



**Meeting Minutes**  
**Work Session**  
**North Hampton Planning Board**  
**Tuesday, May 15, 2012 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, Laurel Pohl, Mike Hornsby and Phil Wilson, Select Board Representative.

**Members absent:** Tim Harned

**Alternates present:** None

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

It was noted for the record that Mr. Kroner and Dr. Arena were re-elected as Planning Board Members by the Legislative Body on May 8, 2012; they stated for the record that they took the Oath of Office with the Town Clerk.

**Public Hearing – Master Plan Energy Chapter**

Mr. Kroner convened the Public Hearing on the Energy Chapter at 6:33pm. He explained that this is the second public hearing because substantive changes to the Chapter were made at the first public hearing held on April 17, 2012. The Board was in receipt of the updated Energy Chapter.

Dr. Arena commented that there was too much redundancy within the Chapter and that it could be, and should be condensed. He said that the finer technicalities don't need to be in the Master Plan. He said that the more simplistic you make; the more effective it is, and the more everybody understands it.

Mr. Kroner opened the Public Hearing for public comment at 6:36pm.

Mr. Kroner closed the Public Hearing at 6:37pm without public comment.

Mr. Kroner asked if Dr. Arena wanted to table the consideration of the adoption of the Energy Chapter to another meeting. Dr. Arena replied that he would like to table it an, and said that the Board should go through the entire Chapter and pick out all the "chats".

Mr. Kroner explained that the Town received a grant and Theresa Walker from the Rockingham Planning Commission worked with the Energy Committee to draft the Chapter. He explained to Dr. Arena that the reason why the specifics are in the Chapter is because their trying to establish the groundwork for how an Engineer might approach projects in Town to make sure they live up to a set of strict energy efficient guidelines.

48 Mr. Wilson commented that this is the first time the Town has had an Energy Chapter in the Master Plan  
49 and it's important to include the rationale for the recommendations made in the Master Plan. The  
50 context of the Chapter comes from a series of recommendations of what the Town of North Hampton  
51 should do. He said a lot of the material in the Chapter is documentation of trends in the State, Nation,  
52 and the World in respect to energy consumption and energy pollution from energy use, and what can be  
53 done, at a local level, in order to reduce pollution from the use of energy. He said that it is reasonable  
54 to put the detail as well as the generality in the Chapter. He said that he believes the Energy Commission  
55 will push the Town in the direction of these recommendations.

56  
57 Ms. Pohl discovered minor errors within the Chapter: a typo on page 3; repeated paragraph – same  
58 paragraph in the second paragraph on page two as the third paragraph on page three; replace  
59 Selectmen with Select Board throughout the document. The Board agreed to make the changes and  
60 that they were not substantive so it was not necessary to hold another Public Hearing. Ms. Pohl  
61 commented that the Chapter was a "good start" and that the Board should adopt it.

62  
63 Ms. Kohl asked if there was anything within the Chapter that could be used against the Town regarding  
64 developments.

65  
66 Mr. Wilson said that, included in the Chapter, it encourages more mixed use development and compact  
67 development. Mr. Wilson said that the Town does encourage those things sufficiently with the I-B/R  
68 District which allows mixed use development as well as the Inclusionary Zoning Ordinance that allows  
69 both mixed use and compact development.

70  
71 Ms. Kohl said that she is concerned that a Developer would use the Energy standards to develop based  
72 on needs and they would insist on denser development.

73  
74 Mr. Wilson said that the Board cannot allow more dense development unless the ZBA grants a variance,  
75 or if the Legislative Body would vote on an Article proposed by the Planning Board or Citizens Petition  
76 allowing denser development.

77  
78 Dr. Arena said that he agrees a lot of work was put into the Chapter, but there is a lot within it that can  
79 be removed.

80  
81 Ms. Pohl made the comment that the Board can adopt the Chapter, but there is nothing prohibiting the  
82 Board from changing it over the next year. Mr. Kroner agreed that changes can be made and they can  
83 hold Public Hearings over any proposed changes.

