderson agreed.

Mr. Farina commented that, when it's a Town agenda item, the Town is applying. Referring to a previous Town application's public hearing or the sidewalk plan, he said it didn't feel like an

application. It felt like a discussion item for three months. He asked where the possibility for an appeal would be for such a Town application.

Ms. Pilla stated that, according to the Freedom of Information Act, all of the Commission's business must be conducted in front of the public. That's why the Commission cannot have ex parte communications.

Mr. Kennedy added that ex parte communications are also an issue of prejudgment.

Mr. Farina felt that some ex parte communication is permitted, and some is not. He asked where the line is.

Ms. Pilla asked which is permitted and requested an example.

Mr. Farina stated that staff talks all the time outside of the public hearing.

Ms. Pilla stated that staff are not on the commission, and they don't vote.

Mr. Farina retorted that they are on the staff and asked, "You don't ever have conversation or communication with a commissioner about something in a public hearing that is ongoing?"

Mr. Anderson stated that people can staff questions.

Mr. Farina stated that some ex parte communication of a technical nature is legal.

Ms. Pilla responded that staff describing the rules and the process to commissioners is legal.

Mr. Farina stated that there is more that is legal than that, such as explaining something on a map or something like that.

Ms. Pilla remarked that, if someone needs help reading a map, it is not an ex parte communication.

Mr. Farina remarked that the bottom line is that this is not in the Rules of Procedure, so someone new to the commission doesn't know this. It should go into the rules.

Mr. Anderson stated that he understands some of Mr. Farina's comments. However, we can't put everything in the rules. He agreed with laying out what the public hearing should look like. There is a limit to how much we can put in this.

Ms. Pilla felt that the rules and procedures should be two pages. The Board of Directors is very different.

Mr. Farina stated that the Board of Directors' document is 24 pages. He didn't think adding a page is the end of the world.



Ms. Luna commented on the possibility of having the Staff Attorney present when required. That's something that she's not sure how the Commission can act on. Recently, when the Commission decided they should check with the Town Attorney, that pushed it back a meeting.

Mr. Anderson stated that he doesn't disagree. He noted that the Staff Attorney works for the Town Attorney and whether or not they cover the Planning & Zoning Commission will be up to the Town Manager and Board of Directors, adding that Attorney O'Neil will never do it.

Mr. Farina commented that there are planning and zoning commissions that have an attorney there.

Mr. Anderson related that a lot of what staff is communicating comes from the Town Attorney. If staff is providing feedback, information, or advice, a lot of times it's based on their communication with the Town Attorney. It would be helpful at times to have the attorney present.

After a comment from Mr. Kennedy, Mr. Anderson stated that he needs to know what the Commission wants staff to do with this. Mr. Farina made suggestions and staff have some minor suggestions compared to this. He asked if staff should start with a portion of it to move this forward.

Mr. Farina responded that staff should take what he sent them, incorporate it, and then look at the Conducting the Public Hearing section closely, because they are experts on it. If they want him to take a stab at it, he will do it.

Mr. Anderson interjected that he'd prefer staff take a stab at it.

Mr. Farina agreed, noting that he's piecing it together from what's legally required. He read a sentence from Mike Zizka's book: "One exception to ex parte communications rule concerns discussions with municipal personnel such as the town engineer, planner or consultants employed by the agency." That, to Mr. Farina, means discussions with staff or consultants. Mr. Farina remarked that staff is telling him that what Mr. Ziska is saying is wrong.

A number of staff and commission members responded no. He's saying the same thing.

Mr. Farina remarked that he can have a conversation with staff.

Mr. Anderson stated that he can call and ask for information which may help form his opinion.

Mr. Farina stated that, every time he does, he's told he can't do it.

Ms. Pilla remarked that, every time Mr. Farina tells staff what to do, she tells him that he can't tell them what to do. But if he wants to ask questions, she will answer them.

