



Meeting Minutes
Public Hearing
North Hampton Planning Board
Tuesday, March 15, 2011 at 6:30pm
Town Hall

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

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13 **Members present:** Phil Wilson, Chair; Shep Kroner, Joseph Arena, Laurel Pohl, and Jim Maggiore,
14 Selectmen's Representative.

15

16 **Members absent:** Barbara Kohl and Mike Hornsby

17

18 **Alternates present:** Michael Coutu

19

20 Mr. Wilson convened the Public Hearing at 6:38pm.

21

22 Mr. Wilson seated Mr. Coutu for Ms. Kohl.

23

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

25

26 1. Proposed Amendment to Article V, Section 508 – Agriculture, to replace in its entirety for the
27 purpose of promoting responsible agricultural operations throughout Town by balancing
28 between the rights of property owners who want to farm their land and, of abutting property
29 owners who want to enjoy their property without offensive sounds, odors, or pollution of the
30 environment.

31

32 Mr. Wilson explained that the Board voted to take the proposed amendment to Article V, Section 508 to
33 the second Public Hearing due to a few substantive changes made at the first Public Hearing held on
34 March 1, 2011.

35

36 Mr. Wilson explained that the proposed amendment will replace the current Agriculture Ordinance in its
37 entirety. The following substantive changes were made to the proposed amendment at the March 1,
38 2011 Public Hearing:

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- 40
- 41 • The following was added under Section 508.5 (4) b: The Planning Board shall refer all
42 applications for Conditional Use Permits under this Section to the Agriculture Commission for its
43 advice and comments.
 - 44 • The following change was made to Section 508.5.B.2.b (2): Animal Husbandry Operations
involving no more than four animals, no more than 12 poultry per lot.

- 45 • The following change was made to Section 508.5.B.2.b (3): Animal Husbandry Operations
46 *involving more than four animals per lot.*

47
48 There were no comments from the Board.

49
50 Mr. Wilson opened the Public Hearing at 6:47pm.

51
52 **Lisa Wilson, 9 Runnymede Drive** – commented on a possible grammatical error under the definitions,
53 Section 508.3 Definitions – mean instead of means. The Board concluded that it was not an error; there
54 was no change made.

55
56 Mr. Wilson closed the Public Hearing at 6:49pm.

57
58 **Dr. Arena moved and Ms. Pohl seconded the motion to place the proposed Agriculture Ordinance on**
59 **the Town Warrant and vote to recommend it by the Planning Board.**
60 **The vote was unanimous in favor of the motion (6-0).**

- 61
62 2. Proposed Amendment to Article IV, Section 405.3 – Prohibited Uses for all Districts –
63 Commercial Animal Husbandry Facilities, to ensure that the sale of local produce in local farm
64 stands, farmers’ markets, and food stores is not prohibited.

65
66 Mr. Wilson explained that the first Public Hearing on the proposed amendment to Article IV, Section
67 405.3 was held on March 1, 2011 and the Board made the following changes to the last sentence to
68 better clarify the Section: *except for production for sale at farm stands, farmers’ markets and local food*
69 *stores.*

70
71 Mr. Wilson opened the Public Hearing at 6:51pm.
72 Mr. Wilson closed the Public Hearing at 6:52pm without public comment.

73
74 Mr. Groth commented on the apostrophe after the letter *s* in *farmers*. Discussion ensued.

75
76 Dr. Arena suggested that the Ordinance include both *farmer’s market and farmers’ markets* so that it
77 covers the single farmer.

78
79 Mr. Groth said that the single farmer is covered under *farm stand*.

80
81 Ms. Chase will correct it and add the apostrophe after the *s* in *farmer* for the warrant; it is not a
82 substantive change.

83
84 **Ms. Pohl moved and Dr. Arena seconded the motion to place the proposed amendment to Article IV,**
85 **Section 405.3 on the Town Warrant and vote to recommend it by the Planning Board.**
86 **The vote was unanimous in favor of the motion (6-0).**

87
88 **Other Business**

- 89 1. Discuss and vote to take to Public Hearing proposed amendments to Subdivision, Site Plan and
90 Excavation Regulations regarding collateralizing performance obligations.

