



MEETING MINUTES
NORTH HAMPTON PLANNING BOARD
Thursday, December 17, 2009
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, Laurel Pohl, Barbara Kohl, and Michael Coutu, Selectmen's Representative.

Members absent: Tom McManus

Others present: Steve Fournier, Town Administrator and Wendy Chase, Recording Secretary.

Alternates present: None

Mr. Kroner convened the meeting at 7:03pm and noted that there was a quorum.

I. Old Business

Town Administrator, Steven Fournier was present to discuss the proposed Warrant Article authorizing the governing body to appoint a capital improvement program committee.

Mr. Fournier said that the bulk of the language of the proposed Warrant Article is from the Office of State Planning, and he added the Board's suggestions on the "makeup" of the committee. He read the proposed warrant article into the record:

Article Number ____: To see if the Town, having a Master Plan adopted by the Planning Board in 1967, will vote to authorize the governing body to appoint a capital improvement program committee to prepare and amend a recommended program of municipal capital improvements projected over a period of at least 6 years, in accordance with RSA 674:5. This committee shall be made up of the following members:

- *One member of the Select Board*
- *One member of the Planning Board, nominated by the Planning Board*
- *One member of the Municipal Budget Committee, nominated by the Municipal Budget Committee*
- *One member of the North Hampton School Board, nominated by the School Board*
- *Three members of the general public*

This committee will replace the Planning Board as a committee responsible with amending and recommending the capital improvement plan.

Mr. Wilson suggested that Mr. Fournier add to the “bullet” points, (1) each of the constituent Boards, except the Select Board, would nominate a member of the general public; who is not a member of their own committee, and (2) nominees are appointed by the Select Board, and if the Select Board does not agree with any nominee, then the Select Board would send the nomination back to the nominating Board or Committee and ask for reconsideration or an alternative nominee. Mr. Wilson also suggested adding to the Warrant Article that the Chair of the committee will be elected by the committee, after it is duly constituted, and in the interim it would be chaired by another member of the committee. Mr. Wilson suggested a change to the first line of the Warrant Article, and add “*first*” before “adopted by the Planning Board” and maybe add after Master Plan that it has been “*as subsequently amended from time to time*”. He said that there have been amendments, additions and revisions over the years to the Master Plan.

Dr. Arena was adamant in his suggestion that the new committee should be chaired by a Planning Board member. He believes that the relationship between the CIP and the Planning Board should never be destroyed. He voiced serious doubts about whether the new committee is going to do any better of a job than the previous Planning Board CIP Committee.

Mr. Fournier said that he is not certain that establishing a new CIP Committee will solve all of the problems that have happened in the past, but it may be a better opportunity to “fix it”.

Mr. Coutu said that he would like members of the general public to come in on their own volition. Mr. Coutu agreed with Dr. Arena, that the Chair of the CIP Committee be a Planning Board member because of their knowledge of the CIP process.

Ms. Pohl also agreed with Dr. Arena, that the Chair of the CIP Committee be a member of the Planning Board. She also suggested limiting the general public members to two and increasing the Planning Board membership on the committee to two members.

Mr. Wilson did not agree that the Chair of the committee be a Planning Board member. He said that there may end up being more qualified people on the committee to act as Chair. He also did not agree with changing the “makeup” of the committee; one member of the Planning Board would suffice.

Mr. Kroner agreed with Mr. Wilson and said that having two members of the Planning Board on the CIP Committee would put “politics” into the process.

The Board decided that the Town should will advertise the positions for the three members of the general public; the Planning Board, Municipal Budget Committee and School Board should each nominate one member; the Select Board would then appoint the nominated members, and if they disagreed with any of the choices, they would send the nomination back to the appropriate Board for reconsideration.

Mr. Coutu suggested changing the Warrant Article to include that three members of the general public not be current members of any town board or committee.

Mr. Fournier explained that initially the members from the general public will have terms of one member for a one-year term, one member for a two-year term and one member for a three-year term, after which all three general public member terms will be for three years. He said that the other four members will have one-year terms.

