



## **Minutes**

### **NORTH HAMPTON PLANNING BOARD**

#### **Work Session**

**Monday, November 17, 2003**

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*These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription. An audio recording of the meeting is available in the Town Office. In the event that a question arises about verbatim comments, it can be answered by listening to the recording.*

### **Attendance**

**Attendees:** (1) Phil Wilson, Chairman, (2) Ron Todd, Vice-Chairman, (3) Don Gould, (4) Joseph Arena, (5) Judy Day, (6) Shep Kroner, (7) Jenifer Landman, Selectperson Representative, (8) Beth Church, Alternate and (9) Laurel Pohl, Alternate and Krystina Deren Arrain/Planning & Zoning Administrator/Recording Secretary.

**Members Absent:** (1) Richard Place, Alternate

Mr. Wilson called the meeting to order at 7:04 PM.

### **Items Considered**

**Public Hearing:** In Reference to RSA 41:14-a.I. for discussion regarding the acquisition of the property at 239 Atlantic Avenue which abuts the North Hampton Public Library.

Mr. Wilson explained the purpose of the meeting and the procedure for public meeting.

Ms. Landman, Selectwoman, explained that the Town is growing and expect to continue to grow. The Town is considering the purchase of a parcel land that would be used for the future expansion of the municipal complex and parking facilities in keeping with the Master Plan. She added that the Town does not have a trust fund and the NH Department of Revenue Administration [DRA] had authorized the town to use money from their undesignated fund balance for the proposed purchase. Ms. Landman explained the ensuing process included: (a) discussion/review by the Conservation Commission and (b) two public hearings. After the aforementioned requirements are held the property could be purchased.

The property is assessed at just under \$490,000; the selling price is \$550,000. The property encompasses 1.05 acres. An escalation clause was written in at .09% a month. Because of this clause, Ms. Landman noted that it could cost the Town more money the longer it takes to complete the purchase. She added that the Budget Committee approved the purchase price. The undesignated fund balance is over \$2 Million.

Richard Goeselt, 23 Old Locke Road, explained that the current library would be an ideal 5,000 sq. ft. space for all municipal offices. He noted that Dennis Mires is the architect for the municipal complex. The Municipal Planning Committee approved the plan to purchase the

additional property to use for expansion of the municipal complex. An abutter asked where would parking be located. He suggested that a proposed building could be located closer to Atlantic Avenue with parking in the rear. He noted that additional parking would be available after the highway garage is dismantled.

Ms. Day asked if the land is earmarked for any particular purpose. Ms. Landman said there is not enough room for a highway garage on this property and there are no current firm plans for the land. Mr. Gould asked if the tenants at 239 Atlantic would remain on site after the Town took possession. Ms. Landman said the tenants would vacate at the time the Town takes possession. Mr. Todd questioned if that was a good business decision. The Town could earn some additional income. Ms. Landman said the Town did not want to become landlord. She stated that the property is up for sale and the tenants would probably have to vacate in the event there were another purchaser. Mr. Todd pointed out that the Town could hire a property manager to handle details until the tenants move out. Dr. Arena agreed with the land purchase but advised caution before deciding how the land is to be developed.

Ms. Day asked if the Board's vote were opposed to the purchase, how would that affect the purchase? Ms. Landman said the Board's vote is advisory. Mr. Wilson also questioned the business sense of the Town's not maintaining the rental option for the property once purchased. Mr. Wilson asked if the Town intends to raze the building and use it as a parking lot. Ms. Landman said the Board of Selectmen have not voted or acted upon the immediate use, but she said it was reasonable to assume the Town would use the land for interim parking.

Ms. Landman stated it is the Board of Selectmen's desire to close on the property in January. If the purchase decision is sent to a warrant vote, then following the March town vote, the closing would occur in April. Dr. Arena stated that the town wants to stay rural and advised against rushing into expansion and development. Ms. Landman said sometimes you have to take advantage of opportunities when presented. She added that this potential purchase is such an opportunity, viewing it as part of the plan for the future. She noted that the cost of land is anticipated to increase which necessitates the Town to act on the opportunity now, rather than later when the cost would probably be significantly higher.