84  
85 **Mr. Wilson moved and Ms. Kohl seconded the motion to adopt the Energy Efficiency and Sustainable**  
86 **Development Chapter of the Master Plan as amended.**  
87 **The vote passed in favor of the motion (5 in favor, 1 opposed and 0 abstention). Dr. Arena opposed.**

88  
89  
90 Mr. Wilson suggested that Dr. Arena redact the Chapter and come back to the Board next year with a  
91 shorter version.

92  
93 Mr. Kroner thanked the Energy Commission and Theresa Walker for all their hard work.

94

95 Mr. Kroner closed the Public Hearing at 7:03pm.  
96 Mr. Kroner convened the Work Session at 7:04pm.

97  
98 Mr. Kroner said that the Heritage Commission is requesting that a Planning Board member be appointed  
99 as an Alternate member to the Heritage Commission.

100  
101 Ms. Sylvia Swank, a member of the Commission, was in the audience and explained that an Alternate  
102 Member to the Heritage Commission can either be a Full Member or Alternate Member of the Planning  
103 Board. She said that they have a sufficient number of members of the Commission and would like an  
104 alternate member. She noted that the Heritage Commission meets the third Thursday of every month  
105 at 9:30am.

106  
107 **Reorganization of the Board –**

108  
109 **Election of the Chair –**

110  
111 Ms. Pohl nominated Mr. Kroner as Chair, Ms. Kohl seconded the nomination.  
112 Mr. Wilson moved to close the nominations for Chair.  
113 The vote was unanimous to close the nominations for Chair (6-0).

114  
115 The question was called to the nomination of Shep Kroner as Chair to the Planning Board.  
116 The vote was unanimous in favor of the nomination (6-0).

117  
118 **Election of the Vice Chair -**

119  
120 Mr. Kroner opened the nominations for Vice Chair without objections.

121  
122 Ms. Kohl nominated Laurel Pohl as Vice Chair, and Dr. Arena nominated Tim Harned as Vice Chair in  
123 unison.

124  
125 Mr. Wilson noted that Mr. Harned was absent and opined that he probably would not want to accept  
126 the nomination this year given that his job entails a lot of travel, and that he would probably want a  
127 little more experience on the Board before serving as Vice Chair.

128  
129 Mr. Kroner said that he spoke to Mr. Harned and he said that he would be fine with the Board remaining  
130 status quo; he did not lend any other desire or insight on preferences beyond that.

131  
132 Dr. Arena moved to close the nominations for Vice Chair. The nominations for Vice Chair were closed  
133 without objection.

134  
135 The question was called to the nomination of Laurel Pohl as Vice Chair to the Planning Board.  
136 The vote was unanimous in favor of the nomination (6-0).

137  
138 **Board Committee Appointments –**

139

140 **Long Range Planning Committee** – Mr. Kroner said that the Board typically has three (3) members serve  
141 on the Long Range Planning Committee. He read a list of things the Committee should focus on over the  
142 year:

- 143 • Sign Ordinance
- 144 • Article V, Section 506.6.G Signs other than the I-B/R District
- 145 • Article V, Section 506.6 – add S. Any sign not specifically permitted by this Ordinance shall be  
146 prohibited.
- 147 • Article IV, Section 409.8 and 410 reduce impacts on wetlands from septic systems
- 148 • Update Article IV, Section 416 sample list of child-oriented businesses
- 149 • Review Essential Services Article III, Section 302.11
- 150 • Change Blasting Regulation to a Blasting Ordinance
- 151 • Review Article V, Section 505 – Temporary Structures (concession stands)
- 152 • Update Site Plan Regulation Section XIII B. 3. To reflect the State standards – change the sq. ft.  
153 from 1,200 to 750 devoted to inside storage.
- 154 • Clarification of Duplex Definition

155  
156 Mr. Kroner volunteered to serve on the committee, Mr. Hornsby volunteered, and Mr. Kroner  
157 volunteered Mr. Harned to serve on the Committee. Mr. Kroner and Mr. Hornsby are committed and  
158 will ask Mr. Harned at the next meeting.