Mr. Kennedy commented that just contacting a staff member is not the same thing as sending a “reply all” email to everybody. He suggested Mr. Farina give the Commission what he’s come up with now and start with that.

Mr. Farina commented that, in the late April or the May 6 meeting, Mr. Prause asked in the minutes, which Mr. Farina rewatched, “Is the 20<sup>th</sup> enough time to review this legally for the May 20<sup>th</sup> meeting?” A yes was provided. It was originally scheduled for the May 20<sup>th</sup> meeting, and the Commission flipped it for the last workshop. At the last meeting, it was left that staff was to review legally what he had put together.

Mr. Anderson asked whether Mr. Farina’s intent is to make the Planning Department look bad.

Mr. Farina responded no. He said he thought it had been established that the next step was for staff to review this to see what needs to get fixed, then bring it back to the Commission and see if the Commission likes the rules or not, and ask what they would edit.

Ms. Ike responded that she already has input on one of the sections.

Mr. Farina continued that the full Commission should look at it.

After a question from Mr. Kennedy, Ms. Ike said that, for the first time tonight, she heard that he has gotten his new Agenda section from the rules of the Board of Directors. She said she looked at it thinking the Commission already has an Order of Business section. She asked why they would also need an Agenda section, why they wouldn’t be combined, and whether they are achieving the same purpose. She said she doesn’t understand why there need to be two.

Mr. Farina reiterated his question about how a commissioner gets something on the agenda.

There was some discussion that was inaudible.

Mr. Farina pointed to Ms. Luna and said she has no agency getting something on the agenda. He felt that was wrong.

Ms. Ike commented that she is just asking why there are two sections. Order of Business, she stated, is the agenda.

Mr. Farina stated that it doesn’t matter to him if there’s one section.

Mr. Anderson asked what things he’s thinking of putting on the agenda.

Mr. Farina stated that he’s been very transparent about the things he’s most interested in. The land use part of it is interesting but the planning stuff, for him, is more interesting. There are a lot of recommendations that can stand alone as documents or be incorporated into the Plan of Conservation and Development (POCD). He acknowledged that Mr. Anderson is not a fan of amending the POCD. Statute is clear that it should be reviewed and amended. The Commission didn’t amend it once in a 10-year period.

Mr. Kennedy stated that's actually pretty typical.

Mr. Farina stated that is not what statute says.

Ms. Pilla commented that statute tells the Commission to go back to it every 10 years.

Mr. Farina noted that, in the trainings that the commissioners are going to, they are being told to make it a breathable, livable document that you amend and go back to. It's not a dead document. Land acquisition priorities would be one. A greenway plan would be one; we don't have a greenway plan in town.

Ms. Pilla commented that she is frustrated because we've had this conversation multiple times, explaining that: (a) some things are not in this commission's jurisdiction, and (b) we have talked a couple of times, including with Attorney O'Neil, about why an individual member really shouldn't be bringing up business. She stated that we've talked about this many times and Mr. Farina is just not listening.

Mr. Farina retorted that Ms. Pilla is not listening to him, which she denied. He stated that an individual member should have the right to put something on an agenda.

Ms. Pilla responded that staff have explained to him exactly why the opposite is true.

Mr. Farina stated that he does not agree with Attorney O'Neil.

Mr. Kennedy commented that he is right.

Mr. Farina said that Attorney O'Neil commented at the meeting that he's not familiar with planning and zoning rules. If you don't allow a single member to add something to an agenda and this commission becomes partisan, the Republican minority in this town has no voice.

Mr. Kennedy remarked that this board hasn't been partisan until now.

Mr. Stebe commented that it's still not.

Ms. Ike agreed it's still not partisan.

