



**Meeting Minutes**  
**Work Session**  
**North Hampton Planning Board**  
**Thursday, September 15, 2011 at 6:30pm**  
**Town Hall, 231 Atlantic Avenue**

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

**Members present:** Barbara Kohl, Chair; Shep Kroner, Vice Chair; Joseph Arena, Tim Harned, and Phil Wilson, Selectmen’s Representative.

**Members absent:** Mike Hornsby and Laurel Pohl

**Alternates present:** Michael Coutu

**Others present:** Wendy Chase, Recording Secretary

Mr. Kroner convened the meeting at 6:30pm and noted for the record that there was a quorum.

Mr. Kroner seated Mr. Coutu for Mr. Hornsby.

**I. Old Business**

**1. Possible Sign Ordinance Violations** – Ms. Kohl drafted a letter to the North Hampton Business Association regarding non compliance of the Sign Ordinance from Businesses along Route 1. She explained that the objective to the letter is to seek the cooperation from the Business Association and give the Businesses the opportunity to comply with the Sign Ordinance.

The Board decided to offer the Businesses a certain amount of days from the date of the letter to comply with the Sign Ordinance before taking enforcement action.

Mr. Coutu and Mr. Wilson suggested changes to the letter, which the Board agreed to.

Mr. Kroner said that the letter is a good idea; it accomplishes an effort to get people from the Business Association in to the meetings where they can ask legitimate questions about the Sign Ordinance and get feedback from the Planning Board.

**Mr. Kroner moved and Mr. Coutu seconded the motion to authorize the Chair, Barbara Kohl, to send the letter to the Business Association regarding sign violations.**

45 The Board discussed the amount of days to offer the businesses to comply by, and they decided on 45  
46 days.

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48 **Mr. Kroner amended his motion to include the 45 day deadline into the letter. Mr. Coutu accepted**  
49 **the amendment.**

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

51  
52 Mr. Kroner informed the Board that there is a lot of cases on the October 4, 2011 Agenda and they may  
53 wish to hold an ARC meeting. The members of the Application Review Committee are: Tim Harned,  
54 Dr. Arena and Mike Hornsby.

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56 **II. New Business**

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58 1. None

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60 **II. Committee Updates**

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62 **1. CIP Update** – Mr. Wilson updated the Board on the CIP Committee. He informed the Board that he is  
63 on the Committee as the Select Board’s Representative and was elected Chair of the CIP Committee at  
64 the last meeting. Ms. Pohl is the Planning Board’s Representative to the CIP Committee.

65  
66 Mr. Wilson said that the CIP Committee has met several times and agreed to a timeline for completion  
67 of the Capital Improvement Plan (CIP) in early December. The Select Board begins discussions on  
68 Warrant Articles involving appropriations for capital expenditures at the time. Mr. Wilson said that the  
69 Committee has also integrated the solicitation of input to the CIP from the various Departments with  
70 the budgeting/planning process. He said they have also reviewed the CIP information form that is given  
71 to the Departments to complete and made one revision to it.

72  
73 Mr. Wilson explained the process that they came up with:

- 74 1. Once the forms are completed the CIP Committee will meet to review them and to identify any  
75 questions they have.  
76 2. The questions are sent to the Departments for answers.  
77 3. The CIP Committee will meet with the Department Heads sequentially to go over their  
78 recommendations.  
79 4. The CIP Committee will make their own recommendations and forward them to the Select  
80 Board.  
81 5. The Select Board will make their own recommendations and forward them to the Budget  
82 Committee.

83  
84 Mr. Wilson said that any item over \$10,000.00 is considered a “capital” request. He said that Ann  
85 Ambrogi, a member of the School Board, attended the CIP meetings. Mr. Wilson said that he and Mr.  
86 Fournier plan to attend a School Board Meeting at the end of September to discuss the importance of  
87 having the School Board involved in the CIP process.