Mr. Wilson said that the CIP should never have been the responsibility of the Planning Board because it has authority to implement the process. He said that history has repeated itself time and time again, whereas, the Planning Board does a great job with the CIP it ends up “sitting on a shelf”. He said that the Planning Board should have complete responsibility for developing the Master Plan including the Municipal Facilities and Services Chapter, and it should be used as a guiding document for the CIP Committee. He said that he believes that the new CIP Committee will improve the situation because the staff of the committee that will be responsible for ensuring that the CIP Committee gets the data that it needs is going to be the Town Administrator and his equivalent from the School Board, because the Town Administrator reports to the Select Board, and there is a Select Board member on the Committee, there will be a “chain of command” of authority in the process.

The Board decided to hold a public hearing on the amendments to the proposed Warrant Article, even though by law they don’t have to.

Mr. Wilson moved and Ms. Pohl seconded the motion that the Planning Board membership be one member nominated by the Planning Board.

The vote passed (4 in favor, 2 opposed and 0 abstentions). Dr. Arena and Ms. Kohl opposed.

Mr. Wilson moved and Ms. Pohl seconded the motion that the Board directs the Administrator to draft the Warrant Article in such a way that the Chair of the Committee is elected by a vote of the duly constituted committee.

The vote passed (4 in favor, 2 opposed and 0 abstentions). Dr. Arena and Ms. Kohl opposed.

Mr. Wilson moved and Mr. Coutu seconded the motion that the members of the general public be appointed for staggered terms in their first appointment so thereafter there will be one vacancy per year. There will be a one-year term, a two-year term and a three-year term in the first instance, and then each subsequent appointment shall be for three years, and each of the constituent Boards other than the Select Board will nominate one member from the general public to be selected from a pool of members of the general public solicited by advertisement by from the Town Administration.

Mr. Coutu made a friendly amendment that the general public members not be members of any Town Board or Committee.

Mr. Wilson accepted the friendly amendment.

Dr. Arena asked that it be stated that the CIP Committee will be a permanent committee, not an ad hoc committee.

Ms. Pohl suggested that the friendly amendment be changed to say that the general public members not be members of any elected Town Board or Committee. She mentioned committees such as the Channel 22 Committee or the Heritage Commission that may have members interested in serving on the CIP Committee.

Ms. Pohl made a friendly amendment that the general public members not be members of the constituent Boards and Committees.

Mr. Wilson and Mr. Coutu accepted Ms. Pohl's friendly amendment.

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

Mr. Wilson suggested that the Warrant Article include the fact that the staff to the CIP Committee will be the Town Administrator and his equivalent from the School Board. The Board agreed.

Mr. Wilson moved Mr. Coutu seconded the motion that the CIP committee should vote to elect a Vice Chair.

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

Dr. Arena asked that "permanent committee" be added within the Warrant Article.

Mr. Fournier said that he would re-word the last sentence of the Warrant Article.

It was determined that the word "permanent" could not be used because the Legislative Body can always rescind it.

Mr. Fournier will add to the Warrant Article that this Committee will replace the Planning Board CIP Committee responsible for the amending and recommending of the Capital Improvement Plan until rescinded by the Legislative Body.

Mr. Wilson moved and Dr. Arena seconded the motion that the Planning Board request the Town Administrator to come to the next Planning Board meeting with the revision of the draft as presented with the amendments that have been captured in the Board's motions, and with the amendment of the word "first" as Mr. Wilson suggested.

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

Due to the absence of RPC Circuit Rider, Brian Groth, the Board decided to postpone the discussion on a proposed small wind energy ordinance to the January Works Session.

Mr. Wilson moved and Dr. Arena seconded the motion to table the small wind energy ordinance discussion to the January Work Session.

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

The Board discussed a proposed amendment to the Zoning Ordinances that would allow churches to be a permitted use in the I-B/R district.

Mr. Wilson suggested that someone from the Board draft a change and present it to the Board for consideration.

Mr. Kroner asked the Board if there should be any added parameters to the proposed change other than what is currently in the site plan regulations.

Mr. Wilson thought that the rationale for not permitting churches in the I-B/R may have been that the I-B/R district was adopted as an area that allowed businesses that generated tax revenue, and allowing churches, that are tax exempt, would take away space for commercial development, which is already very limited in the I-B/R zone. Permitting churches would therefore potentially result in a reduction of tax revenue for the Town.

Dr. Arena commented that tax revenue would be lost no matter in which zone a church is located.

Mr. Kroner suggested that the Board consider allowing churches in the I-B/R by special exception.

