

PUBLIC HEARING AND BUSINESS MEETING
FINAL

- A. **CALL TO ORDER:** C. Brown called the meeting to order at 7 p.m.
- B. **ROLL CALL:** C. Brown, Chairman; A. Franciosa, Vice Chairman; B. Mutrie, G. Parish, A. Tonry, S. Volpone, Members; M. Kasprzak, Selectmen's Representative; L. Ruest, Administrative Assistant; D. Smith, Circuit Rider Planner; K. Kelley, Building Inspector

C. **PUBLIC HEARING – PROPOSED ZONING AMENDMENTS**

1. Amend the **definitions** section of the ordinance by adding the definition of “billboard” and “sign, billboard.” Change the responsible town official for issuing temporary sign permits from the Town Clerk to the Building Inspector/Code Enforcement Officer, combine section 3.3.2 with 3.3.3 of the **sign ordinance** and add a new section 3.3.2 regarding prohibiting billboard signs in town;

C. Brown opened this public hearing and read the proposed changes to the current wording. She summarized the changes to be a change in the Town official issuing temporary permits (Town Clerk changed to Building Inspector/Code Enforcement Officer). One numbered section was reworded to combine current information and allow for the addition of the prohibition of billboards. It was noted that three billboards in place today are grandfathered from this change.

Hearing no further comments or questions of the Board, C. Brown opened discussion to members of the public. One member of the public in attendance to present an application did not have any questions. Hearing no questions, C. Brown closed the public hearing.

Also proposed is the addition of definitions for Billboard and Sign, Billboard. These two additions will assist those using the definitions allowing for two locations to define Billboard. It was noted that there is also a definition for Sign in the listing of definitions.

Discussion took place with regard to permanent and temporary signs, whether they are attached or detached and other sandwich board type signs. Concerns were raised with the current amount of signs throughout town, their placement, etc. C. Brown stated that the Town has a sign ordinance and that this is a matter of code enforcement. She added that it might be beneficial for the Selectmen to review the ordinance in order to understand what is allowed and not allowed. It was noted that there is a penalty or fine that can apply to violations. K. C. Kelley acknowledged the fine and stated that he hasn't used it or invoked it. Suggestion was made to add the word “permanent” to each definition (A *permanent* sign that directs attention...).

C. Brown stated that this amendment will prevent billboards from appearing in town and T. Franciosa added that if there is no building for a business on the property, there is no sign. It is not the intention to remove those in place but rather to prevent billboards in the future. A. Tonry stated that Sections 3.1.5.1 and 3.1.5.3 need to be revised to change the words “Town Clerk” to “Building Inspector/Code Enforcement Officer.” The Board agreed that this was not a substantive change and that the matter could be forwarded to warrant.

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

MOTION: To forward this amendment to Article IV, as revised, to the March 2012 warrant.

**MOTION: B. MUTRIE
SECOND: A. TONRY
UNANIMOUS**

2. Amend **Section 3.1.13 - Accessory Dwelling Unit**, by lowering the maximum permissible size requirement, prohibiting condominiumization of accessory dwelling units, and require proposed detached accessory dwelling units to come before the planning board for a conditional use permit.

C. Brown opened the public hearing and referred the Board to the current and proposed wording for Article III, Section 3.1.13, Accessory Dwelling Unit. She reviewed the proposed changes to include adding a section entitled "Purpose," requirement of a conditional use permit from the Planning Board, adjustment of numbering of this section of the ordinance, change from "assessed gross square foot area" to "assessed living area, and reduction of allowable square footage from 1,200 square feet to 650 square feet. Two new sections were added: 1) to prohibit an accessory dwelling unit from being condominiumized and 3.1.13.11 to require that an accessory dwelling unit match the character of the primary residential use of the lot.

C. Brown stated that it has been brought to her attention that there is a concern that the 650 square foot requirement might be too small and affect the ability of the warrant article passing. Discussion took place with regard to personal experiences of Board members and it was determined by poll and majority consensus of the Board that 650 square feet is to remain.

A. Tonry stated that there will now be a need for an applicant to submit an architectural rendering with an application for the Board's consideration. Following discussion, it was agreed to remove the first word "residential" from Section 3.1.13.11. The Board agreed that the proposed changes were non-substantive and that the proposed amendment could proceed to warrant.

MOTION: To forward this amendment to the March 2012 warrant as amended.

**MOTION: G. PARISH
SECOND: S. VOLPONE
UNANIMOUS**

3. **Case #11-09-01:** Application from **Unitil Forestry Department** for Final Public Hearing for Scenic Road Alteration Permit to prune circuit mileage which encompasses portions of scenic roads in Hampton Falls.

