



**Meeting Minutes
North Hampton Planning Board
Thursday, March 4, 2010
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, Chair; Shep Kroner Vice Chair; Joseph Arena, Barbara Kohl, and Tom McManus.

Members absent: Laurel Pohl

Alternates present: None

Others present: Brian Groth, RPC Circuit Rider, and Wendy Chase, Recording Secretary

Mr. Wilson convened the meeting at 7:04pm. He noted for the record that there was a quorum and that the agenda was properly posted.

Public Hearing

Proposed CIP Warrant Article to adopt a Capital Improvement Program Committee to be appointed by the governing body (Select Board) to prepare and recommend amendments to a program of municipal capital improvements projected over a period of at least 6 years, in accordance with RSA 674:5.

Mr. Wilson read the proposed CIP into the record as follows:

Article Number _____: To see if the Town, having a Master Plan first adopted by the Planning Board in 1967, will vote to authorize the governing body (the Select Board) to appoint a capital improvement program committee to prepare, recommend, and from time to time recommend amendments to a 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, nominated by 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 North Hampton School Board.

Each such member of the Select Board, Planning Board, Municipal Budget Committee, and North Hampton School Board shall serve for a period of one year, and may be reappointed so long as they continue to serve on the Board or Committee from which they were appointed.

Three members of the public, not currently serving on any of the aforementioned boards or committees and selected from a pool of respondents to public notice of the positions:

- *One to be nominated by the Planning Board; one to be nominated by the Municipal Budget Committee, and one to be nominated by the Select Board.*
- *They shall be appointed initially to terms of one for one year, one for two years and one for three years. After which, they shall each be appointed for a term of three years.*

The committee shall elect from its membership a chair and vice chair, each for a term of one year. This committee will replace the Planning Board as the municipal committee responsible for annually recommending and amending the capital improvement plan ("CIP").

Staff support for the Committee shall consist of the Town Administrator and a similar representative from the School Board, and they shall be responsible for ensuring that the Committee receives all information required to fulfill its duties in a timely manner.

Mr. Wilson explained that the CIP, has in the past, been the responsibility of the Planning Board to provide a Capital Improvement Program each year and it has been executed every year, but it has become apparent over a period of years that having the Planning Board responsible for an activity that relates to expenditures of funds by the Town and the School is not the most effective way to do it. The Town Administrative, Steve Fournier, came to the Planning Board proposing an alternative method in developing a Capital Improvement Program allowed by the laws of New Hampshire. He explained that the proposed CIP Warrant Article is one of the alternatives and supported by the Planning Board. Mr. Wilson said that the goal is to make the Capital Improvement Plan a working document that the Budget Committee, Select Board and the townspeople can use to help make better decisions about investments in capital purchases such as fire trucks and municipal buildings, and use it to help the Budget Committee and Select Board make decisions that will level the tax rate by not putting the Town in the position to make several capital purchases in one year that would hike the tax rate up all at once.

Mr. Kroner asked if the Planning Board retains the right to take back the responsibility of the CIP if the proposed way does not succeed.

Mr. Wilson said that it does not state anywhere in the law that it can't be changed back to being the responsibility of the Planning Board.

Dr. Arena stated that he has never been in favor of changing over the responsibility of the CIP from the Planning Board to another committee. He suggested adding a sunset provision to the Warrant Article for up to a two year period to see if the new committee could be more successful with it, and if not then it be given back to being the responsibility of the Planning Board.

Mr. Wilson said that it was up to the Board whether or not to make substantive changes to the proposed CIP Warrant Article. He explained that if substantive changes were to be made tonight the proposed CIP Warrant Article would not be placed on this year's ballot due to public hearing deadline dates.

Ms. Kohl said that she and Mr. McManus were authorized by the Planning Board to meet with the Town Administrator, Steve Fournier, to discuss the issues with the Capital Improvement Program. They asked him how some other towns handled their Capital Improvement Programs. Mr. Fournier explained that many towns appoint a separate committee to concentrate solely on their Capital Improvement Program.