At 7:40 PM the public hearing was opened.

Mr. Wilson opened the floor to comments in support of the property purchase.

Jeff Hillier, 3 Glendale Road, commented that the acquisition of land is important and he was very much in favor. He felt the need for "voting day" parking should not be the only reason for parking space.

Jill Brandt, 219 Atlantic Avenue commented that the Town paid an architect \$25,000 to develop a plan for a municipal complex and the purchase of this property is in keeping with the architect's plan and recommendations to acquire adjacent land.

Mr. Wilson opened the floor to comments in opposition to the property purchase.

Miles Tidd, 8 Grandview Terrace commented that it was not clear to him that the library should be located within the town complex. He further added the town should have a specific purpose in acquiring the property.

Todd McLaughlin, 4 Hampshire Road, an abutter, commented that the town is paying five (5) times the market rate. He stated it would increase traffic on Alden Avenue. Mr. McLaughlin was concerned about lighting issues from parking lot lights and car traffic. He did not support the purchase. Mr. McLaughlin commented that the town might need to build a new school. In that event, he suggested the possibility of building a detached library for students to use with separate entrances for others to use. Mr. Wilson informed Mr. McLaughlin that a petition with 50 signatures of registered voters could put the purchase question on the March 2004 warrant for the town's vote. Ms. Landman added that a very high screening area would be placed to alleviate some of the privacy and lighting problems as well as beautifying the complex.

Emily Creighton, 32 Post Road, commented that it is a good opportunity. Space is a problem for town offices and meeting space. There are so many reasons why we need the space. This opportunity may not present itself again, or if it does, the price will be higher.

Ms. Landman said the Municipal Complex Committee looked into enlarging the school library as a way to expand our current library, but that idea was discouraged for a number of reasons including the lack of easy public access and security to name a few.

Deborah Sillay, 218 Atlantic Avenue, an abutter, said the town has expanded and the space is needed and we should take advantage of it. The winter traffic and lighting issues are not a significant problem, and she would like uniformity with the town offices.

The public hearing closed at 8:00 PM.

**Mr. Gould moved and Ms. Day seconded the motion to recommend going forward with the acquisition, but to recommend 1) seriously reconsidering retaining the rental income until a decision is made about how the property will be used, 2) amending the purchase agreement to take into account the economics of the situation with use as a parking lot and 3) conducting a site plan review of the proposed use of the property when that is determined.**

*Vote was unanimous (7-0).*

Mr. Gould added that the library is in need of expansion. The land adjacent to town property is a plus.

### **Work on Subcommittee Projects**

**Discussion on SB 95 Affordable Housing Approach for North Hampton with Rep. Jeff Gilbert and Sen. Burt Cohen**

Mr. Wilson said that the Board subcommittee has investigated and reported to the Board on information and issues regarding the pending Senate legislation on affordable (workforce) housing. District 83 Rep. Jeff Gilbert and District 24 Sen. Burt Cohen accepted the Board's invitation to continue the discussion.

Mr. Kroner introduced the formal statement about SB 95 and the workforce housing issue, adopted by unanimous vote on October 21, and read the statement into the record.

