



Meeting Minutes
North Hampton Planning Board
Thursday, May 19, 2011 at 6:30pm
Town Hall, 231 Atlantic Avenue

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

Members present: Barbara Kohl, Shep Kroner, Joseph Arena, Laurel Pohl, Tim Harned, and Jim Maggiore, Selectmen's Representative.

Members absent: Mike Hornsby

Alternates present: Mike Coutu

Others present: Brian Groth, RPC Circuit Rider, Wendy Chase, Recording Secretary, Stephen Fournier, Town Administrator, Richard Mabey, Code Enforcement Officer/Building Inspector and Matthew Serge, Town Counsel

Ms. Kohl convened the Meeting at 6:29pm, and noted for the record that the Agenda was properly posted.

Ms. Kohl seated Mr. Coutu for Mr. Hornsby.

Dr. Arena moved and Mr. Coutu seconded the motion to nominate Ms. Kohl as Chair.

The vote passed in favor of the motion (6 in favor, 0 opposed and 1 abstention). Ms. Kohl abstained.

Mr. Fournier, as a Justice of the Peace, swore Ms. Pohl into Office.

Dr. Arena moved and Mr. Coutu seconded the motion to nominate Mr. Kroner as Vice Chair.

The vote was unanimous in favor of the motion (7-0).

Mr. Kroner took over as Chair of the Work Session and asked if anyone objected to continuing the tradition of the Vice Chair Chairing the Work Sessions. There was no objection.

Attorney Matthew Serge, Town Administrator Stephen Fournier and Building Inspector/Code Enforcement Officer Richard Mabey were present to discuss "junk yards" in Town and the legal procedures on how the Town should address them.

Mr. Fournier explained that Mr. Serge is an Attorney with the law firm Upton and Hatfield who was chosen as Legal Counsel for the Town.

Mr. Kroner said that the Planning Board members read the documentation on “junk yards” prepared by the Local Government Center. He said that “junk yards” are prohibited in all zoning districts. He said that if the Town were to enact a policy on licensing “junk yards” there would have to be a change to the ordinance that would include some sort of allowable use for “junk yards”.

Mr. Serge said that the Town has a handful of “junk yards”, not commercial salvage yards. He said that the “junk yards” where people collect junk on their properties usually do not comply with a letter sent by the Town so the cases end up going through the Court system. He said that such cases are usually very challenging.

Mr. Serge referred to State Statutes and said that “junk yards” are covered under RSA 236:11 through RSA 236:129. He said that the Statutes define “junk yards” broadly. He commented that there are “junk yards” and there are “junk yards”.

Mr. Serge read the definition of “junk yard” into the record. RSA 236:112.I.c – *Motor vehicle junk yards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA 236:126, where the following are stored or deposited in a quantity equal in bulk to two or more motor vehicles: (1) Motor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or (2) Used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle.*

Dr. Arena said that, in his opinion, the definition of a “junk yard” is a commercial business because it refers to inoperable motor vehicles on the premises, and doesn’t really address the individual that has a lot of junk in their yard. He said there is a big difference between the two.

Ms. Kohl commented that there are exemptions for operable, non-registered farm equipment.

Mr. Kroner said that “junk yards” are not permitted or prohibited in the Zoning Ordinance.

Mr. Serge said that he would work with Mr. Mabey to come up with a list of potential “junk yards” and prioritize the list, investigate the property to see how long it has been a “junk yard”, and match it up with the Ordinance to find out when the Town started to prohibit the use. Mr. Serge said that the Courts distinguish between “zoning” and “licensing”. There are two different sets of requirements for licensing new “junk yards” and previously existing “junk yards”. He said the licensing is done through the Board of Selectmen, but since “junk yards” are prohibited in all districts, the Town does not have a licensing scheme in place.

The Board spoke of environmental concerns, especially “junk” stored close to the Town’s water supply.

Mr. Serge said that there are no protected vested rights for a property owner if there is a health hazard issue involved.

Mr. Fournier suggested the Board recess the meeting and enter into a meeting with Counsel to speak more freely about the potential “junk yards” in Town.

Mr. Maggiore moved and Mr. Coutu seconded the motion to recess the Work Session Meeting at 7:00 pm to consult with Counsel.

The vote was unanimous in favor of the motion (7-0).

The Board ended their Meeting with Counsel at 8:05pm.

The Board appointed Committee Members for this year.

Long Range Planning Committee – The following members will serve on the Long Range Planning Committee: Shep Kroner

Application Review Committee (ARC) – The following members will serve on the Application Review Committee: Mike Hornsby, Dr. Arena and Tim Harned

Rules and Procedure Committee – The following members will serve on the Rules and Procedure Committee: Barbara Kohl, Laurel Pohl and Shep Kroner

CIP Representative – **Mr. Coutu moved and Ms. Kohl seconded the motion to appoint Ms. Pohl as the Planning Board's representative to the CIP Committee.**

Master Plan Discussion

Mr. Kroner will forward copies of the Transportation Chapter and Recreation Chapter to newly elected member Tim Harned so that he can be brought up to speed.

Mr. Kroner said that they are starting to work on the *future* and *existing* land use chapters. He said that people have shown support for senior care facilities in the past two community surveys. He suggested the Board start thinking about creating an overlay district to allow such a facility along Route 1.

Mr. Groth is working on the Agriculture Chapter.

Mr. Coutu suggested adding "open items" to each Work Session agenda to remind Board members of ongoing Planning Board issues. The Board agreed.

The Board was in receipt of a complaint from Ruth Mollica, Greystone Way, dated May 3, 2011 on James Jones' business regarding the compost pile and the odor it produces. Mr. Kroner read it into the record. *Dear Mr. Mabey, Since moving to Greystone Way in December of 2010, on three occasions I have noticed a foul odor polluting the air in Greystone Village. It is offensive and repulsive. My neighbors informed me it is ongoing, and has been for a long time. I understand the Town of North Hampton gave Mr. Jones a permit to dump compost in his adjacent landfill. I would like to know if the town regularly inspects it, knows where the compost is coming from, and has tested it for hazardous materials, which might be a public health problem. It seems to me when the town allowed this residential area to be built next to a landfill, it had, and continues to have, a duty to the people who live here to ensure the air quality we breathe is as safe and pleasant as anywhere else in town. Respectfully, Ruth Mollica*

Dr. Arena commented that the Town needs to address this because it affects the basic welfare of the people who live in Greystone Village.

Mr. Kroner said that the properties need to be researched to find out when they received approval to store compost there. He said that the Board may want to create an Ordinance that would restrict the height of dirt piles to 50-feet tall.

Minutes

April 21, 2011 – Mr. Coutu moved and Dr. Arena seconded the motion to approve the April 21, 2011 Work Session Minutes.

The vote passed in favor of the motion (4 in favor, 0 opposed and 2 abstentions). Ms. Pohl and Mr. Harned abstained.

May 5, 2011 – The Board made typographical corrections. Dr. Arena moved and Ms. Kohl seconded the motion to approve the May 5, 2011 as amended.

The vote passed in favor of the motion (5 in favor, 0 opposed and 2 abstentions). Mr. Coutu and Mr. Harned abstained.

Ms. Kohl asked for the status on the pylon sign at the Epilepsy Foundation located at 251 Atlantic Avenue. Ms. Chase said that she will give Mr. Mabey a copy of the May 5, 2011 Minutes where the Board voted to have the Building Inspector condemn the abandoned pylon sign and have it removed from the site.

Respectfully submitted,

Wendy V. Chase
Recording Secretary