Ms. Pohl agreed, because the special exception process would require a review that would be beneficial, considering the type of traffic a church would generate.

Mr. Kroner said that he would come back to the Board with a document with options for the Board to review and decide.

Mr. Coutu suggested that the Board should define “church” in the Zoning Ordinance.

Mr. Wilson opined that because the Zoning Ordinance states that whenever a word is not specifically defined the meaning in the general use applies. He thought it would be better not to try and define the word “church” because it would be easy to leave something out.

Mr. Wilson moved and Mr. Coutu seconded the motion that the Vice Chair come to the January Work Session with a proposal to add churches to permitted uses in the I-B/R district.

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

II. New Business

Preliminary Consultation – Site Plan Review – Conversion of an existing non-conforming, multi-family to a conforming Work Force Housing residential rental property. Property owner: Michael Negum, PO Box 449, Somersworth, NH 03878, property location: 220 Lafayette Road, M/L 021-031, zoning district I-B/R.

In attendance for this application:

Michael Negum, Owner/Applicant

George Chobain, Engineer, Civil Consultants

Mr. Chobain presented the case on behalf of Mr. Negum. The subject property is a non-conforming multi-family complex with offices. The owner's proposal is to convert the existing non-conforming complex to "workforce housing". He explained that the conversion of the property will require modifications to the building and waste disposal system. The leach field size does not meet current requirements, but the site will allow for additional capacity. He said that Mr. Negum is currently working with the Acting Fire Chief and the Building Inspector updating the building to meet current health and safety codes.

Mr. Negum said that he would like to convert four of the six residential rental units to "workforce housing".

Mr. Wilson explained that the lot is non-conforming, and by including the whole development in his proposal he could change the non-conforming "grandfathered" use to a conforming use, which would bring the whole lot into conformance.

The acreage requirement for "workforce housing" was discussed. The minimum lot size for qualifying multi-family housing is 1 acre of contiguous upland for the first dwelling, and ¼ of an acre of contiguous upland for each additional unit. Mr. Negum's lot size in North Hampton is 3.34 acres. It was determined that he would need 3.5 acres. It was also determined that Mr. Negum owns contiguous land in Rye and was unsure of the exact amount of acreage. He may have enough land that would make up the difference he needs. He will look into it.

Mr. Wilson asked if the Applicant had contacted a monitoring agent, and he had. The Agent is located in Braintree MA, with an office in Dover, NH. Mr. Chobain said that he believes they are certified in property management.

Mr. Negum said that he has been in contact with Lisa Henderson from the Workforce Housing Coalition, and she has been very helpful.

Mr. Wilson explained that developers of "workforce housing" agree to keep the units in the "workforce housing" status until they meet specific criteria, such as when the Town meets its "fair share" of "workforce housing," the first development into the system is the first development out of the system.

It was noted that the “workforce housing” developments must remain “affordable” in perpetuity regardless of ownership transfers.

Mr. Wilson commented that the proposal is clearly in the correct zone, and is well within the parameters of what is required. He complimented the Applicant on the format in which the development is proposed so far and suggested he come back before the Board with a regular proposal.

Ms. Kohl asked if the current owners would “fit” into the proposed change to “workforce housing”, and Mr. Negum said that they would; he said that he has good tenants, and would not like to lose any of them.

Preliminary Consultation – Site Plan Review – proposed Work Force Housing development. Property owner: Jarib Sanderson, property location: Winnicut Road & Lovering Road, Map 22, lots 38-42 & Map 18, lots 70-1, 2, 3, 4, 9 and 69, zoning district R-2.

In attendance for this application:

Ted Sanderson, Owner/Applicant

Joe Coronati, Jones and Beach Engineers

Mr. Wilson explained to Mr. Sanderson and Mr. Coronati that the Board would not be able to approve the “workforce housing” proposal because the land is located in the R2 zone where “workforce housing” is not allowed. He gave them the option of appealing to the Superior Court; because it is a conditional use application process, appealing to the ZBA is not an option.

Mr. Coronati asked to continue with the preliminary consult. He explained that Mr. Sanderson’s property, although located in the R2 zone, is the perfect place for a “workforce housing” development because it has gravelly soils, access to public water, and is surrounded by high tension wires and Interstate 95. He further stated that the approved subdivision has frontage on both Winnicut Road and Lovering Road. He said that Mr. Sanderson’s subdivision is very close to the R1 zone, where “workforce housing” is allowed.