*The Planning Board of the Town of North Hampton believes that:*

- 1. All municipalities have ethical and social responsibilities to provide their fair share of affordable housing.*
- 2. If a municipality is providing its fair share of affordable housing, as determined by the appropriate regional planning commission, then mechanism to accelerate development of affordable housing, such as those proposed in SB 95, should not be applied.*
- 3. If a municipality is not providing its fair share of affordable housing, as determined by the appropriate regional planning commission, then with the collaboration of that commission and/or the Office of State Planning, the municipality should be required to develop a plan to remedy the shortfall within a reasonable, fixed period.*
- 4. If a municipality fails to achieve its fair share of affordable housing after having adopted a remedial plan or fails to adopt such a plan within a reasonable period, then mechanisms like those proposed in SB 95 should be applied.*

*We believe that the above parameters for ensuring that New Hampshire's municipalities do their part in providing affordable housing balance state and regional needs to provide housing for all residents with the legitimate claims of municipalities to develop their communities in ways that are consistent with their character and heritage and the will of their residents.*

Mr. Gould was concerned with the mix/ratio of 25/75 percent affordable units in a proposed development in order for it to qualify as "workforce housing." In response to Mr. Gould's question, Rep. Gilbert commented that the Board is operating under a misunderstanding. He noted that SB95 does not mandate any housing requirements. Its focus is to stop communities that are breaking the law. He stated that affordable employee housing is the #1 problem for economic development in this state. Rep. Gilbert noted that municipal employees could not afford to live in North Hampton. SB 95 was drafted to assist development efforts for towns that are in violation of existing affordable housing requirements that have resulted from case law. His purpose is to explain the legislation and its implications.

Also attending the meeting were Elliott Berry and Judy Silva, NH Municipal Association. Rep. Gilbert commented that Mr. Berry and Ms. Silva helped to draft the language for SB 95.

Sen. Cohen said that SB 95 does not encroach on the autonomy of local zoning. Mr. Berry said a working document was generated and it is different from the document the Board has referenced. Mr. Todd pointed out that the document specified a 6-unit multi-family housing. He noted that North Hampton has 3-unit housing that does not qualify. Mr. Todd asked how that number was

reached. Ms. Silva indicated that a minimum requirement of six (6) units was required to make projects economically viable for developers.

Mr. Wilson asked Ms. Silva and Mr. Berry, “Does this bill do nothing but codify case law within the state”? Ms. Silva stated that SB 95 “narrows the law,” and Mr. Berry stated that “it fills gaps” in the case law.

Mr. Todd asked about the restriction imposed on a manufactured housing park development in order to qualify under SB 95 as “workforce housing.” Mr. Berry said that possibly manufactured housing park could not be affordable. Ms. Silva said that a workforce housing application does not have to meet the 75/25 ratios. Mr. Todd asked the question about whether North Hampton has met “fair share” obligation. Mr. Berry said the state would not set what is a “fair share number” for every town. Mr. Berry stated this is an opportunity standard, not a quota.

Rep. Gilbert stated that the Britton v. Chester court decision established a principle and legislation fills in the gaps. Mr. Wilson commented that SB95 provides developers with carte blanche opportunities for breaking current zoning. Rep. Gilbert responded that Mr. Wilson was unenlightened, did not understand SB 95, and was mistaken. Sen. Cohen stated that Mr. Wilson has not been open-minded about what has been said and is predisposed to his version of what is in SB95.

Dr. Arena stated that both Sen. Cohen and Rep. Gilbert have failed because they did not represent the town’s contribution to workforce/affordable housing. They have tried to control the town’s rules. Sen. Cohen rebuffed Dr. Arena’s comments stating that he represents 55,000 people and not all are in agreement.

Rep. Gilbert said that SB95 takes away the leverage of communities that prevent or hinder developers who want to develop affordable housing. Developers could go to court to get relief from a community’s zoning ordinance that has hindered this type of development. Mr. Todd asked if an amendment could be added that prevents a town that is in compliance from being taken to court. Rep. Gilbert said SB95 does not enable development activity to take away the power/responsibility of the Planning Board.

Mr. Wilson explained that the cost of land would probably necessitate a developer’s requesting that zoning be compromised because he could not develop affordable housing and make a profit without relief. Mr. Wilson perceives the legislation as leverage for developers to provide a small percentage of affordable housing in order to get around a town’s zoning ordinance, regardless of whether the town is already providing its fair share of affordable housing.

