



**Meeting Minutes  
Town of North Hampton  
Zoning Board of Adjustment  
Tuesday, August 31, 2010 at 6:30pm  
Mary Herbert conference Room**

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These minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned in these minutes are a part of the Town Record.

## **Attendance**

**Members present:** Robert B. Field, Jr., Chair; Michele Peckham, Vice Chair; Richard Stanton, David Buber, and George Lagassa

**Members absent:** None

**Alternates present:** Jennifer Lermer

**Staff present:** Richard Mabey, Code Enforcement Officer/Building Inspector, and Wendy Chase, Recording Secretary.

## **Preliminary Matters; Procedure; Swearing in of Witnesses; Recording Secretary Report**

Mr. Field convened the Meeting at 6:31pm.

Mr. Field invited the Board Members and those in attendance to rise for a Pledge of Allegiance and noted that reciting the Pledge of Allegiance is for those who choose to do so and has no bearing on the decision making of the Board or the rights to appear before the Board.

Mr. Field introduced the Members of the Board.

Ms. Chase reported that the August 31, 2010 ZBA Agenda was properly posted on August 18, 2010 at the Town Clerk's Office, Town Office and Library. The Agenda was not published in the newspaper because there were no new applications.

Mr. Field voiced concern over the fact that the Agenda was not published in the newspaper. Ms. Chase confirmed that all of the Alternate candidates were notified of this Meeting. Mr. Field asked Mr. Pelech if he had any objections that the agenda was not published in the newspaper, and noted as an opposing abutter to the Horne Case, #2010:02 that he himself had no objections. Mr. Pelech said that he had no objections that the Agenda was not published in the newspaper.

**Alternate Member Interviews –**

Mr. Stanton called for a Point of Order. He commented that the Board's procedure for appointing alternates specifically states that there will be no public participation and referred to the e-mails and letter that the Board Members were in receipt of either supporting or opposing the appointment of individual Alternate Candidates.

**Mr. Stanton Moved and Mr. Buber seconded the Motion that the correspondence received not be accepted into the record.**

Mr. Field said that he does not know how the Board can limit or restrict public communication. Mr. Stanton said that the E-mails and letter are public information and anyone has the right to read or request a copy of them. He said that the Board should not accept any correspondence that is either pro or against an individual.

Mr. Field agreed that the letters should not be read into the record, but merely to communicate that the correspondence has been received.

**The Motion Failed (2 in favor, 3 opposed and 0 abstentions).**

Resulting from the vote, Mr. Field said that the letters will be admitted into the record as part of this Meeting for what they are worth, but will not be read into the record.

Mr. Field explained that this was the first time the Board would be acting under the new rules, the Board adopted, on appointing Alternates, and the first time a fully Elected Board has the opportunity to appoint Alternates. The Board published notice of the Board's intent to invite interest on June 24, 2010 and August 3, 2010.

The candidates are as follows in the order the letter of intent was received:

1. Mr. Robert Landman
2. Mr. Ted Turchan
3. Mr. Jonathan Pinette
4. Mr. Dennis Williams
5. Mr. Phelps Fullerton

Communications received by the Board regarding appointment of the Alternates are as follows:

1. E-mail from Barbara Kohl dated August 20, 2010
2. Signed letter from Lisa Wilson dated August 23, 2010
3. E-mail from Larry Miller dated August 1, 2010
4. E-mail from Don Gould received August 30, 2010 (all e-mail communications were not signed)

Mr. Field explained that there are 4 Alternate positions open and it was up to the Board's discretion to appoint or not appoint. He said that there are two terms to expire in 2013, and two terms to expire in 2011. Some of the candidates indicated the term they were interested in and some did not.

Mr. Field explained the process to the candidates:

1. The candidates will give a brief statement of their qualifications (up to 3 minutes each) in the order their letters were received; they will also field any questions from the Board Members.