Mr. Farina responded to Mr. Anderson about things he'd like to see that he would possibly put on an agenda. Many of them are things he's already put on. He will look at items in the POCD and think that would be really great if we had a plan and that falls under planning and zoning. In terms of when to do it, he can't do too many things all at once because it's too much. Staff has too much work, so space it out. A greenway plan exists in New Haven. It was done by their Planning & Zoning Commission. He asked why this Commission can't do that. If we had one, when disposing of 601 Lydall Street, there could be a greenway plan on there. If we had a greenway plan, we'd have to make sure there's 10 or 12 ft. for the greenway, but we don't have that plan.

Mr. Anderson stated that the way Mr. Farina looks at the PZC is essentially as the Board of Directors, with the idea that, whatever he wants Manchester to be like, he can do it through the PZC. Mr. Anderson doesn't think that's the case. Statute doesn't say that. The POCD is obviously an important 10-year guiding document. We should implement that. That's what it's for. It's not a dead document; it's something we're working on all the time trying to implement. Together we can make a lot of progress. We can get distracted by other ideas and having to change the POCD because we haven't done X, Y, Z instead of looking at the recommendations, saying "Let's get going."

Mr. Farina stated that is a whole other discussion.

Ms. Ahsan asked whether there is a Code of Ethics handbook and Roberts Rules of Order that the commissioners can have. She acknowledged that commission members are supposed to act in a manner that maintains integrity and objectivity, independent of anything. The Commission is supposed to be responsive to the interests and needs of Manchester residents, but she's never heard of people adjusting the agenda. She doesn't think members should be able to add anything. They should come in as they please. As a minute-taker for the City of Hartford and doing it for the Historic Preservation Commission and the Planning & Zoning Commission, she has never seen a commissioner add anything to an agenda. They usually have pre-application meetings, but staff does that with the applicant. They put their trust in the staff. Perhaps we can take some time and put in some ethics codes so we're all on the same page. She believes that's what she is hearing.

Ms. Pilla answered her question, stating that there is no separate ethics document because the jurisdiction of a planning and zoning commission is so specific by statute that it's never been needed to this point.

Mr. Farina interjected that many planning and zoning commissions do have ethics in the rules. This commission does not because it falls under the Town's ethics code.

Ms. Pilla stated that the jurisdiction and responsibility of a planning and zoning commission is dictated by statute.

Ms. Ahsan asked whether it would be helpful to provide a draft of a sample code of ethics from the City of Hartford or something to build off of.

Mr. Anderson responded that they can look at the Town Code of Ethics. The PZC is a statutory authority, which is different, but that may be a place to start.

Mr. Farina commented that he intentionally chose not to include it.

Ms. Pilla stated that, based on statute and case law, the Planning & Zoning Commission is supposed to act on what's presented to it. It's not typical for a planning and zoning commission to have members suggesting new topics for the agenda. That's very typical on a board of directors.

Mr. Kennedy commented that he's been on three planning and zoning commissions and that's just not what planning and zoning is. It is an adjudicative body.

Mr. Farina agreed in terms of the zoning section, but not the planning section. If you just have a planning commission, they're not adjudicating things; they're planning. There are still some planning commissions in Connecticut; that's what they do, come up with the plans. Many of them are looking at the recommendations or implementations of the POCD. It's the language in the beginning of the POCD statute language that is not in our plan. There is a big sentence that says, "may do this," which we don't do in Manchester. That's a lot of the stuff Mr. Farina would like to do. State statute gives the Commission the authority.

Mr. Anderson stated that it gives the authority through the POCD and implementing the POCD is a big part of what the planning is.

Mr. Kennedy commented that, before Hartford had its current Planning & Zoning Commission, under the old charter they had two separate commissions: the Commission on the City Plan and the Zoning Commission was the city council. He was on the Hartford Commission on the City Plan and no one had authority to put items on the agenda themselves.