She said that both she and Mr. McManus saw validity in that process. Ms. Kohl agreed with Mr. Wilson that placing a sunset provision in the CIP Warrant Article would be a substantive change.

Mr. Kroner said that he was in favor of the transition as a way of moving forward to see if this approach works. He commented that many municipalities have a chronic issue with executing a Capital Improvement Program, and it is a very valuable tool used to help make the tax rate as level as possible.

Mr. McManus commented that the Board is in agreement that the past process did not work in the past. He said that they tried to craft an alternate way to go about the process that would draw people in and “tie in” the Departments’ actual needs.

Mr. Wilson said that four or five years ago Ms. Pohl produced a software package, which was an effective tool for the Town to use to take the input of the CIP as well as the data for the budgeting process operating expenses and come up with projections of where the Town’s tax rate was going. He said the Planning Board got the data from each of the Departments and developed the plan and submitted both the plan and Ms. Pohl’s software package to the Select Board and were never used. He said that it wasn’t the Planning Board’s fault that the tools were not used; it failed because the human process involved was ineffective. He said this CIP Warrant Article is an attempt to remedy that problem.

Dr. Arena said that he remembers that it was a chronic complaint of Ms. Pohl in getting the information from the Department Heads. He said that completing and submitting the data for the CIP should be in each Department Head’s job description.

Mr. McManus said that Mr. Fournier said that the proposal for the CIP Committee is the tool he feels will be most effective in allowing him to get the job done, because it does bring everyone to the table together.

Ms. Kohl said that the proposed process allows Mr. Fournier, in his position, to “tie” everything together.

Mr. Wilson said that this proposal will address the problems in the past. He said that the Town Administrator will be responsible for ensuring that the Committee receives all information required to fulfill its duties in a timely manner. He said this will address the problem with getting the data. He said that by having a member of each Board and three members of the public on the committee it will give it a better chance of having the Capital Improvement Program actually used by the Town.

Mr. Wilson opened the Public Hearing at 7:29pm.

Mr. Wilson closed the Public Hearing at 7:30pm without public comment.

Mr. Wilson ruled as the Chair, to limit Board discussion to two minutes on the CIP Warrant Article.

Dr. Arena did not agree with the Chair’s ruling of limiting the discussion to two minutes. Dr. Arena said that he had no other comments to make on the CIP Warrant Article.

Mr. Groth said that the proposed CIP Committee would create another level of transparency within the Town between Departments that will result in a greater accountability.

Mr. Kroner moved and Mr. McManus seconded the motion to approve the proposed Warrant Article to approve the adoption of the Capital Improvement Program Committee to be appointed by the governing body (Select Board) to prepare and recommend amendments to a program of municipal capital improvements projected over a period of at least 6 years, in accordance with RSA 674:5. The vote passed (4 in favor, 1 opposed and 0 abstention). Dr. Arena opposed.

Proposed amendment to Article IV, Section 406.2.2 to replace the word “structures” with the word “lots” in the sentence “all such structures must, however, have 100-feet of frontage”, and to discuss any other proposed amendments to this section.

The Board voted to place this proposed amendment on the May Town Ballot to be voted on at the May 11, 2010 Election at their last Public Hearing on February 25, 2010.

Proposed amendment to Article IV, Section 405 – Permitted uses, to add “place of worship” in the I-B/R district under permitted uses, and to replace the word “church” with the words “place of worship” under permitted uses in the R-1 and R-2 Zoning Districts, and a proposed addition of a definition for “place of worship” in Section 302 – Definitions.

The Board voted to place this proposed amendment on the May Town Ballot to be voted on at the May 11, 2010 Election at their last Public Hearing on February 25, 2010.

Mr. Joseph Walsh, Post Road, was in the audience and was interested in the proposed amendment to Article IV, Section 405 – Permitted uses, allowing places of worship in the I-B/R district.

Mr. Wilson opened the floor to the public at 7:39pm.