159  
160 **Application Review Committee (ARC)** –  
161

162 Dr. Arena volunteered, Mr. Hornsby volunteered, and Mr. Kroner volunteered Mr. Harned to serve on  
163 the ARC.

164  
165 **Rules and Regulations Committee** –  
166

167 Mr. Kroner commented that the Rules and Regulations have not been reviewed by the Board for a few  
168 years and he would like to review and maybe update them. Mr. Wilson explained that the Committee  
169 was named Rules and Regulations instead of Rules of Procedure because the Board was authorized to  
170 include updates to the Excavation, Site Plan and Subdivision Regulations. He commented that the new  
171 committee may want to change the name to Rules of Procedure.

172  
173 Mr. Kroner, Ms. Pohl and Dr. Arena volunteered to serve on the Rules and Regulations Committee.

174  
175 **Capital Improvement Program (CIP)** –  
176

177 Mr. Kroner explained that the Board had to nominate a Planning Board member to serve on the CIP. He  
178 opened the nominations without objection.

179  
180 **Ms. Kohl moved and Mr. Hornsby seconded the motion to nominate Laurel Pohl as the Planning Board**  
181 **member representative to the CIP.**

182 **Mr. Kroner closed the nominations without objection.**

183 **The vote was unanimous in favor of the motion to nominate Ms. Pohl (6-0).**

184  
185 Mr. Kroner volunteered to serve on the Heritage Commission as an Alternate member.

186 Mr. Wilson moved to nominate Mr. Kroner by unanimous consent, Dr. Arena seconded the motion.  
187 The vote was unanimous in favor of the motion (6-0).

188  
189 Sylvia Swank informed Mr. Kroner that their next meeting is on Thursday, May 17, 2012 at 9:30am.

190  
191 Mr. Kroner commented that he was saddened to hear that Mr. Peter Fuller passed away. He said that  
192 Mr. Fuller and his family did a lot for this community as well as other communities around here. Mr.  
193 Fuller was an important member of the Community for a long time.

194  
195 Mr. Wilson agreed and said that Mr. Fuller was a remarkable man.

196  
197 **Old Business**

198  
199 There was no “old business” before the Board.

200  
201 **New Business**

202  
203 **Discussion of Continuance of Design Review – Harbor Street Limited Partnership – Joseph Falzone –**  
204 **Design Review Application for proposed 53-lot workforce housing subdivision presented to the**  
205 **Planning Board on May 1, 2012.**

206  
207 Mr. Kroner said that the Design Review doesn’t specify how to handle it in terms of closing it or keeping  
208 it open. He said after reviewing the meeting minutes he thought that the Attorney for the Applicant  
209 had some sort of perspective that the Design Review was still open.

210  
211 Ms. Pohl said that she had the opportunity to speak with Attorney Matt Serge when he was “on the  
212 clock” with another Town matter and she specifically asked him about the issue and he replied that  
213 there is really no reason not to continue it, and suggested the Board keep the Design Review open.

214  
215 Mr. Kroner was concerned about notifying the Abutters to the subject property.

216  
217 The Applicant, through his Attorney, offered to pay the cost of the newspaper notice.

218  
219 Mr. Wilson said that a Design Review is a discussion on the materials presented to the Board by the  
220 Applicant. He said the Chair makes clear to the Applicant that the Board cannot vote to approve or  
221 disapprove, which Mr. Kroner did. The Board is there to provide “feedback” to the Applicant if they wish  
222 to proceed with the application. Mr. Wilson said that he has never remembered taking a formal vote to  
223 close a Design Review, and has never heard a request for a continuance. He commented that the  
224 Applicant did not request a continuance at the end of the May 1<sup>st</sup> meeting to a date certain, which is  
225 what is required in order for the Board to grant a continuance. Mr. Wilson agreed with the Attorney  
226 Serge that there is no reason not to continue the Design Review, but in the letter requesting a  
227 continuance from the Applicant’s Attorney, Mr. McNeill, there was a lot more that they were requesting  
228 other than a continuance of their Design Review. In the letter they stated that they would like to discuss  
229 conditions of approval; the Board doesn’t have a formal application and cannot begin to discuss  
230 conditions of approval; the Applicant would need to submit a formal application and the board would  
231 need to take jurisdiction of the application before they could begin discussing conditions of approval.

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Mr. Kroner said that per discussions at the last meeting he did reach out to Rockingham County Conservation District to see if they would to do the environmental impact study and it was determined that RCCD did not have the information they needed to do it at this time; there's no High Intensity Soil Survey or drainage analysis.