2. Each candidate will pick a number 1 through 5 and the Board will take action on each candidate in that order.
3. The Primary Board Members will either vote in favor, against or abstain on each candidate. If the candidate does not receive 3 votes their candidacy may be deferred and acted upon at another Meeting.
4. The letters were received in the following order: (1) Mr. Robert Landman, June 1, 2010; (2) Mr. Jonathan Pinette, August 9, 2010; (3) Mr. Dennis Williams, August 24, 2010 (letter dated August 23, 2010) and (4) Mr. Phelps Fullerton, August 24, 2010.

Mr. Field said that he would abstain from each vote unless his vote was needed to "break" a tie.

The Board was in receipt of an E-mail from Mr. Robert Landman informing the Board that he would not be in attendance at this Meeting for personal reasons and added that he would still like to be considered as an Alternate and hoped that his absence would not be held against him.

Mr. Turchan addressed the Board and said that he did not have a preference on which term to serve. He said that he has served on the ZBA for many years as a regular member as well as serving on the Planning Board. He was a mechanical engineer before going into business on his own and has a lot of experience with land use. He has attended a lot of seminars on land use provided by the Rockingham Planning Commission over the years.

Mr. Jonathan Pinette addressed the Board and said that he was interested in serving the 2013 term. He said that he has lived in North Hampton for 17 years. He has over 12 years of operations, collections and sales management experience. He explained that he has personal experience going through the variance process and found it to be rewarding and educational, and would like to become further involved. He also mentioned that he was a ZBA candidate in the most recent election. There were no questions from the Board.

Mr. Dennis Williams addressed the Board and said that he has been a North Hampton resident since 1977, and owns and operates a travel agency in Town. He said that he has people skills and is analytically minded. He explained that he has never been involved in town politics and would like to shed a fresh outlook onto each case before the Board. He said that his preference is for the 2011 term but would be willing to serve either term. Mr. Field asked if his clients were mostly from North Hampton and Mr. Williams replied that he has some North Hampton residents as clients, but the majority of his clientele is worldwide.

Mr. Phelps Fullerton addressed the Board and said that he did not have a preference for a term. He explained that his profession for the past 25 years has been the architectural design of single family homes and has attended many ZBA Meetings in the area to present his home designs for his clients. Mr. Fullerton said that if appointed as an Alternate Member his objective would be to be knowledgeable about the standards, impartial as to their application, and render a decision based on a faithful interpretation and application of the State criteria. Mr. Field asked if his clientele were mostly from North Hampton and Mr. Fullerton replied that his clientele mainly consists of people from Hampton, Rye and Portsmouth.

The Candidates picked numbers from an envelope. Mr. Fullerton randomly chose #1; Mr. Pinette randomly chose #3; Mr. Turchan randomly chose #4; Mr. Williams randomly chose #5, leaving #2 for Mr. Landman who was not present.

Mr. Lagassa suggested the 2013 term for Mr. Fullerton. Mr. Buber suggested the 2011 term for Mr. Fullerton.

**Mr. Lagassa Moved and Ms. Peckham seconded the Motion to recommend a term of 2013 for Mr. Fullerton.**

**The vote passed (4 in favor, 1 opposed and 0 abstention). Mr. Buber opposed.**

**Mr. Field asked for all those in favor of appointing Mr. Phelps Fullerton as an Alternate to the Board for a term to expire in 2013.**

**The vote passed (4 in favor, 0 opposed and 1 abstention). Mr. Field abstained.**

**Mr. Buber Moved to offer a term of 2013 to Mr. Robert Landman. There was no second to the Motion. The Motion failed.**

**Mr. Stanton Moved and Mr. Buber seconded the Motion to offer Mr. Landman a term of 2011.**

Mr. Lagassa said that he had worked with Mr. Landman in the past while serving on the Planning Board and he always had many contributions to make to the Board.