88

89 **Blasting Protocol Ad hoc Committee update** – Ms. Kohl wrote the first draft of the proposed Blasting  
90 Ordinance by cribbing other towns’ blasting ordinances and added what she thought was appropriate  
91 for North Hampton.

92 Mr. Harned asked if she included any part of the Brandon Kernen document regarding the water aspects  
93 of blasting. She said that she did not, but she made the ordinance more stringent than what the State or  
94 the other Towns require. She agreed that information from the Brandon Kernen document regarding  
95 the water supply be added into the Ordinance.

96 Ms. Kohl will send the draft to Ms. Chase so that she can forward it to the Members for their review and  
97 suggested changes.

98 **Code of Ethics Committee Update** – Mr. Wilson said that the Code of Ethics Committee plans to meet  
99 next week to go over the final draft of the Code of Ethics. He said they will forward the final draft to the  
100 Town’s Attorney for a final review. He said that the Committee is going to determine whether or not  
101 they want to continue to work on the Code of Ethics or whether to “drop” it completely. Mr. Wilson  
102 said that in his opinion, the Town voted to establish an Ad hoc Committee to work on an amended Code  
103 of Ethics to bring back to the voters in May 2012, so they should follow through and let the voters  
104 decide whether to have a Code of Ethics or not.

## 105 **II. Other Business**

### 106 **1. Minutes**

107 **August 18, 2011** – Mr. Coutu asked if it were necessary to include the names of those who abstain or  
108 oppose a motion made by the Board. Mr. Wilson said that if a vote that has been made is reconsidered,  
109 it can only be “brought up” by a Member that had voted in favor of that particular motion. He said that  
110 any motion made and passed can be reconsidered.

111 Mr. Kroner thought that it may in fact be a Board’s preference; he thought Mr. Groth may be able to  
112 find out if there is a requirement to record the names of how one votes.

113 Mr. Coutu suggested a change to line 91 – to replace the word “erected” to “approved”.

114 **Mr. Coutu moved and Ms. Kohl seconded the motion to approve the August 18, 2011 Work Session**  
115 **Meeting Minutes as amended.**

116 **The vote passed in favor of the motion (5 in favor, 0 opposed and 1 abstention). Mr. Harned**  
117 **abstained.**

118

119 **September 1, 2011** – Mr. Wilson and Ms. Kohl made a correction to the minutes.

120

121 **Mr. Wilson moved and Ms. Kohl seconded the motion to approve the September 1, 2011 Meeting**  
122 **Minutes as amended.**

123 **The vote passed in favor of the motion (4 in favor, 0 opposed and 2 abstentions). Mr. Harned and Mr.**  
124 **Kroner abstained.**

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**1. Work Session items laid on the table**

**a. Master Plan** – Mr. Kroner said that the next Chapter he and Mr. Groth are working on is the Future Land Use Chapter. He said that he feels the Board is all going in the same direction on how the community should look like in the future. He said that they are planning to hold a community forum to give townspeople the opportunity to come in and participate in the Master Plan process.

Mr. Kroner said that through the discussions on the existing land use portion of the Chapter the Board raised concerns on the verbiage that suggested there was a great abundance of “developable” land left in Town. Mr. Kroner said that he is confident that they can change the wording to eliminate the suggestion that the Town has a lot of land that is developable; the vacant land can be described in a manner that eliminates such suggestions.

Mr. Kroner said that he has not spoken to Mr. Groth in a few weeks and assumed that he is working on the verbiage.

Mr. Harned suggested the Board wait to see what Mr. Groth brings back to the Board before discussing it any further. The Board agreed.

Mr. Wilson informed the Board that there will be a Public Hearing on the 10-year Transportation Plan presented by Chris Sununu, Executive Council Representative. He encouraged everyone to attend; it will be an important and informative Public Hearing. Mr. Wilson commented that the widening of the I-93 Corridor is absorbing most of the “transportation money” for Rockingham County. He mentioned the dangerous intersections in this Town alone that need attention, but are put on the hold because of the I-93 project.