Dr. Arena commented that the Applicant hasn't even decided which plan they were going to go with; the 53-unit workforce housing subdivision, or the 19-lot traditional subdivision. The Board cannot act until it knows what they decide to do.

Mr. Wilson said that North Hampton was among the first communities to pass a workforce housing ordinance, titled Inclusionary Housing Ordinance. He said he took offense to the Applicant questioning the Board if they were serious about workforce housing. He said he took greater offense to the editorial written in the Seacoast newspaper implying that the Town is opposed to workforce housing. He said the editorial was a misrepresentation of the Town and to the 80 to 100 people who showed up at the last meeting. He said that the people present were legitimately concerned about issues such as drainage into the head waters of the Winnicut River; the aquifer where we extract water for the Town of North Hampton and parts of Rye and Hampton; shared driveways, which are a concern regarding public safety, such as, emergency vehicle access. Mr. Wilson commented that there have been at least two letters sent to the newspaper rebutting the editorial which have not yet been published.

Mr. Kroner was misquoted in the newspaper as asking the audience if they were "opposed" to the workforce housing proposal when in fact he asked if they were "concerned" with the proposal. He requested a retraction and didn't get it, but another story regarding the proposal quoted him correctly.

Mr. Wilson said that he believes that those reporting in the newspaper have a right to their opinions, but when expressing those opinions the facts in which they base that opinion should be accurate, balanced and thorough.

Ms. Pohl said that she received E-mail communication from two residents, and their concerns were water, increased services, taxes, and traffic. Also, the "Santa Clause" comment was discerning to them. She said not once was it mentioned by either resident that they were opposed to workforce housing.

Dr. Arena said that the Town's people are concerned with the proposal because it has a real impact on the Town.

Dr. Arena moved to close the discussion on the topic because the Applicant was not present.

Mr. Wilson stated for the record that the Board was not talking about the substance of their application or design, the Board is talking about the reportage in editorializing of Seacoast online newspapers and it is perfectly appropriate to discuss that as long as they are in a public meeting.

Mr. Wilson agreed with Dr. Arena to close the discussion.

**Mr. Wilson moved and Dr. Arena seconded the motion that the Board is more than happy to consider the Design Review being continued to the June 5, 2012 meeting; however the Board believes that under the circumstances it is important that all of the abutters be notified, as well as, re-notifying as**

279 **to the standard of the original notification for public hearing, because the only conditions allowed**  
280 **under which the Board is allowed to continue an application of this sort is when the Board votes at**  
281 **the end of the meeting to continue it to a date certain. The reason for this requirement is so that**  
282 **everyone in attendance knows when it will be continued to.**

283

284 **Mr. Kroner agreed that it is critical to make sure all the abutters are properly notified.**

285

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

287

288 Ms. Pohl asked if there was enough time to post the meeting in the paper, and Ms. Chase said there was  
289 if it is noticed by Friday, May 18<sup>th</sup>.

290

291 **Mr. Wilson moved and Ms. Kohl seconded the motion that if the Applicant doesn't comply with the**  
292 **prior motion, the Board will let them know that they cannot continue the meeting until the July 3,**  
293 **2012 meeting.**

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

295

296 **Mr. Wilson moved and Ms. Pohl seconded the motion to request that the Select Board allow the**  
297 **Town's Attorney to attend all the meetings that deal with this application.**

298

299 Ms. Kohl asked if the Town could get the Applicant to pay the Town Attorney fees and Mr. Wilson  
300 thought that technically they could if the Board felt the consultation was relevant to the application, but  
301 he doesn't know if that's the right course to take. He said he wants it to be clear that Town Counsel is  
302 independent of the Applicant and one of the issues that may arise for any application review for  
303 workforce housing is that the requirements of the Board is making it economically not viable, so it would  
304 be prudent for the Town to pay their own Attorney fees to protect the Town.

305

306 Ms. Pohl said the when going down that road, the town ends up subsidizing the developer, because it  
307 costs money the Town has to pay to put that development in.

308

309 Mr. Wilson said that maybe the motion should be made at the next meeting if in the judgment of the  
310 Board it appears to be prudent; after the Design Review.