**Mr. Buber Moved and Ms. Peckham seconded the Motion to appoint Mr. Robert Landman as an Alternate to the Board for a term to expire in 2011.**

**The vote was 2 in favor, 0 opposed and 3 abstentions. The appointment for Mr. Landman was not approved or disapproved at this time.**

**Ms. Peckham Moved and Mr. Stanton seconded the Motion to nominate Mr. Pinette for the 2011 term.**

**The vote failed (1 in favor, 0 opposed and 4 abstentions). Ms. Peckham voted in favor.**

**Mr. Stanton Moved and Mr. Lagassa seconded the Motion to appoint Mr. Pinette as an Alternate Board Member with a term to expire in 2013.**

**The vote passed (3 in favor, 0 opposed and 2 abstentions). Mr. Buber and Mr. Field abstained.**

**Mr. Lagassa Moved and Mr. Stanton seconded the Motion to appoint Mr. Ted Turchan as an Alternate Board Member with a term to expire in 2011.**

**The vote passed (4 in favor, 0 opposed and 1 abstention). Mr. Field abstained.**

**Mr. Stanton Moved and Ms. Peckham seconded the Motion to appoint Mr. Dennis Williams as an Alternate Board Member with a term to expire in 2011.**

**The vote passed (3 in favor, 0 opposed and 2 abstentions). Mr. Field and Mr. Buber abstained.**

**Mr. Stanton Moved and Ms. Peckham seconded the Motion that Mr. Robert Landman's letter of interest be included in any future selection process of ZBA Alternate Members.**

**The vote passed (4 in favor, 0 opposed and 1 abstention). Mr. Field abstained.**

Mr. Field explained that the Board maintains a sequential flow when requiring Alternates to sit in on cases. He asked that each newly appointed Alternate get "Sworn in" and bring a copy of their signed Oath to the next Meeting.

Mr. Stanton informed the Alternates that there is a Municipal Law Lecture Series presented by the Local Government Center coming up next month that the Town pays for each member wishing to attend. He encouraged the new Members to participate.

Mr. Field offered amendments to the July 27, 2010 Meeting Minutes. A substantive change was to include the following sentence on line 289: *Mr. Field indicated that as individual public citizens all Members may take an active interest in the business of the Ad hoc Committee on their own devices.*

**Mr. Stanton Moved and Mr. Buber seconded the Motion to accept the July 27, 2010 Minutes as amended.**

**The vote passed (4 in favor, 0 opposed and 1 abstention). Ms. Peckham abstained.**

Mr. Field called for a recess at 7:31pm.

Mr. Field reconvened at 7:36pm.

### Unfinished Business

**2. 2010:02 – Peter Horne, Trustee F.S. 123 Nominee Trust, PO Box 1435, North Hampton, NH 03862.** The Applicant requests a variance from Article IV., Section 411 to allow a body of water to be used to satisfy minimal lot area requirement; in the alternative, the Applicant requests a variance from Article IV., Section 406 to allow lot areas of 75,000s.f. and 68,480 s.f. where 87,120 s.f. is required. Property owner: Peter Horne, Trustee F.S. 123 Nominee Trust; property location: 112 Mill Road; M/L 006-147-002; zoning district R-2. The Application was submitted on December 29, 2009. This case is continued from the July 27, 2010 Meeting.

In attendance for this application:

Attorney Bernard Pelech, Wholey & Pelech Law Offices

Peter Horne, Owner/Applicant

Steve Oles, MSC Engineering

Mr. Field seated Ms. Lerner

Mr. Field recused himself

Ms. Peckham assumed the Chair.

Ms. Peckham commented on the letters presented to the Board regarding the Horne case. A letter from Jerome Day, an abutter to Mr. Horne's property dated July 23, 2010, and two letters from the Conservation Commission dated June 7, 2010 and August 23, 2010. Mr. Pelech confirmed that he and his client Mr. Horne have copies of the correspondence. Ms. Peckham suggested that Board vote on whether or not to accept the aforementioned correspondence into the record.

**Mr. Stanton Moved and Ms. Lerner seconded the Motion to accept the letter from Mr. Day and the two letters from the Conservation Commission into the record.**

**The vote was unanimous in favor of the Motion (5-0).**

Ms. Peckham offered the following recap:

- Mr. Pelech, on behalf of Mr. Horne presented the case
- Mr. Field was given the opportunity to address the Board as an Abutter
- Mr. Pelech had the opportunity for rebuttal

- Mr. Field gave rebuttal to Mr. Pelech's rebuttal

Ms. Peckham said that she would like to open the Meeting to other people that are either for or against the Application.