91

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.

92 Mr. Wilson explained that the Local Government Center (LGC) produced an article in their January 2011
93 edition titled Performance Bonds and Letters of Credit for Regulatory Permits. Performance and
94 maintenance security is requirement within the Excavation, Subdivision and Site Plan Regulations. The
95 LGC article discusses the three major forms of security for performance: (1) Performance bond issued
96 by surety companies; (2) Letter of credit issued by financial institution (LOC), and (3) Cash held under
97 “escrow” agreement (cash bond). He further explained that during a major building project in Town a
98 self-calling letter of credit was set up between the developer and the Town; the developer went
99 bankrupt, and the bank did not write a check to the Town when the Letter of Credit expired, which the
100 Town was lead to believe would happen.

101
102 Mr. Coutu said that the business of taking some form of collateral to ensure completion can be a
103 complicated process, and needs to be done correctly.

104
105 Mr. Wilson asked Mr. Coutu to use his expertise and draft a memorandum that examined the benefits
106 and limitations of each of the three forms of security.

107
108 Mr. Coutu obliged, and a draft policy statement for collateralizing performance obligations was derived
109 from that.

110
111 The Planning Board voted to adopt the policy, written by Mr. Coutu, at the February 17, 2011 Work
112 Session.

113
114 Mr. Wilson explained that the Board would need to hold a Public Hearing to change the regulations.

115
116 Mr. Groth provided a list of substantive and editorial changes that would need to be made within the
117 Regulations if the policy were to be incorporated.

118
119 Mr. Coutu volunteered to draft a standardized agreement for performance surety that would include
120 itemized schedules of work to be performed, its estimated costs, and its expected completion date.

121
122 Discussion ensued regarding the replacement of the surety sections within the Site Plan, Subdivision and
123 Excavation Regulations. Mr. Wilson pointed out that these certain sections cannot be replaced because
124 they include other requirements.

125
126 Mr. Maggiore suggested the Board make sure all the “l’s are dotted” and “t’s are crossed” before the
127 Board moves forward.

128
129 Mr. Wilson suggested that he and Mr. Coutu meet with Mr. Groth to address the issues brought up by
130 the Board and to specify that the Planning Board has the authority to specify the performance surety
131 that it will accept, and the Board can put that in all three Regulations and have it refer to the Board’s
132 Policy on Performance Surety. He said that the Board would need to explore the legalities of this
133 suggestion.

134
135 Mr. Wilson commented that the Planning Board deals mainly with landscaping surety and those
136 amounts are usually under \$5,000.00. He said a Letter of Credit is too complicated for a surety
137 obligation of less than \$5,000.00 over a period of two years.

138

139 Mr. Coutu said that there should be a cascading of priorities because the majority of the transactions are
140 small so “cash” would be the proper agreement. He said that a Letter of Credit should be used for the
141 larger projects.

142
143 Mr. Wilson said that we want to make it as easy as possible for people, and make it transparent by
144 making available the Policy Statement and Model Document to assist Applicants.

145
146 **Mr. Maggiore moved and Dr. Arena seconded the motion to authorize Mr. Wilson and Mr. Coutu to**
147 **meet with Mr. Groth to address the Board’s issues regarding collateralizing performance obligations,**
148 **and to come back to the Board with specific recommendations.**

149
150 Mr. Wilson said they should have something in place by the April Work Session.

151
152 Mr. Coutu will draft the standardized agreement. Mr. Wilson said the draft would need to be reviewed
153 by Town Counsel.

154
155 **The vote was unanimous in favor of the motion (6-0).**

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157 Mr. Wilson invited any other interested member to join them.

158
159 Dr. Arena moved to adjourn the meeting at 7:47pm without objection.

160
161 Respectfully submitted,

162
163 Wendy V. Chase
164 Recording Secretary

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166 **Approved April 21, 2011**