311

312 Ms. Pohl offered another alternative for the Board to consider; having the minutes transcribed, because  
313 the minutes are the official record of the meeting. She said you can't attach the video to the minutes,  
314 but could attach the transcription to the minutes.

315

316 Mr. Wilson said that his reasoning to have the Town's Attorney present on any application is if  
317 whenever the Board feels that there are issues the Applicant would raise that the Board should be  
318 advised on how to pursue it properly.

319

320 Mr. Wilson suggested withdrawing his motion and taking the matter up at the next meeting.

321

322 Mr. Kroner allowed Mr. Joseph Walsh to speak from the audience. Mr. Walsh commented that he deals  
323 with workforce housing proposals in Massachusetts and said instead of having their Attorney present  
324 they usually hire an affordable housing consultant to guide the Board. Mr. Wilson said that the Town's  
325 Circuit Rider would probably serve the Board under that capacity.

326  
327 Ms. Pohl withdrew her seconded to the motion and Mr. Wilson withdrew his motion.  
328

329 **Other Business**

330  
331 **NH Community Planning Grant Program –**  
332

333 The Board received a copy of the application for the NH Community Planning Grant.  
334

335 Mr. Kroner called for a five minute recess.

336 Mr. Kroner reconvened the meeting.  
337

338 Mr. Kroner recommended that the Board review the documents. He said it that it requires municipal  
339 matches and the Board should wait to hear from Mr. Groth regarding the grant. The application  
340 deadline is June 15, 2012.  
341

342 Dr. Arena said that the Board shouldn't delay it so much that we miss the deadline.  
343

344 Mr. Kroner would like more information before moving forward with it. He said he doesn't know how  
345 competitive the Town could be in a grant application when the Board is not really sure what they are  
346 getting.  
347

348 Mr. Wilson said he prepared a lot of grant applications in a short time, but he's not sure the Board  
349 absolutely needs to apply for this at this point. He said that they will be competing with Nashua,  
350 Concord, Rochester and Portsmouth. He didn't think the Board had time to prepare something for the  
351 Rockingham Planning Commission to meet the deadline date.  
352

353 Ms. Pohl asked if the Board was going to follow their normal practice and have the Vice Chair, Chair the  
354 Work Sessions.  
355

356 Mr. Kroner thought it was a good idea and it's something they can make part of the Rules and  
357 Procedures.  
358

359 **Ms. Pohl moved and Dr. Arena seconded the motion to adopt the practice of the Vice Chair running**  
360 **the Work Sessions as a part of the Board's Rules and Procedures.**

361 **The vote was unanimous in favor of the motion (6-0).**  
362

363 **CIP Committee update –**  
364

365 Mr. Wilson said the CIP Committee is meeting on Friday morning, May 18<sup>th</sup> at 8:15am, and hopefully the  
366 committee has reviewed the Capital Improvement Plan for the members to sign, and then it will be  
367 done, except that it doesn't have Dr. Azzi's report in it yet; that will be added to it.  
368

369 Mr. Wilson discussed the UNH t-square program that would include total reclamation of town roads  
370 costing four million dollars over a four year period. The Public Works Department's plan involves



371 resurfacing and maintenance of roads on a more frequent basis that would cost just under one million  
372 dollars over that same four year time period.

373  
374 Mr. Wilson reported that the Code of Ethics passed at the May 8<sup>th</sup> Town Election and the Code of Ethics  
375 Committee no longer exist. Mr. Wilson said that it is recommended that the Chairs of the town boards  
376 and committees read the prologue at their first meetings.

377  
378 Ms. Pohl asked if Mr. Wilson, as the Select Board's Representative to the Planning Board, would ask Mr.  
379 Fournier to ensure that all of the Boards and Committees are provided with a copy of the Code of Ethics  
380 and that they read the prologue, and that Mr. Fournier follow-up to make sure that it was done.

381  
382 Mr. Wilson said that he will tell Mr. Fournier that each employee and elected official receives a copy and  
383 remind the Chairs that they should read the prologue, but he will not ask him to "follow-up" with each  
384 Board and Committee to see if it was done.

385

### 386 **Other Business**

387

388 Mr. Kroner said that he had no updates on the Master Plan. He commented that the Select Board  
389 adopted a "Junk Yard" policy on April 30, 2012.