Mr. Field spoke from the audience and said that he thought he had one more chance to rebut Mr. Pelech. He said that Mr. Pelech presented letters at the last Meeting and he did not have a chance to comment on them.

Ms. Peckham said that Mr. Pelech did present letters at the last Meeting, a letter from Helen Flynn, and a letter from Michelle Perkins, and Ms. Peckham said she requested that the case remain open. She said that Mr. Field presented a letter from Carolyn Congdon, and then the case was recessed. Ms. Peckham allowed Mr. Field 3 minutes, and said that (1) others would be allowed to comment, (2) Mr. Pelech would have a chance for rebuttal, (3) Mr. Field would have a chance for rebuttal, and (4) Board deliberation.

Mr. Stanton called for a Point of Order and asked if everyone speaking on the case tonight had been sworn in. Ms. Peckham said that they were sworn in at an earlier Meeting and it carried over to this Meeting.

Mr. Field offered the following comments:

- Mill Pond was the only significant inland body of water at the time the ordinance (Section 411) was written and adopted, and even though the Corps of Engineers and the EPA made changes over the last 30 years it has no application of what the substance of that ordinance is.
- The letters Mr. Pelech introduced are from Mr. Horne's tenants or employees and are more likely to be supportive of Mr. Horne's point of view, and Mr. Jerome Day is an abutter that would benefit if the Board allowed land from under a body of water to be used to satisfy acreage requirements.
- The Conservation Commission, Historical Society, and Heritage Commission have come to the conclusion that it is not good for further development along Mill Pond.
- There has been no contrary evidence about diminution of abutting properties. Mr. Rice of Tate and Foss provided two letters and states in his March 22, 2010 letter that "the intensification of use proposed by the applicant clearly diminishes "sense of place" and in so doing diminishes the value of Mr. and Mrs. Fields home".
- Mr. Pelech basically said at the last Meeting that there is no need for Zoning Boards because the Supreme Court has spoken in regards to hardship criteria. Mr. Field said that the Applicant does not meet all five points of the variance test.
- Mr. Field said that the Zoning Board's job is fairness in looking out for the interest of the Town and to balance those interests with the interest of the owner. The Mill Pond and Little River are stressed due to the multiple subdivisions of the property.

Ms. Peckham opened the Public Hearing to all those in favor of the Application.

Ms. Peckham closed the Public Hearing without public comment.

Ms. Peckham opened the Public Hearing to all those against the Application.

Ms. Peckham closed the Public Hearing without public comment.

Mr. Pelech said that he never said he did not need the Zoning Board of Adjustment, as Mr. Field indicated. He said that his client is applying for an area variance under the Boccia Standard and a variance from the 2-acre requirement under the Simplex Standard if the first variance request is denied by the Board.

Mr. Pelech gave the following history:

- Mr. Horne went before the Planning Board in November 2008 with a subdivision application.
- The case was continued and the Planning Board sent Mr. Horne to the Zoning Board because they determined that creating a fourth lot would require a variance from the Zoning Board for an expansion of a non-conforming use. Mr. Horne went before the ZBA on December 9, 2008 and the case was continued to January 27, 2009, so that the Board could conduct a site walk of Mr. Horne's property.
- The Board granted the variance on January 27, 2009 to allow the lot line relocation and subdivision with the following conditions: (1) no additional structures or increase in the foot print to any structures within the 100-foot wetlands setback and (2) all accessory structures on both lots remain accessory structures. Also at the January 27, 2009 Meeting the Board continued Mr. Horne's request to allow an existing pool within the wetlands buffer to the February Meeting. The case was then continued to the March 26, 2009 Meeting.
- The Applicant appeared before the Planning Board in March, May, June, July and September 2009. Mr. Horne, at the suggestion of the Planning Board Members, volunteered to have an environmental impact analysis done by Adele Fiorillo, and the Planning Board hired Dr. Leonard Lord to do a peer review of that analysis.
- Dr. Lord, in his review, concurred with Ms. Fiorillo and stated "the proposed subdivision and associated development will not directly impact the wetland buffer and has provided for at least some infiltration of run-off which should help limit impacts". Dr. Lord also found that the proposal was not in compliance with the Zoning Ordinance Article IV, Section 411 In that the proposed lots did not meet the minimum lot area because they included portions of the body of water known as Mill Pond.
- Mr. Horne is seeking a variance either to allow portions of a body of water (Mill Pond) to be used in calculating lot size, or in the alternative, to allow two lots of less than two acres to be created.