**b. Junk Yards** – Mr. Wilson informed the Board that the Select Board, Building Inspector Richard Mabey and Attorney Matt Serge will be meeting next week in a non-meeting with Counsel, which is not open to the public, to discuss “junk yards”. He said that Mr. Mabey will be driving them by potential “junk yards” in Town and Attorney Serge will be advising them on what course of action the Town should take.

Ms. Kohl commented that after reviewing the Junk & Junk Yard guide published by the Local Government Center it became clear that the Planning Board has no involvement in the “junk yard” process; it is under the purview of the Select Board and Zoning Board of Adjustment. She said that the Select Board establishes the application licensing process and that there is no “grandfathering” factor when it comes to “junk yards”; if an existing “junk yard” is in a residential zone the owner must apply for a Variance from the Zoning Board of Adjustment.

Dr. Arena said that the Town has never collected the license fee from any of the “junk yards” in Town, and the Town has been “missing out” on this revenue for many years.

Mr. Wilson read a section from the Junk & Junk Yard Guide – ***Pre-existing Use, or “Grandfathering”***: *If a government directly takes ownership of land for public use, the process is called “eminent domain.” If the government uses a regulation to take away a use of land that was lawful when the use was created, it is called “inverse condemnation.” Both the state and federal constitutions protect against the*

172 *confiscation of property rights for public use unless the landowner is justly compensated. If a state*  
173 *statue or a municipal ordinance has the effect of taking away a junkyard use that was lawful when it was*  
174 *created, the landowner must be compensated for the loss of the property right.* Mr. Wilson said that if a  
175 “junk yard” was established before July 8, 1965 (when the State Statute was created) and the Town  
176 takes the “right” away from them then the Town has to compensate them for it.

177

178 Ms. Kohl said that the Town can license the “junk yard”, but the “junk yard” owners have to follow the  
179 rules and regulations to obtain and maintain the license.

180

181 Mr. Wilson agreed and said that owners of the “junk yards” will have to comply with Best Management  
182 Practices.

183

184 **c. Performance Surety Agreement** – Mr. Coutu informed the Board that he hasn’t received  
185 another “draft” from Attorney Jim Raymond yet. Mr. Wilson said that he will inquire about it with Matt  
186 Serge at their non-meeting with Counsel next week.

187

188 **d. Sign Ordinance amendment** – Ms. Kohl said that the size of a wall sign may need to be  
189 changed in terms of allowing signs to be proportionate to the size of the façade. She said that the Board  
190 should table the issue until after the “letter” regarding sign violations is sent to the Business Association  
191 and how they address that.

192

193 **e. Agriculture Ordinance possible amendment (508.5.B.2.b.4.e.) Application fees** – Ms. Chase  
194 had pointed out that the Agriculture Ordinance allows the Conditional Use Application to be exempt  
195 from an application fee. The Conditional Use Permit requires a Public Hearing and must be noticed in  
196 the newspaper; the application fee is used to cover the publication cost. The Board agreed that since  
197 there will be very few Agriculture Conditional Use Applications there is no need to change the  
198 Ordinance, unless it becomes a problem in the future. The Ordinance was designed to be a “simple  
199 process” for the Applicant.

200

#### 201 **IV. Other Business**

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203 Mr. Kroner mentioned a couple of concerns relating to the “Beach Plum” on Route 1A. He said that the  
204 restaurant does not have bathrooms that their patrons can use so they end up using the facilities at the  
205 North Hampton Beach which end up being overloaded and shut down every year. He said that there is a  
206 line of port-a-potties at the Beach that the homes along Route 1A, who pay a significant amount of  
207 property taxes, have full view of. He said that a lot of non-residents are parking in the town resident’s  
208 reserved parking spots, and that the majority of them are parking there to access the “Beach Plum”. He  
209 wondered if the Town could do anything about requiring the “Beach Plum” to offer their patrons  
210 bathroom facilities.