Mr. Stebe stated that he's not sure if it's something where we need to line up and say we must have a completely clear lane for a single member to put a specific item on. He gave the example of him wanting to talk about dark skies programming in Manchester, and asked how he, as a member, would get that as an item in front of the Commission as a whole. The procedure isn't there. We can be super strict and say, as long as the member comes in to say they want to talk about this, here's my documentation behind it, it's 15 days in advance of the next meeting and we need to put this on the agenda. Or we can put something else out there that very clearly puts forward a way to bring that up and put that onto an agenda. For him, it would be let's talk about it here and we'll do a workshop on it to hash it out, but there's not even a process to get that ball rolling. He asked what is the appropriate process that we can put in for a member who has an idea that would work within the POCD for a Planning item, so the Town can move forward with the Planning item to put something in place? How would they do it?

Mr. Farina interjected that it depends on who you talk to and what day.

Ms. Pilla reiterated that she's frustrated because the Chairman, Mr. Prause, has explained that process a handful of times. She totally agreed with Mr. Stebe that we can formalize that process by putting it into the rules, but she does not understand the confusion, as Mr. Prause has explained how we should go about that.

Mr. Farina stated that it is not in the rules.

Mr. Stebe noted that the only reason why he knows that process is because he's been here for 13 years, and he's done it before. Nobody else on this commission has been here for 13 years, not even Town staff.

Ms. Pilla agreed that it can be put in the rules.

Mr. Farina stated that he's been told there are two different ways to get something on the agenda: just mention it at a meeting, majority vote, the agenda is changed, and it's added; or mention it at the meeting before, in Administrative Reports, with unanimous consent.

Mr. Anderson commented that staff did not make these things up.

Mr. Farina said those are the two ways he has been told he can get something added to the agenda, and asked, according to whom?

Mr. Stebe stated that he's actually never heard of the unanimous consent on that type of an item.

Mr. Anderson responded that we've never had to do that. Usually, if someone says they'd like to talk about something, the Commission asks staff whether they'd be willing to have a workshop or if they would work on a regulation, because a topic has come up numerous times and we should work on it. That's how the discussion has gone. It's usually based on something we've talked about before and not an individual commissioner, on their own, presenting an idea.

Ms. Pilla clarified that she did not think the Chairman said that there has to be unanimous consent when something is brought up during administrative reports. The phrase "unanimous consent" came in when someone assumed there was unanimous consent based on silence. She added that silence does not mean unanimous consent. It doesn't mean you need unanimous consent to discuss something, but it cannot be just one member.

Mr. Farina responded that it could be. He stated that he and the Chairman are close friends. When he says nobody objected to it going on, it goes on. If somebody objects to it, that's not unanimous consent and it's not going on the agenda. He added that he wants to do form-based zoning on Main Street. He asked how he can get that on the agenda and what the procedure is for making that happen.

Mr. Anderson replied that, if Mr. Farina was just curious about it and said, "Let's talk about downtown zoning. Let's talk about the downtown guidelines. Let's talk about what we want to see downtown," then we can have a discussion about that; we can have a workshop or an agenda item. If he has already decided that he wants a form-based zone downtown, Mr. Anderson feels that's problematic. He assumed Mr. Farina would write a form-based code and give it to everybody. That's not the way to go about it. We need to talk about an issue and try to come up with solutions to achieve that. Right now, downtown zoning is the most flexible zoning we have in town. You can build a lot of stuff. You can build up to six stories. You can do almost any use. You don't need a lot of parking. Mr. Farina just assuming that there is one way forward and he knows what that is, that's an issue.

Mr. Farina commented that, if people don't want to do it, it's not going to happen. But him getting that on the agenda as a discussion, that brings it up. But if a chair doesn't want it to go on the agenda, it doesn't go on the agenda, ever. That's not the way it should be. It's not a tyrannical commission. He stated that he doesn't always push things and say it's his way. He

pointed out his land acquisition proposal with a lot of whereas's, a committee, and a group. The Commission clearly didn't want to pursue it and he didn't push it. That was a discussion item and there weren't votes there and it went away. If you have a chair that doesn't want it to go on the agenda, the Commission's current rules mean it doesn't go to the agenda.

