



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Work Session
Thursday, October 15, 2009 at 7:00pm
Mary Herbert Conference Room

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

Members present: Phil Wilson, Chairman; Shep Kroner, Vice Chairman; Joseph Arena, Barbara Kohl, Tom McManus, and Laurel Pohl.

Others present: Brian Groth, RPC Circuit Rider, Town Administrator Stephen Fournier, and Wendy Chase, Recording Secretary.

Alternates present: None

Mr. Kroner convened the Meeting at 7:03pm.

Mr. Russell Jeppesen and Attorney Michael Donahue were present to request that the Board sign Mr. Jeppesen's Mylar for his approved 7-lot subdivision.

Ms. Kohl recused herself, reason given that she is an abutter to Mr. Jeppesen.

It was determined that each of the conditions of approval on the Jeppesen subdivision, case #06:16, have been met. Attorney Donahue submitted a copy of RSA 289:3 – Cemeteries. The Law states no new construction shall be conducted within 25-feet of a known burial site or within 25-feet of the boundaries of an established burial ground or cemetery, except when such construction is necessary for the construction of an essential service, as approved by the governing body of a municipality in concurrence with the cemetery trustees. Attorney Donahue submitted a draft copy of the Select Board Minutes of September 28, 2009. The Select Board voted to allow the upgrades to the current private driveway to service the proposed six lots, and it was also stated in the minutes that they had met with the Cemetery Trustees on September 16, 2009, and the Trustees had found that it was an essential service to construct the driveway to service the six lots.

Mr. Kroner moved and Dr. Arena seconded the motion to allow the Chair to sign the Russell Jeppesen subdivision Mylar, case #06:16, on behalf of the Board.
The vote was unanimous in favor of the motion (5-0).

Mr. Wilson signed the Mylar.

Ms. Kohl rejoined the Board.

Mr. Fournier was present to discuss the possibility of establishing a Capital Improvement Programming Committee. Mr. Fournier explained the State Law (RSA 674:5) that requires that if a Planning Board has adopted a Master Plan, they shall prepare annually a Capital Improvement Program for not less than a six year period. In 1967, the Town adopted a Master Plan and subsequently in 1988 authorized the Planning Board to prepare a capital improvement plan pursuant to RSA 674:5. He further explained that the same law allows, as an alternative, the option of having a Capital Improvement Programming Committee. After approval by the

legislative body, the governing body would appoint this committee. The committee must be made up of at least one member of the planning board, and may be made up of other Town Officials. Members of the public may also make up this committee.

Mr. Fournier said that he did some research on how other Towns that have adopted the Capital Improvement Programming Committee had made up their committees. He recommended that if a committee were to be established that the following individuals be placed on the committee: A Planning Board Member; a Select Board Member; a School Board Member; a Municipal Budget Committee Member, and three citizens of the Town. Mr. Fournier also said that if a committee were to be formed that the Town Administrator and the School Business Administrator serve as staff to the committee to assist with the coordination of the information for the committee.

Most of the Board members agreed that the current CIP process is flawed because there is a “disconnect” between the planning process and the budgetary process.

Mr. Fournier said that the proposed committee would be dedicated solely for the purpose of the Capital Improvement Plan.

Dr. Arena vehemently disagreed that the Capital Improvement Program process be taken away from the Planning Board’s responsibilities. He said that the Planning Board will lose its control if a committee is formed.

Mr. Kroner suggested that the majority of the members on the proposed committee be Planning Board members; he said that he is sure they could find “common ground” with the Select Board when forming the committee.

Dr. Arena said that the organizational setup of the committee is the function of the Planning Board, and is against the Select Board appointing the committee members.

Mr. Wilson said that the current process does not work and doesn’t know what the solution is, but the process needs to change.

Dr. Arena said that the process failed in the past because the CIP Committee could not get the information that it needed by the Department Heads, and didn’t understand how a new committee would be treated any differently.

Mr. Wilson opined that the primary reason the current CIP process has not worked up to date is that, the people who are responsible for providing the information, and who are responsible for living within what is decided, are not part of the process; they see it as a Planning Board process. He said that it is difficult to get the school to cooperate, but by forming a committee in which the School Board is a part, that would make them more a part of the solution than a part of the problem.

Mr. Wilson commented that the Capital Improvement Program, in the past, has not been used to make one decision in the Town. He said that he is in favor of forming a committee that will get a job done that is effective for the Town; where the parties who need to express their needs for capital investments have a forum where they can express those needs. He said that the Planning Board has proven over the past dozen years that it cannot do that.

Dr. Arena said that the process has failed in the past because there has been no “backup” by the higher level. Ms. Pohl agreed.

Mr. Wilson gave an informative lecture on the topic Failure Mode and Effects Analysis. He built an Ishikawa diagram (fishbone diagram) on the “white board”. He explained that the first step is to determine what it is that you are trying to accomplish. The Board wants to produce an effective CIP; one that is useful and will be used to actually do the capital projects for the town. He explained that the diagram has to have all the necessary causes, and all of them collectively are sufficient, and if that is achieved, then you get your results.