Mr. Walsh said that the only reason he could think of as to why churches were not permitted in the I-B/R zone is to reserve those parcels to get more revenue back to the Town, because religious organizations are tax exempt.

Mr. Wilson explained that the Chair of the ZBA came to the Planning Board to discuss why churches were not permitted in the I-B/R zone. He said that they looked into why churches were only allowed in the residential zones and could not find reasoning for it, but came to the same assumption as Mr. Walsh has, that churches were not permitted in the I-B/R zone because they wanted it to be a commercial district to generate tax revenue.

Mr. Wilson closed the public portion of the Meeting at 7:44pm.

The Adoption of a Zoning Ordinance for Small Wind Energy Systems, to allow them in all Zoning Districts with certain regulations and restrictions.

Mr. Wilson said that there is a growing interest to allow wind systems for both residential use and small business use. There are currently wind systems at the golf course and the airfield in North Hampton. He explained that if towns do not adopt their own regulations for wind systems, then an applicant is only required to meet the restrictions of the State Statues. He further explained that the State Statue for wind systems provides less protection for the residents and their property. The Board took a model small wind energy system ordinance presented by Mr. Groth and modified it with concerns the Board

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by NH RSA 91A:2, II. They will not be finalized until approved by majority vote of the Planning Board.

had, such as restricting it to one system per lot of record, they added more restrictions because of what Dr. Arena pointed out as the Atlantic Flyway for migratory water fowl because these systems could interfere with them. They added restrictions for setbacks of neighboring properties and structures. The systems are required to be on monopoles instead of lattice towers for aesthetic reasons. Mr. Wilson encouraged the public to read the proposed ordinance. Mr. Wilson asked that the proposed ordinance be posted to the website. Ms. Chase explained that the second public hearing on the proposed small wind energy systems is scheduled on March 16, 2010.

Mr. Wilson opened the Public Hearing at 7:50pm.

Mr. Walsh questioned the height requirement of the systems. He thought that 150-feet was very high.

Mr. Wilson explained that the maximum tower height is restricted to 35-feet above the tree canopy within 300 feet of the small wind energy system, and in no situation shall the tower height exceed 150 feet.

Mr. Wilson explained that an Applicant would need to provide data as part of the Application process showing where the trees are located and how high they are and where the tower would be placed.

Mr. Groth explained that 150 feet is the maximum height requirement from the State Office of Energy and Planning, and that is the height requirement currently used in the area. Mr. Groth said that 150 feet is the maximum, but wind systems are generally built just high enough to capture the wind energy, and building any higher would be a waste of money. The 150 feet includes the blades at their highest point.

Mr. Wilson closed the Public Hearing at 8:04pm.

Mr. Kroner said that it would be unlikely that people would put up a monopole at 150 feet because of the expense and the setback requirements.

Mr. Wilson pointed out that the ordinance is not written as a conditional use permit process through the Planning Board. He said that if an applicant proposed to do something other than what's required within the ordinance they would have to request a variance from the ZBA. The Board discussed whether this ordinance should fall under the innovative land use planning, and should be a conditional use permitting process.

Mr. Groth looked up RSA 674:21 – Innovative Land Use Control and commented that the law does grant the ability for the Planning Board to design the ordinance with a conditional use permit process.

Mr. Wilson explained that because of the publication deadlines the Board would need to make any changes to the ordinance this evening to make the second public hearing on March 16, 2010 or it would not make this year's ballot. Some of issues to consider:

- The Building Inspector would be granted authority to give building permits to those applications that complied with the ordinance.
- They would have to add a waiver provision in the event that the Applicant does not fully meet the requirements.

Mr. Groth said that the language to the Conditional Use permitting process is pretty straight forward. He read from the ordinance, *all energy systems governed by this ordinance shall require the issuance of a conditional use permit by the Planning Board. The conditions that must be satisfied in order for the permit to be issued are all of the individual provisions of this ordinance. Requests for waivers from individual provisions of this ordinance must be written and the Planning Board must vote on each waiver request at a properly noticed public hearing.*

Mr. Wilson said that there needs to be standards for waivers added in the language.