211

212 The Board determined that the State requires a restaurant to have bathrooms if they have indoor  
213 seating, but does not require them to have bathrooms for outdoor facilities.

214 Mr. Wilson said that the “bathroom” problem at the beach is likely to be solved. The State is currently  
215 working with Rye and Hampton to possibly tie-in to their sewer line. He agreed that a lot of the non-  
216 residents that park in the reserved spots are patrons of the Beach Plum.

217

218 The Board discussed law enforcement issues pertaining to illegal parking at the Beach and possible  
219 remedies. They discussed the option of having the illegally parked car towed away, which would be  
220 most cost effective because there is no need for the Police to work overtime, or for Court appearances,  
221 and people would learn quickly that there is zero tolerance to park in the reserved spots.  
222

223 Mr. Wilson brought up a couple of issues he would like the Board to think about. The first is  
224 contamination of Little River with e-coli. If it's determined that the contamination is caused by one or  
225 more failed septic systems then the Board should consider implementing a requirement where every  
226 third year homeowners need to prove that they have had their septic system pumped out/maintained.  
227 He said that he spoke to Mr. Mabey about it and Mr. Mabey said that there are towns in Maine that  
228 have implemented such a process and that it works well.  
229

230 Mr. Wilson said that the Conservation Commission, at their Tuesday night meeting, voted to enter into  
231 an agreement with a consulting firm that will test areas and identify failed septic systems. He also  
232 pointed out that the cause of contamination is not always failed septic systems. Natural wildlife can  
233 contribute to the contamination.  
234

235 Mr. Wilson said that the price to hire the Consultant firm ranges from \$12,000 down to \$5,000. He said  
236 it depends on how many sites the Conservation Commission wants tested. He said the Conservation  
237 Commission agreed to expend \$1,000.00 to hire an expert on identifying the sources, to come in and  
238 advise the Commission, and perhaps take enforcement action.  
239

240 Mr. Wilson said that second topic he wanted to address was the wetlands buffer issue. He said there  
241 may be issues with Section 409.12 that was passed by the voters in 2009.  
242

243 Section 490.12 – the Applicant applies to the Planning Board for a Conditional Use Permit for lots that  
244 are official lots of record prior to March 8, 1988.  
245

246 Section 409.9.A.2 – The Applicant applies to the ZBA for a variance for lots of record existing prior to  
247 March 2003.  
248

249 The Applicant has the option to request a variance from the ZBA or a Conditional Use Permit from the  
250 Planning Board for lots or record created between 1988 and 2003.  
251

252 Mr. Wilson said that in his opinion, the ZBA should apply more rigorous standards than just the five  
253 variance criteria on applications where properties that have already received significant relief from a  
254 setback requirement, i.e. being able to use a 50-foot setback where 100-feet is required. There should  
255 be scientific evidence that verifies that the proposal will not cause damage to the wetlands; the burden  
256 of proof is on the Applicant.  
257

258 Mr. Wilson said that one of the most typical things the Applicants are now doing, to receive relief from  
259 the wetlands buffer to build close to the wetlands, is offering to install a "rain garden." He said that no  
260 one is really sure if "rain gardens" really work. He said the success of a "rain garden" is based on proper  
261 maintenance of it. After every major storm event the "rain garden" needs to be inspected and all the  
262 plants need to be maintained. He said the question becomes who is supposed to inspect the "rain  
263 gardens?" Mr. Wilson said that if the Board's are going to use a device like "rain gardens" they at least  
264 need to require the establishment of an escrow account to cover maintenance inspections.

265  
266 The meeting adjourned at 9:05pm without objection.  
267  
268 Respectfully submitted,  
269  
270 Wendy V. Chase  
271 Recording Secretary  
272  
273 Approved October 18, 2011