Dr. Arena took the “autopsy” approach by determining how and why the CIP process has always “died”, and said that the reason that the CIP has failed in the past is because the committee could never get the information they needed by each of the Department Heads to forward on to the Budget Committee.

Ms. Pohl said that the data submitted by the Department Heads for the CIP has never been the same data that appeared on the ballot.

Mr. Wilson said that the process failed at the Budget Committee level. He said that the Department Heads were forced to produce the data, but did not have a commitment to the process, or a commitment to the outcome.

Mr. McManus asked how a level of commitment would be gained by constituting a new CIP Committee.

Mr. Wilson said that the members on the committee need to be made part of the process.

Mr. Fournier said that the problem with the CIP is that the Planning Board has no authority to put the proposals from the CIP onto the Warrant; the Select Board does. He said that the Select Board puts the items on the Warrant, but the Budget Committee makes the recommendations. He said that the Departments may change their priorities after submitting their data to the Planning Board for the CIP and then would just go to the Select Board with the new data, and that is why the data is different by the time you see it on the ballot.

Mr. Fournier said that there needs to be a process in place so that next year, and the years after, he can determine how much money will be needed for capital projects. He said that there has to be an actual “living” document put in place to use, rather than a CIP that just “sits on a shelf”.

Dr. Arena said that submitting the CIP data should be a part of each Department Head’s job description, and the information they submit should not be allowed to be changed prior to the budgetary process, and that the control of the CIP should remain with the Planning Board.

The Board discussed how the new committee members would be determined.

Mr. Wilson suggested that Mr. Fournier look into the legality of recommending that each Committee involved nominate their own member to participate on the CIP Committee, and that the Select Board would not be allowed to nominate any member not nominated by their Committee. Mr. Fournier said that he did not foresee any problem with that being made part of the Article.

Mr. Fournier said that he believed that it is a Planning Article and that the Select Board would not have the authority to amend it.

Mr. Wilson said that the CIP process has a greater probability of working with a new committee, because the facts show that the current process has failed.

Mr. Wilson moved and Ms. Pohl seconded the motion that the Board ask Mr. Fournier to take this to the next step, and to come back to the Board with a more detailed and specific proposal for an Article to go onto the Town Warrant that would make the transition from a CIP Committee, that is a subcommittee of the Planning Board to a CIP Committee that is a separate Board.

Dr. Arena said that a motion to dissolve the current CIP Committee needed to take place first. Ms. Pohl said that Dr. Arena made a good point because it was by Town vote that the CIP Committee was established.

Mr. Wilson suggested that it be made very clear in the Article that Mr. Fournier drafts, that this is a move of responsibility for the CIP from the Planning Board to another separate established Board; this would simultaneously dissolve the current CIP Committee and establish the new Committee.

The vote passed (5 in favor, 1 opposed, and 0 abstention). Dr. Arena opposed.

Mr. Wilson suggested that the Chair of the new committee be a Planning Board member, and that Mr. Fournier should state clearly in the Article that each constituent Board, nominate a member to serve on the CIP Committee, and that the Select Board appoints them.

Mr. Fournier will act as the staff support on the Committee, and will Marshall the Department Heads into submitting their information for the CIP in a timely fashion.

Mr. Wilson suggested that the Planning Board, the Budget Committee and the School Board each nominate one citizen of the public to serve on the CIP Committee.

Mr. Wilson said that he is very much in favor of removing the CIP responsibility from the Planning Board to the new committee.

Dr. Arena said that he is totally against taking the control of the CIP away from the Planning Board.

Mr. Fournier will draft a proposed Warrant Article and present it to the Board at the next Work Session.

The ad hoc committee for the review of the proposals for the design of the Town Campus was discussed.

Mr. Wilson moved and Dr. Arena seconded the motion to appoint Mr. McManus as the Planning Board representative to the RFP review committee regarding the Town Campus. The vote was unanimous in favor of the motion (6-0).

The Board was in receipt of a letter from ZBA Chair, Richard Stanton on different issues; the first dealing with a small wind energy systems ordinance.

Mr. Wilson said that the current RSA 674:63 seems to be adequate, and asked that each of the members review it. He also asked Mr. Groth to bring in sample ordinances for small wind energy systems from area towns for the Board to review. He said the Board may want to draft an ordinance that would include a height requirement specifically for wind energy systems, and a certain setback requirement for a “fall zone”. Mr. Wilson asked that Mr. Groth also bring to the Board some examples of energy efficient building ordinances.

The Board agreed to have Mr. Wilson contact Mr. Clay Mitchell and invite him to a Work Session to discuss LEED.