Mr. Pelech made the following comments concerning representations made by Mr. Field:

- Mr. Field has incorrectly maintained that Mill Road was a scenic road, and has since admitted that it is not.
- Mr. Field advised the Board that Mr. Horne was forced to rebuild and repair the dam, when in fact Mr. Horne could have removed the dam at Mill Pond completely.
- Mr. Field incorrectly advised the Board that Mr. Horne had previously subdivided the property; Mr. Horne or his father never subdivided the land.
- Mr. Field has incorrectly categorized Mr. Horne's use of the land as a commercial use. There are three lots containing three residential structures controlled Mr. Horne's Trust. Mr. Horne lives at one of the residences and rents out the other two, which is an allowed use, confirmed by the Building Inspector.

Mr. Pelech said that Mr. Horne does not propose to construct anything within the wetland buffer, and the septic system that would service the new house has been approved by the NH DES and is already in place.

Mr. Pelech said that by granting Mr. Horne's variance it would not injure the public or private rights of others and in light of the difference between bodies of water and wetlands contained in Section 411 it is clear that Mr. Horne meets the requirements for the granting of a variance under the Simplex test. He said denying the requested variances would result in a taking of Mr. Horne's property without compensation.

Mr. Pelech advised the Board in the past that Mr. Horne could remove the dam and that the reduction in the size of the Mill Pond would be such that his property would meet the minimum lot size requirements of the Zoning Ordinance. He also commented on numerous times that Mr. Horne has no intention of removing the dam because it would not be a reasonably feasible alternative because it would reduce surrounding property values, reduce wildlife habitat, and impair the ability of the applicant and abutters to utilize Mill Pond for fire prevention and recreation, and diminish ground water recharge in the area.

Mr. Pelech submitted a copy of a document titled Applicant's second supplemental memorandum in support of application of Peter Horne, Trustee.

Mr. Steve Oles of MSC submitted a summary, dated August 31, 2010 on the lot area issue regarding Mr. Horne's application to the Board.

Mr. Jamie Long submitted a summary on wetlands, dated August 31, 2010 pertaining to Mr. Horne's application.

Mr. Pelech explained that Mr. Horne has stated that he has no problem with the following conditions upon a subdivision approval from the Planning Board:

1. That the roadway servicing all 3 residences remain a private roadway in perpetuity and that there be no attempt to make it a public road.
2. That the owners of all four lots, should the subdivision be granted, bear responsibility for maintenance and repair of the dam and all liability associated with the dam.
3. That all of the recommendations contained in the Environmental Impact Analysis performed by NHSC be implemented.
4. That a tree buffer along Mill Road and along Little River below the dam be maintained.
5. That the lots in question, should the subdivision be granted, remain in common ownership or under control of a common Trustee in perpetuity.

Mr. Pelech mentioned that during the site walk of Mr. Horne's property, it was suggested by one Member that Mr. Horne convert his newly constructed garage into a residence. Mr. Pelech informed that person that one of the conditions in granting the variance to allow the garage to be built was that it would never be converted into a residence. Mr. Pelech said that Mr. Horne would be willing to forego construction of a new structure in connection with the subdivision should he be allowed to utilize the existing garage as a residence.

Mr. Pelech commented on the letter submitted by Chris Ganotis on behalf of the Conservation Commission. He said that after tests were taken the results were that the e-coli bacteria count was 3 times higher at the Mill Road culvert, and that water has nothing to do with the Mill Pond. Mr. Ganotis indicated that the high count is due to failed septic systems, but there is no way of determining the direct cause.



Mr. Pelech said that there is no evidence that constructing a new home on Mr. Horne's property would have an adverse environmental impact and Dr. Lord agrees.