Sara Sankowich, System Arborist for Unitil Forestry Operations, introduced herself and presented information with regard to maintenance tree trimming work planned for certain scenic roads in Hampton Falls. Two page plan sets were provided to Board members for their reference of specific circuits that are planned to be pruned of overhanging tree limbs.

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

S. Sankowich explained that Unitil does not plan work for an entire Town at once, however, does prune to maximize reliability and benefit to serve customers. The lines highlighted on the plans are those circuits in Hampton Falls planned to be pruned. Some circuits fall on scenic roads. S. Sankowich noted that this application is seeking permission to prune on certain scenic roads as outlined in her memo of September 7, 2011. Other work for roads that do not fall under the scenic road designation are not included in this request. She stated that those roads that fall under the Scenic Road Ordinance will be pruned within the terms of the ordinance of six feet. Other roads that do not fall under the designation are pruned up to ten feet. It was also noted that Unitil is pruning six feet around the top wires that carry electricity. S. Sankowich reported that this is a start of this maintenance project and that Unitil will be back before the Board for any further work on scenic roads. She added that tree trimming crews are contracted by Unitil who is using Asplundt Tree Service at present.

Discussion took place with regard to tree trimming on other roads and whether there is a plan to get work done on other roads before winter. S. Sankowich explained that this is the work planned for Hampton Falls for this year and that work for next year has yet to be determined by Unitil. Discussion took place with regard to long range plans to bury electrical lines and the dynamics of getting that type of work done.

MOTION: To accept the application as complete.

MOTION: T. FRANCIOSA
SECOND: S. VOLPONE
UNANIMOUS

C. Brown acknowledged receipt of a memo from the Highway Safety Committee (9/20/11). It was noted that variance from the Zoning Board of Adjustment would be needed in order to allow trimming of 10 feet rather than six feet as allowed by ordinance. Another option to allow 10 feet of trimming would be to propose amendment of the ordinance. S. Sankowich noted that trimming may not be needed every year and that determination would be considered on a case-by-case basis. She also stated that any defective or hazardous limbs are pruned in accordance with procedures.

MOTION: To grant the request for Scenic Road Alteration Permit for Circuit E23X1 Mill Lane and Circuit E59X1 Stard Road, Dodge Road, Mill Lane, Goodwin Road, Crank Road, Nason Road, and to include Old Stage Road should the utility company choose to address this road this year.

MOTION: M. KASPRZAK
SECOND: G. PARISH
UNANIMOUS

D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

MOTION: To accept the minutes of the August 23 meeting as written.

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

**MOTION: M. KASPRZAK
SECOND: T. FRANCIOSA
6 IN FAVOR, 1 ABSTENTION, PASSES**

E. Climate Ready Estuaries Coastal Adaptation Project – Hampton/Seabrook Estuary

D. Smith provided information to the Board with regard to a project to explore economic options to protect the Hampton-Seabrook Estuary from coastal flooding. Presentations such as this one have also been made to Planning Boards and Conservation Commissions in Hampton, Hampton Falls and Seabrook.

He provided a handout of information in this regard as well as a history of the activity that has been taking place to date by various groups. He requested that persons representing Hampton Falls participate in the Local Stakeholder Group meeting to be held on Thursday, October 27, 6:30 p.m. at the Hampton Falls Library.

D. Smith reported that the RPC is involved due to the concern of the issue of vulnerability in certain areas of Hampton and Seabrook which includes an area of Hampton Falls. He reported that research, reviews, mapping and presentations are being done with respect to flooding and sea level rise. It is proposed to conduct economic analyses and determine strategies from a cost effective standpoint as to what can be done in vulnerable areas.

The Board thanked him for his report.

F. OTHER BUSINESS

1. T. P. Realty – Case #10-07-01 – Final Issues

Property Owner D. Benoit, Lessee L. Nishi and Engineer W. Evans were present. C. Brown reported that a final review letter dated September 20, 2011 has been received from Jones and Beach Engineers. She stated that although a great number of the issues have been resolved, there are some that still need attention, specifically, items numbered 7, 8, 18, 24, 29 and 42; plus three additional items numbered 43, 44 and 45.