The second issue cited in Mr. Stanton’s letter to the Board was the non-permitted use of churches in the I-B/R district, and the 2000 federal law “The Religious Land Use and Institutionalized Person Act of 2000” (RLUIPA 42 USC2000cc). Mr. Kroner explained that the ZBA recently granted a variance to allow a church in the I-B/R District. Mr. Kroner commented that North Hampton allows churches in the R-1 and R-2 zones, which makes up the majority of the Town’s land area.

Mr. Groth said that the law basically states that the Town cannot provide unreasonable circumstances for a church. He said that it is reasonable to deny a church in the I-B/R district because the substantial interest for the Town in the I-B/R zone is for economic development, employment, and tax generation. He also said that in the recent ZBA case the Pastor claimed that they could not find a property in the R-1 and R-2 zones to house the church, which gave them standing for the variance.

Mr. Wilson suggested that the Board put a Warrant Article together that makes churches a permitted use in the I-B/R district.

Mr. Groth said that if the Board were to pursue challenging the variance that was granted to allow the church in the I-B/R district, it would be a “tough” fight.

Mr. Wilson said that he is more concerned with the criteria on which the variance was granted. He said that there are five specific criteria that a variance must meet, and one of the reasons used in granting the variance was that churches are allowed in most towns in the “commercial district”. He said that he wanted a very clear record on why the ZBA granted the variance for the sake of the Planning Board because they will be dealing with the Site Plan Review at some point.

Mr. Kroner said that he shared Mr. Wilson’s issue with the lack of the five criteria being met concerning that variance.

The Board discussed Mr. Paul McInnis’ request for the release of his landscape bond. They were in receipt of a letter from the Building Inspector confirming that the plantings are in good shape and appear to be healthy.

Mr. Wilson moved and Ms. Pohl seconded the motion that on the recommendation of Mr. Mabey the Board grants the release of the landscape bond for Paul McInnis, case #06:33. The vote was unanimous in favor of the motion (6-0).

Mr. McManus said that the sign that Mr. McInnis agreed to put up at his business is not the same as the sign that was installed. Ms. Kohl said that the awning at Lumber Liquidators was supposed to be black with yellow lettering and the awning they installed is yellow with black lettering.

Mr. Wilson moved and Dr. Arena seconded the motion that Mr. Mabey review the decision letter for Mr. McInnis' sign, inspect the sign, and report back to the Board as to whether or not the sign actually complies with the approval.

The vote was unanimous in favor of the motion (6-0).

Ms. Kohl suggested that Mr. Mabey include checking the Lumber Liquidator awning and Seven Auto where there is a car parked in the driveway of the business not far from the shoulder of Route 1; they assured the Board that they would not put a car there.

Ms. Kohl moved and Mr. Wilson seconded the motion to have Mr. Mabey review the decision letter for Lumber Liquidators, and Seven Auto, and report back to the Board as to whether or not the sign actually complies with the approval.

The vote was unanimous in favor of the motion (6-0).

Minutes

September 7, 2009 meeting minutes - Mr. Wilson moved and Ms. Kohl seconded the motion to approve the September 7, 2009 Meeting Minutes as amended.

The vote passed (5 in favor, 0 opposed and 1 abstention). Ms. Pohl abstained.

Oct 1, 2009 meeting minutes - Ms. Pohl moved and Dr. Arena seconded the motion to approve the October 1, 2009 meeting minutes as amended.

The vote was unanimous in favor of the motion (6-0).

The Board was informed that the ZBA will be holding their November Meeting on November 19, 2009 due to the Thanksgiving Holiday. The Board discussed scheduling their Work Session Meeting to another night.

Mr. McManus moved and Dr. Arena seconded the motion to cancel the November 2009 Work Session Meeting.

The vote was unanimous in favor of the motion (6-0).

Ms. Chase informed the Board that there is an outstanding engineering bill in the amount of \$1,435.48 due from the Town to Altus Engineering for services rendered for the Greystone Village Development project. The Town's Attorney advised against placing a lien on the property because it can't be done without court approval, and would cost more money than the engineering bill; also the financial status of the company is in question, and there may be other liens, and mortgages placed on the property that would take preference over the Town.

Mr. Kroner moved and Dr. Arena seconded the motion to authorize the Town to dispense the funds in the amount of \$1,435.48 to Altus Engineering.

The vote was unanimous in favor of the motion (6-0).

Ms. Chase informed the Board that there was an outstanding engineering bill in the amount of \$223.40 due from the Town to Keach and Nordstrom for services rendered for the Confalone subdivision application. Mr. Confalone has withdrawn his application.

Mr. Wilson moved and Ms. Pohl seconded the motion to authorize the Town to dispense the funds in the amount of \$223.40 to Keach and Nordstrom Associates, Inc. The vote passed (5 in favor, 1 opposed and 0 abstention). Mr. Kroner opposed.

The meeting adjourned at 9:45pm.

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved 12/17/2009