Mr. Buber said that he has spent countless hours reviewing evidence for this case, and finds it unfortunate to be receiving new information at this Meeting; information that needs thorough review. Most of the Board Members agreed.

Mr. Stanton questioned why there was a discrepancy with the percentage of impervious surface in Ms. Fiorillo's report (9.3%) and Dr. Lord's findings (19.2%). Mr. Pelech said that Ms. Fiorillo took all four lots into consideration. He said that the impervious surface includes exposed ledge, hot top and structures. Ms. Peckham said that the difference is explained on page 4 of Dr. Lord's report, that the MSC calculations include the pond as part of the total area, effectively counting it as part of the pervious surfaces, and underestimating the percentage of impervious area.

Mr. Stanton commented on the letters received from abutters or interested parties. Ms. Michele Perkins wrote a letter of support for Mr. Horne's application, and it was determined that she is a tenant of Mr. Horne's and has a financial relationship with him; Ms. Congdon's letter was neither for nor against Mr. Horne's application; Ms. Flynn wrote a letter in support and it was determined that she is a neighbor with no financial relationship with Mr. Horne.

Mr. Stanton asked Mr. Pelech if it was correct that the increased e-coli bacteria, found in the analysis submitted by the Conservation Commission, was not a result of a failed septic system on Mr. Horne's property and Mr. Pelech said that was correct.

Mr. Gregg Bower was sworn in and testified that he put the septic systems in on the Horne property, two in 2007 and one in 2009 using "top of the line" pump systems, and they have never failed; there are 4 septic systems on the property.

Mr. Pelech added that the current septic system that was built two years ago is adequately sized to handle a new residence.

Mr. Stanton asked Mr. Field if he spoke to Carter Bishop, who wrote a letter against Mr. Horne's application, and told him that Mr. Horne may lower the pond. Mr. Field said that the lowering of the pond was discussed at a public hearing, and that he did mention it to Mr. Bishop.

Mr. Field asked to be allowed to make 5 points:

1. Commercial enterprise; Business and Commerce are synonymous, one in the same.
2. Mr. Pelech offered the Board, agreed upon conditions of approval from the Planning Board; the ZBA does not have an approved Planning Board subdivision plan which incorporates any of the stipulations presented by Mr. Pelech, and there is no way the ZBA can determine if those stipulations will ever be in the record or have been in the record.
3. The Applicant said that he does not use chemicals and Mr. Field provided pictures to the Board of lawn chemicals in one of the sheds he took during a site walk of the property.
4. The septic system was built through a series of inaccurate representations made to EPA, and noted that the misrepresentations were corrected in time.

Mr. Lagassa commented that he was interested in the possibility of removing the stipulation to allow the current garage to be converted into a residence. Mr. Pelech explained that during a site walk of the property it was questioned by a Board member why the new garage was not used as a residence and

Mr. Pelech explained that one of the stipulations when the prior ZBA granted the variance for that dwelling was that it was not to be used as a residence. Mr. Horne said that it was not his first choice, but if he were allowed to use the garage as a residence he would not build a new house. He explained that the initial variance was to allow Mr. Horne to proceed with the subdivision. The Planning Board determined that approving the subdivision would be an expansion of a non-conforming use. The ZBA granted the variance allowing expansion of a non-conforming use with a stipulation that the garage would not be converted into a residence.

Ms. Peckham said that she does not think that the Board has any legal standing to change a condition that was put on by a variance by a prior Board. She said that the Board addressed a similar situation a couple of years ago and decided that it cannot be done. She said that she does not recommend the Board consider going that way.

Mr. Field commented that Mr. Horne could bring that back to the Board as a new matter, and that if he were to do that he, as an abutter, would not have an objection to the garage being converted into a residence instead of subdividing the lots and creating a new residence.

Mr. Lagassa said that he would like to consider it during Board deliberations. Ms. Peckham said that the Board does not have jurisdiction to do so.

Ms. Peckham closed the Public Hearing. Mr. Horne asked to speak. Ms. Peckham allowed it.