Mr. Gould asked how they came to the 80/20 rule. Mr. Berry said this is a national de facto ratio. Developers are not drawn to affordable housing because it is not necessarily as profitable as other development. Incentives are needed to make affordable housing developments worth their while. When asked how could the 20% stay at an affordable price, Rep. Gilbert responded that conditions could be placed on resale to keep prices down over a few decades.

Ms. Pohl inquired, “Who is creating the opportunity here, legislation and developers? Shouldn’t it be the market? Isn’t it only developers who create opportunity, then this is to a developer’s

advantage? Mr. Berry responded that there is a need for affordable housing and there are developers who want to build, but there are restrictive laws in many communities. With SB95, those developers have a greater chance to take advantage of the opportunity with reconsideration of those community barriers.

Mr. Kroner perceives the state's tax structure as contributing to the problem of affordable housing. Rep. Gilbert said affordable housing is not only for lower wage earners. It is for young engineers, our teachers, semi-professionals, trades people and etc. He said we are at risk to deter our economic growth because of the affordable housing shortage. Rep. Gilbert stated that SB95 does not allow a town to put up artificial barriers to development of affordable housing. He wants to see a town that has a mix of housing. Rep. Gilbert said Mr. Wilson's suggestion for regional planning commissions' establishing quotas for affordable housing would give the regional planning commission "super zoning" powers. He said it is an issue of towns acknowledging the problem and looking for creative solutions.

Ms. Day said she was not persuaded to support the bill. She said that she knew how difficult it was to establish equity. She had seen the growth in Massachusetts from overflowing school populations, automotive traffic increasing exponentially and was worried about opening the door for court cases. Ms. Day was concerned about the potential for the Board going to court to defend its zoning requirements. She was concerned that growth would force on this community in a way that would change its nature and that could not be absorbed. She also said that we should be as worried about those who live in the community at the present time as about those who might move here in the future.

Sen. Cohen said the tax structure puts pressure on towns to overdevelop. Rep. Gilbert said he has met with Mr. Wilson, Dr. Arena and the Board of Selectmen regarding this issue and the town's concern. He suggested the town look into alternatives and opportunities perhaps in the area of manufactured housing.

Ms. Silva suggested that interested individuals could sign up for updates to SB95. Dr. Arena stated that random and unbridled growth could negatively affect not only North Hampton but also other NH communities. He resented the state government's pressuring North Hampton with SB95.

Lisa Wilson said the Chester vs. Britton case happened in 1990 and now in 2003 SB95 surfaces reinforcing that decision. She commented that it is misleading that Rep. Gilbert said SB95 changes nothing and doesn't require towns to do anything. She believes it will change the characteristics of New Hampshire as a similar bill changed New Jersey twenty years ago. The bill is more for urbanized areas and not rural areas such as North Hampton. She felt SB95 could create areas of high-density population. She added that she would prefer that towns have an affordable housing quota. Ms. Wilson was deeply upset about the bill.

Mr. Gould left at 10:00 PM.

Ms. Landman questioned the explanation that people commuted long distances primarily because of the lack of affordable housing. She felt many had made the choice to live in a specific community and a long commute was a necessary result of that decision. She doesn't like the

idea of mandated housing requirements that do not fit the pulse of the community. North Hampton has met a balance of affordable housing and that should count as a form of compliance.

Mr. Wilson re-emphasized that the tax issue is the problem. This tax structure does not encourage a broad range of economic diversity, but rather it encourages a more service and tourism driven economy.

Mr. Berry stated that SB95 was necessary because many seacoast towns had “locked down” against affordable housing. Mr. Wilson objected to this characterization of north Hampton because data provided by the Rockingham Planning Commission indicate that North Hampton, with its current zoning, is providing its fair share of affordable housing.

Sen. Cohen commented that NH needs tax reform.

**Meeting adjourned at 10:15 PM.**

Respectfully submitted,

Krystina Deren Arrain  
Recording Secretary