Mr. Anderson asked why the chair wouldn't want it.

Mr. Farina responded that you always hope to have a good chair and this Commission has one.

Mr. Anderson commented that it does.

Mr. Farina stated that it's been a pain point, but if he puts something on the agenda, if the rule is any commissioner can add something to the agenda, the Commission can then table it.

Mr. Anderson explained that our way of tabling it is to ask if he's thought about this. Mr. Farina describes it as pushback. It's not pushback; it's staff's expertise and their opinion. The Commission can decide on its own whether or not they want to go with that. That is essentially what we've done. Also, the form-based zone on Broad Street cost \$50,000.

Mr. Farina replied that there are certain lots that, right now, could be repeated elsewhere that would be really awful and it's because we don't have form-based zoning. The current guidelines are really subjective.

Mr. Anderson stated that they should have a discussion about all of it. To Mr. Farina's point about staff saying they were going to have this at the end of May and then not doing that, Mr. Anderson asked if the Commission would like staff to review Mr. Farina's changes and insert some of their own and opine about them. That's what they are going to do.

Mr. Stebe suggested merging them together and seeing where we're at. There's a lot of room for some level of discussion. A couple of the sections, as written, have created a lot more discussion than others. Even within those, there is the underlying thought and idea that is appropriate, so let's find a spot where it works. Some of it is that we don't have an issue because we have a stronger body right now. It doesn't mean that's the case three years down the road, so let's make it clean, so everybody understands what the rules and responsibilities are.

Mr. Kennedy doubted that something will happen three years down the road. He said he's not in favor of fixing things that are not broken.

Mr. Farina stated that this is broken.

Ms. Ike interjected that the fact that we're having this discussion means that not everybody shares the same view. Some people see a need for things to change.

Mr. Anderson stated that Ms. Pilla has a lot on her plate right now. He will take a look at what Mr. Farina is suggesting and asked him to send the Word version of it. He'll incorporate staff

comments and staff will talk about it with the Town Attorney and will get back to the Commission.

Ms. Pilla asked how we should continue.

Mr. Stebe stated that, in the past, we've done things like this, and we've pushed a draft back and forth instead of having a formal conversation. The edits are not huge and, if the feedback is close, then we'll put it up for an actionable item. If the feedback is all over the place, it may need a second workshop.

Mr. Anderson observed that, with the opinions, no matter what they put together, he isn't sure we'll get there.

Mr. Farina felt we should go back to May 6<sup>th</sup> and what he put together. Is it legal or not? If it's not legal, fix it. He referred to Sec. 4 and 5 from the original Art. VII, the Rules of Conducting a Public Hearing.

Ms. Luna asked if, before the next meeting, Ms. Pilla could provide the commissioners with some information on abstention and disqualifications. Adjustments should be made to the rules of procedure, but if commissioners are predisposed to a single applicant or know them, they shouldn't be able to put that item on the agenda or even raise discussion about it because they're not impartial anymore. She would like clarification if that makes sense.

Mr. Anderson stated that he would clarify that nobody is 100% impartial about anything. Unless you have a direct financial benefit, there is really no reason to recuse yourself. People do it because they're uncomfortable because of a relationship to an applicant.

Mr. Kennedy interjected that it is if there's personal or financial interest. As an example, no one should vote on anything within 100 ft. of their property. Just because you sort of know someone, you shouldn't recuse yourself.

Mr. Stebe commented that a prior commissioner recused himself because he was on the Planning Board at the temple and there was an application on a subdivision behind his home. It directly affected his work as a commission member. He noted that he's had questions, which he directed to Town staff, who rendered their opinion.

Mr. Farina mentioned that abstaining counted as yes according to some case law and as a no vote in other case law. It appears that most lawyers think an abstention is a yes vote.

The workshop closed at 10:10 P.M.

I certify these minutes were adopted on the following date:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Eric Prause, Chairman