Referring to item 45, C. Brown stated that the parking in the southwest parking area needs to be addressed as well as the overflow parking on the neighboring parcel in Seabrook. She suggested that signage and some sort of barrier needs to be placed. It was acknowledged that patrons are using this area so that they do not have to walk from the back parking lot. D. Benoit confirmed that there are available parking spaces at the rear but that patrons are choosing not to park there. W. Evans stated that the parking lines painted in the southwest area of the parking lot were blacked out last fall and will be blacked out again and that the proper layout of parking in this area will be shown on the final plan. L. Nishi stated there is plenty of parking at the back and that the Poker Room has been using a golf cart to assist patrons getting to and from their cars. D. Benoit suggested adding “additional parking out back” signs. All agreed that it is important to address this problem as soon as possible.

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

Discussion of waiver requests took place at this time. Three waivers and two special use permits have been identified by Jones and Beach Engineers. Referring to item number 8, W. Evans stated that he disagrees with the Town Engineer but that if the Board requests he will submit waiver requests. He stated a number of times that no water leaves the property as a result of drainage; it travels to the rear tidal marsh area.

Referring to item number 24, W. Evans stated he understood the rules and would request a waiver to allow an 8" pipe in place of where a 12" pipe is required.

Referring to item 42, W. Evans stated he would present a waiver request for the 8" pipe in this location where a 12" pipe is required. D. Smith stated he agreed with the Town Engineer with regard to the waivers for pipes and suggested the Board consider granting with the condition that the pipes work in the future (100 year storms). D. Benoit stated that if the pipes do not handle the flow the water travels down the swale. W. Evans stated that these issues were worked out with Steve Burd who prepared the drainage report. W. Evans drafted a waiver request at this time and submitted the document to the Chair.

C. Brown acknowledged receipt of the request for waivers and requested action of the Board.

MOTION: To grant the request for waiver to the following as requested by the applicant engineer for Case #10-07-01 T. P. Realty:

1. Site Plan Regulation Section 8.6.1 to allow increased storm water flow into the tidal marsh area after treatment (Item 8),
2. To allow an 8" pipe where a 12" pipe is required under the paved sidewalk (Item 24),
3. To allow three 4" pipes in lieu of a required 12" pipe at Pond 1 P (Item 42), based on recommendation of the Town Engineer's review letter dated 9/20/11.

**MOTION: T. FRANCIOSA
SECOND: S. VOLPONE
6 IN FAVOR, 1 ABSTENTION, PASSES**

Two items remain unresolved (7 and 29). These relate to the need for a special use permit for work done in the wetland buffer. C. Brown informed the applicant engineer of the need to submit an application for public hearing.

7. Within the 100 foot setback from poorly drained soils (which we assume to be wetland), the design shows silt fence, tree cutting and removal, grading disturbance, and a level spreader for stormwater conveyance. A Special Permit is required for this activity. **Unresolved pending Planning Board action regarding Article 8.3.1. JBE would support the granting of a Special Permit.**

PUBLIC HEARING AND BUSINESS MEETING
FINAL

29. The proposed drainage swales must be graded out along the south side, between parking and the septic system, and along the north side. 400 linear feet of this swale is within the 100 foot wetland buffer. A Special Permit is required, in our professional opinion. See also Item 7. **Unresolved pending Planning Board action regarding Article 8.3.1. JBE would support the granting of a Special Permit.**

W. Evans reported that according to opinion of Attorney J. Colliander, the applicant does not need this permit. He acknowledged that work was done in the wetland buffer earlier in the year to create level spreaders and ditches up to the level spreaders. He added that clearing occurred within the wetland buffer as well as modification to the parking area and questioned why this requirement is being made now that work is done. D. Smith reported that wetland buffers are off limits to disturbance and should be marked with wetland placards. D. Smith stated he would like to review the comment letter from the original review as there was indication regarding this permit. He also noted that this Board has not granted wetland buffer disturbances in the past. He also questioned if the work done qualifies for special use permit or whether this matter should be addressed by the Zoning Board of Adjustment. W. Evans stated that the entire area has been worked and stabilized with grass growing.

B. Mutrie asked if the Town will be receiving as built plans given the number of changes made since conditional approval. W. Evans stated that the mylar coming to the Town for signature and recording is essentially an as built plan. The consensus of the Board is that the work has been done and will be shown on the final plan, therefore, there is no need for a special use permit at this time. D. Smith recommended that the conditional approval plan be reviewed in conjunction with the as built plan. He added that he doesn't feel the work done in the wetland buffer was part of the approval(s) granted by the Planning Board and that the work was done in violation of the ordinance. He cautioned the Board not to set precedent for future site plan approvals.

MOTION: To determine that Jones and Beach Engineers concerns raised in items numbers 7 and 29 are considered not necessary by the Planning Board based on circumstances relating to Case #10-07-01's previous approval and as built plans that are forthcoming to the Board.