Dr. Arena said that all applications dealing with small wind energy systems should have to be reviewed by the Planning Board, and that the Building Inspector should not have authority to grant permits even if the applicant meets all of the requirements of the ordinance.

Mr. Kroner said that he would like to encourage small wind energy systems, and would not like to complicate the process that may discourage people from using these systems.

Mr. Groth said that it should go to Warrant to put it in place so at least there will be standards in place. He said if after a year the Board feels it should be a conditional use permit process then change it next year. He said in the absence of an ordinance it allows applicants such things as a lattice tower and no protection for the Atlantic Flyway.

Dr. Arena asked if there has been anything written in opposition of this type of ordinance. Mr. Groth said he has not read anything, but there must be advocates that want to give those who are opposed to the systems information to defend their positions.

Mr. Kroner moved and Dr. Arena seconded the motion to take the proposed small wind energy system ordinance as written to the second Public Hearing on March 16, 2010. The vote was unanimous in favor of the motion (5-0).

Other Business

Dr. Arena informed the Board that he filed a complaint with the Code Enforcement Officer about the piece of equipment with the "stuffed animal" on the lot at the corner of Atlantic Ave. and Route 1 in back of the Sunoco Station. He also commented on the sign that reads "Stuff for Sale" on Route 1 that he did not think meet the sign ordinance. He brought a blank formal complaint with him and suggested that the Board write up complaints and sign the form as a Board.

Mr. Kroner said that if anyone has any complaints regarding possible zoning violations to forward them to him by email so that he could compile them and have them ready for review at the next Work Session, and then the members could decide whether or not to sign the complaint.

Ms. Kohl asked if the Board as a whole can sign a complaint form. Mr. Wilson explained that each member that signed the form would be doing so as a resident, not a member of the Planning Board. He said that each person has the right and responsibility as residents to contact the Code Enforcement Officer of any proposed zoning violations.

Mr. Wilson also commented that in the past the Board has invited the Code Enforcement Officer to a Planning Board Work Session to talk about their concerns and specific items in the Zoning Ordinance that they think may be in violation.

Ms. Kohl suggested setting time aside and adding it to the agendas at each Work Session to discuss any zoning ordinance violations the Board may have come across over the previous month.

Mr. McManus asked if it was the Board's responsibility to go around town looking for violations.

Dr. Arena said that it is the Planning Board that comes up with the Ordinances and that the Code Enforcement Officer is an extension of the Planning Board hired by the Board of Selectmen to make sure that the ordinances are followed. He said that we have never truly had good code enforcement in this Town.

Mr. Wilson said that he receives phone calls from individual citizens in town with complaints and most do not want to go to the Town office and fill out a complaint for different reasons. Some people are intimidated by those they want to complain about, some don't want to make trouble with their neighbors, etc.

Mr. Kroner said that the Selectmen are not like they used to be in the past. He said that the Selectmen used to keep a close "eye" on things in Town and would direct the Code Enforcement Officer to take care of it.

Mr. Groth said that the complaints can be signed by any of the members as residents; the Planning Board can't do it as a whole because the Planning Board is not an enforcement Board.

Mr. Wilson commented that a good deal of enforcement does go on. He said that subdivision plans are followed, and site plans are followed. He said that there are violations that need to be remedied. He said that he would like to follow the procedures they followed in the past by inviting the Code Enforcement Officer to a Work Session Meeting to discuss the issues.

Mr. Mabey has been invited to attend the April 15, 2010 Work Session to discuss possible zoning violations. The Board members will submit possible violations to Mr. Kroner by email prior to the Work Session meeting.

Mr. Wilson said he would like to discuss the regulations governing "junk yards" and to find out what the Town needs to do to get the messes cleaned up and get the water supply protected. Dr. Arena said not just protect the water but to also protect the resident's property.

The Board adjourned the Meeting at 9:10pm.

Respectfully submitted

Wendy V. Chase
Recording Secretary
Approved April 15, 2010