Mr. Wilson explained that the Board worked very hard on “workforce housing”, and put a lot of work into the Inclusionary Zoning Ordinance. He said the Board does feel the moral responsibility to provide the Town’s “fair share” of “workforce housing”, but also has a responsibility to the Town to do the best land use planning the Board can. He said that Mr. Sanderson’s recourse is to submit a Citizens’ Petition.

Ms. Kohl agreed with Mr. Wilson and said that they worked hard on designating the areas in Town for “workforce housing”, and voiced concerns on setting a precedent by supporting a zoning change to accommodate one particular property.

Mr. Kroner said that Mr. Sanderson's subdivision did come to mind when the Board was in the beginning discussions of "workforce housing" as an area in Town that might be a good place for "workforce housing".

Mr. Sanderson opined that people want to build higher priced homes in this Town, and because of the close proximity to the power lines and Interstate 95, development of such homes would not sell on his property. He would like to build more affordable homes under the inclusionary housing ordinance requirements allowing him to build more homes than the traditional subdivision.

The Board suggested he submit a "Citizens Petition" to change the zone of his property from R2 to R1.

Mr. Sanderson said that he believed that a "Citizens Petition" to rezone his property would not pass without Planning Board support.

The Board again offered Mr. Sanderson the two options of either appealing to Superior Court or to submit a "Citizens Petition" to rezone his property.

III. Other Business

Minutes

- a. October 15, 2009 Work Session Minutes – **Mr. Wilson moved and Mr. Coutu seconded the motion to approve the October 15, 2009 Meeting Minutes with emendations.**
The vote was unanimous in favor of the motion (6-0).
- b. October 24, 2009 Site Walk Minutes – Thomas Nowak property (M/L 8-145-1) – **Mr. Wilson moved and Dr. Arena seconded the motion to approve the October 24, 2009 minutes.**
The vote passed (4 in favor, 0 opposed and 2 abstentions). Mr. Coutu and Ms. Kohl abstained.
- c. November 5, 2009 Meeting Minutes – **Mr. Wilson moved and Mr. Coutu seconded the motion to approve the November 5, 2009 minutes.**
The vote was unanimous in favor of the motion (6-0).
- d. December 3, 2009 Meeting Minutes – **Mr. Wilson moved and Mr. Kroner seconded the motion to approve the December 3, 2009 minutes.**
The vote passed (5 in favor, 0 opposed and 1 abstention). Mr. Coutu abstained.

Review Planning & Zoning proposed budget 2010-2011

The Board reviewed the proposed Planning and Zoning budget.

Ms. Chase explained that the Town Administrator directed each department to submit a

“zero increase” budget. Ms. Chase was directed to get more information on what was spent last year, and to get a better understanding from the Town Administrator on how the overtime budget line figure was derived for the Board to review at their next meeting.

Mr. Wilson said that the Master Plan needs updates and suggested the Board update at least four chapters next year. He suggested the following changes to the proposed budget: “zero out” the “special studies” budget line, which would be a reduction of \$5,500.00; increase the Master Plan budget line to \$10,000.00 from \$1,500.00 resulting in an overall increase of \$3,000.00, and then apply to the Rockingham Planning Commission for a matching grant to update the Master Plan next year.

Mr. Coutu questioned whether the Board would incur added administrative costs regarding the new CIP Committee. The Board did not think so because the Committee is made up of volunteers, and any work done by the Circuit Rider is done under their contract with the Town.

Mr. Coutu commented on the fact that the new CIP Committee may not have members with financial skills, and wondered how the Committee would formulate a plan if it doesn't address some of the costs, infrastructure expense, long term financial requirements, bond market requirements, and other fundamentals of capital planning. The Committee may need to hire financially skilled consultants from time to time, Mr. Coutu asked where those costs get allocated?

Mr. Kroner said that it may make more sense to have a Chief Financial Officer rather than a Town Administrator on the CIP Committee.

Mr. Wilson said that the Committee would still need the Town Administrator, because he will have the responsibility to get the data in.

A motion was made and seconded to adjourn at 9:50pm, with all in favor of the Motion (6-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved January 21, 2010