390

391 Dr. Arena said that the fees are not included in the "junk yard" policy.

392

393 Mr. Wilson said the policy states that the fee is the maximum amount allowed by law.

394

395 The Board discussed getting the Code Enforcement Officer on Board. Mr. Wilson said that the role  
396 description for the Building Inspector/Code Enforcement Officer and the Planning and Zoning  
397 Administrator are done. They plan to work over the next year on getting all of the employee role  
398 descriptions done as well as the performance review process.

399

### 400 **Minutes –**

401

402 **April 17, 2012 Work Session – Mr. Wilson moved and Ms. Pohl seconded the motion to approve the**  
403 **April 17, 2012 Work Session Minutes.**

404 **The vote was unanimous in favor of the motion (3 in favor, 0 opposed and 3 abstentions). Ms. Kohl,**  
405 **Dr. Arena and Mr. Hornsby abstained because they were not present at the April 17, 2012 meeting.**

406 **May 1, 2012 –** The Board was in receipt of Mr. Groth's proposed changes to the minutes and accepted  
407 them. Dr. Arena made a couple of changes.

408 Dr. Arena moved and Mr. Wilson seconded the motion to accept the May 1, 2012 Minutes as amended.

409

410 Mr. Wilson withdrew his second and Dr. Arena withdrew his motion.

411

412 Ms. Pohl had a change to the Minutes on line 75 to read "Ms. Pohl said that you can click through to any  
413 site on the web from any other site on the web".

414

415 **Mr. Wilson moved and Ms. Pohl seconded the motion to approve the May 1, 2012 minutes as**  
416 **amended.**

417 **The vote passed in favor of the motion (5 in favor, 0 opposed and 1 abstention). Ms. Kohl abstained**  
418 **because she was not present at the May 1, 2012 meeting.**

419  
420 Ms. Pohl made a comment about Mr. Groth's written opinion regarding the 53-lot Post Road subdivision  
421 proposal, that, if it is complete, it should be noted that the opinion is tainted, because Mr. Groth has  
422 recused himself from the Post Road Subdivision proposal because of a conflict of interest.

423  
424 Mr. Kroner said that the Board may want the opinion stricken from the record and request that  
425 Rockingham Planning Commission provide another opinion.

426  
427 Mr. Wilson said that it is a "good point", but the Board should wait to discuss it when they reconvene  
428 the Design Review so the Applicant is aware of it.

429  
430 Mr. Wilson said that Glenn Greenwood has been assigned to take Mr. Groth's place on all matters  
431 involving the Post Road Subdivision. He said that Mr. Greenwood has scheduled meetings in other towns  
432 on Tuesdays and was wondering if the Board would consider changing their meetings to Thursdays. It  
433 was a consensus of the Board not to change from Tuesday's to Thursdays. Mr. Wilson thought that  
434 maybe the RPC would consider hiring Jill Robinson as a consultant regarding this case; she used to be  
435 the Town's Circuit Rider and is very familiar with the Town.

436  
437 Ms. Pohl reported to the Board that she went to Court on May 14<sup>th</sup> for the Adrienne Salomon v. Town of  
438 North Hampton Planning Board merits hearing regarding the Shane Smith subdivision. It was her  
439 opinion that the point Mr. Salomon made was that Pond Path bisected the "tail" on one of the lots so  
440 the "tail" could not be considered buildable and could not be counted as "uplands", and that he made a  
441 contention that the Board did not resolve the fact that Pond Path had no public access rights to it. Mr.  
442 Salomon said that the burden of proof is on the Applicant and the Town's Counsel advised the Planning  
443 Board to hire an archivist which they did not do. Ms. Pohl said that Mr. Salomon is filing something else  
444 with the Court and suspects it has something to do with the adverse possession piece. The Judge gave  
445 Mr. Salomon another week. Ms. Pohl said that Attorney Serge said he thought the Town would prevail.

446  
447 Mr. Wilson moved to adjourn the meeting without objection.  
448 The meeting adjourned at 9:05pm.

449  
450 Respectfully submitted,

451  
452 Wendy V. Chase  
453 Recording Secretary

454  
455 Approved July 17, 2012