MOTION: G. PARISH
SECOND: S. VOLPONE
6 IN FAVOR, 1 ABSTENTION, PASSES

2. 115 Lafayette Road Trust, Seafood Marketplace, Site Plan, Map 8, Lot 60-1

C. Brown acknowledged Altus Engineer Report #9 as well as a request for bond reduction letter dated September 1, 2011. C. Brown reported that she and the Building Inspector met on site as a result of these reports to discuss items that were not part of the approved plan (retaining wall, paved walkways and patio, paved driveway to back lot and gravel parking lot expanded to side setbacks). C. Brown reviewed each of these items and the status as to whether it has been corrected or removed. C. Brown stated that an as built plan is forthcoming to address additions and changes to the conditionally

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

approved plan. It was noted that Altus Engineering may have one more inspection to conduct. Based on this information, C. Brown recommended releasing \$30,000 to the property owner.

MOTION: To approve the request for bond reduction per Altus Engineer letter of 9/1/11 and release \$30,000 to the property owner.

**MOTION: A. TONRY
SECOND: G. PARISH
UNANIMOUS**

C. Brown stated that the property owner has asked the Building Inspector for approval to open for business. The items of the paved patio, paved drive to the back lot and gravel extension are to be taken care of before opening. Permission has been given to not pave to the back of the building in the area of the fire lane as no vehicles will travel there.

MOTION: To allow the Building Inspector to issue an occupancy permit so that the owner can open conditionally upon removal of pavers within the wetland buffer.

**MOTION: T. FRANCIOSA
SECOND: A. TONRY
UNANIMOUS**

3. Committee Reports

C. Brown acknowledged minutes of Heritage Commission meetings of August 19 and August 25 pertaining to a demolition permit for property owned by Thomas Carney, Map 2, Lot 76.

She also acknowledged minutes of the Road Committee minutes of September 13 and inquired as to whether the outstanding work has been completed at Peltons Way. T. Franciosa stated he would contact the Road Agent with this question.

Ordinance and Regulations Review Committee minutes of September 14 and a request to consider corrections to zoning ordinance wording dated September 16 were acknowledged for the record. It was noted that there is a plan for C. Brown and L. Ruest to review the zoning ordinance for typos and other grammatical or numbering issues. Referring to item number two of the proposed corrections, C. Brown took exception with removal of the requirement of separation of used car lots and uses of that nature. B. Mutrie stated the rationale for the proposed change is to not restrict business. C. Brown stated this requirement was put in place for a reason so that Hampton Falls would not have the problem the Town of Plaistow experienced with used car lots along their commercial district. B. Mutrie and S. Volpone stated they felt that car lots could be attractive and bring in tax revenue. D. Smith stated this discussion relates to the suggestion of rezoning a district and that greater analysis of the business district is needed. C. Brown asked the Ordinance and Regulations Review Committee to reconsider and added that the Board of Selectmen and she would be meeting with the Town of Seabrook tomorrow with regard to starting talks relating to sewer and water. It was noted that there

**PUBLIC HEARING AND BUSINESS MEETING
FINAL**

is a hope to have a zoned parcel for light industrial on the warrant for 2013. Another suggestion was to create a downtown zone where used car lots would be 1,000 feet away.

Referring to item number three, it was noted that the proposed wording does not match that which was discussed at the meeting. This will need to be corrected. B. Mutrie stated the intent of this change is to remove incandescent lighting as these bulbs will soon no longer be sold.

MOTION: To bring the amendment to Article IV, Signs, Section 3.1.6 to public hearing in October (October 25, 2011).

MOTION: B. MUTRIE
SECOND: T. FRANCIOSA
UNANIMOUS

4. Open Space Plan (November, 2008)

C. Brown asked that members read this document prepared for the Conservation Commission noting that maps are available should anyone wish to review them. She asked that members keep this document as part of their binder documents for future reference and noted that a good portion of the Open Space Plan relates to the Town's Master Plan.

5. 2011 Municipal Law Lecture Series

Board members were asked to consider attending these lectures and should they wish to attend to let L. Ruest know so that arrangements can be made to register and submit payment.

G. COMMUNICATIONS TO BOARD MEMBERS

- LGC Fall Workshop, "Fundamentals for Planning Boards and ZBAs," Saturday, October 29, 9 a.m. to 12:15 p.m.
- LGC Annual Conference Preview Guide, November 16 – 17, Manchester, NH
- Great Bay Matters, Fall 2011

H. ADJOURNMENT

MOTION: To adjourn the meeting at 11:04 p.m.

MOTION: A. TONRY
SECOND: S. VOLPONE
UNANIMOUS