Mr. Horne clarified the following:

- Mr. Horne said that he had a choice to either repair the dam or not, and he chose to repair it. He said that the dam is there not because of the Heritage Commission, Conservation Commission, Historical Society, North Hampton Forever or any taxpayer; it's there because he chose to keep it and repair it. He submitted pictures into the record that he had taken within the last two months of the dam and his property.
- Mr. Horne said that he could have drained the pond and had the land available to subdivide and sell, but said he has no intention of doing that.
- He said that he is not contributing to the creeping crawling despoliation of the lot.
- He picks up individual crab grass on his property by hand and uses no chemicals on his lawn.
- He said he has put in approximately \$100,000 in landscaping and maintenance on his property.

Copies of the pictures will be made for Mr. Field and Members of the Board.

Ms. Peckham closed the public hearing and said that Mr. Buber made a valid point that there is a lot of new material that has been submitted that needs to be reviewed.

**Mr. Buber Moved and Mr. Lagassa seconded the Motion to continue case #2010:02 – Peter Horne to the September 28, 2010 Meeting to be held at the Town Hall at 6:30pm, to allow an opportunity to fairly and systematically review the new information presented to the Board, with the conditions that the Board not accept any new information pertaining to this case, and the case be placed first on the September Agenda.**

**The vote was unanimous in favor of the Motion (5-0).**

Mr. Field assumed the Chair at 8:59pm.

Ms. Lermer retired from the Board for the evening at 8:59pm.

**New Business**

Mr. Lagassa reported that the Ad hoc Code of Ethics Committee held their first Meeting on August 18, 2010. He said that there is no one that has come forward from the general public to volunteer as a member to the Committee to date, and they are still trying to solicit people. Mr. Lagassa said that he commented that the old Code of Ethics and the most recent version are too long and suggested to the Committee that they try and keep it simple; the other Committee Members seemed to agree.

Mr. Fournier has received copies of Code of Ethics from other New Hampshire Towns and the Members are familiarizing themselves with the NH RSAs concerning Code of Ethics.

Mr. Lagassa reported that the Committee Members consist of Jim Maggiore, Phil Wilson, Mr. Hamilton and himself. The Town Administrator, Steve Fournier was also in attendance. The next Meeting is scheduled for September 29, 2010.

Mr. Stanton suggested the Committee review the Code of Ethics for the Executive Branch of the State.

Mr. Field asked Mr. Lagassa to send an E-mail to everyone with the Ad hoc Committees schedule of Meetings so that if anyone is interested in attending they may do so.

Mr. Field reminded everyone of the Municipal Law Series provided by the Local Government Center. He encouraged the Members to attend and reminded them that the Town would pay the attendance fee for each Member.

**Mr. Stanton moved and Mr. Buber seconded the Motion to amend Section 5.A of the Rules of Procedure to change Mary Herbert Conference Room to the Town Hall, 231 Atlantic Avenue, and to change Appendix A, Attachment 2 to reflect that change.**

The Meeting location will officially change by the next scheduled Meeting.

**The vote was unanimous in favor of the Motion (5-0).**

Ms. Chase explained that she does not post the Agenda in the newspaper when there is no "new business" because it's costly and there are no application fees to cover the publication costs.

Mr. Field said that the Agendas should be published because there is information at the Meetings the public may have interest in.

Mr. Field said that there is no legal obligation to publish, but every source of communication is a good idea.

Mr. Field suggested that the September Agenda be published, and we can meet with the Town Administrator for his opinion on the matter.

Mr. Stanton referred the Board to Page 9 of 13 of the Rules of Procedure – Public Notice. The Board determined after reviewing RSA 676:7 and the Board's Rules of Procedure that the Agendas will not be published in the newspaper when there is no Public Hearings. All **Public Hearings** require

520 notification in a newspaper of general circulation; **Public Meetings** do not need newspaper publication.  
521 All Agendas whether published in the newspaper or not are posted at the Library, Town Clerk's Office,  
522 Town Office and the Town's website.

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524 A Motion was made and seconded to adjourn at 9:14pm with all in favor.

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526 Respectfully submitted,

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529 Wendy V. Chase  
530 Recording Secretary

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532 **Approved September 28, 2010**