

HAMPTON PLANNING BOARD

MINUTES

December 5, 2012 – 7:00 p.m.

PRESENT: Fran McMahon, Chair
Mark Olson, Vice Chair
Tracy Emerick
Rick Griffin, Selectman Member
Keith Lessard
Mark Loopley
Brendan McNamara, Clerk
Jamie Steffen, Town Planner

ABSENT:

I. CALL TO ORDER

Chairman McMahon began the meeting at 7:00 p.m. by introducing the Board members and leading the Pledge of Allegiance to the flag.

II. ATTENDING TO BE HEARD

- Mary-Louise Woolsey – Impact Fees

Ms. Woolsey and Mr. Welch appeared. In 2002 the Board submitted Article XI which gave the Planning Board authorization for impact fees for municipal and school needs. She discussed the three to one vote at that time. While she was on the Budget Committee, she tried with that Board to find appropriate sources of revenue to offset the tax rate. Easing the pain on the taxpayers was discussed. She noted that the Budget Committee checks regularly with the Town Clerk's office to see if we are bringing in a lot of revenue.. She discussed that she brought up impact fees with Mr. Emerick before he discussed the CIP with the Budget Committee back in October. She stated that he indicated to her that more impact fees were never going to happen. She is concerned about that. It at recent Selectmen's Meeting she heard Selectman Phil Bean discuss a letter that the Town Manager wrote to the Planning Board in September. She spoke with Mr. McMahon as well. She discussed the Impact Fee Ordinance passed by the voters. She read it aloud (this can be obtained at Town Hall). She feels the Planning Board should not coddle developers. She feels it's the Planning Board's job is to focus on the taxpayers of the community. She wants the Planning Board to think seriously about its hesitation in going along with the mission the public wants as far as assessing fees is concerned. She stated if the Board is adamant to not assess fees, she wants an article from the Planning Board on the warrant for March 20, 2013 asking the public if they wish to remove and rescind the authority to impose impact fees. Mr. Emerick stated we are imposing impact fees at this time – school impact fees.

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Mr. Welch discussed the letter he wrote to Mr. McMahon and the Planning Board. What impact fees are assessed for is discussed in the letter. He stated the Town is about to eliminate its solid waste contract, and all facilities will need to be re-done in 2015. We need a new five-year permit from the EPA for the wastewater treatment plant. Other towns not in the Great Bay area were discussed. He used Kensington as an example. They are assessed for water going into its estuary. He stated Hampton will be getting hit with the same thing. He told the Board we need to examine what we should be doing in next 10 or 15 years to pay for the expenses. Impact Fees is one way to do this. He feels that the Board should look at this matter and make an informed decision. Everyone in the region will pay for these expenses in the long run. The Board of Selectmen and the Budget Committee wants to keep the Town tax rate flat, but we need to plan for the future. There needs to be an acceptable manner to handle these upcoming fees.

Mr. McMahon stated the Board met shortly after receiving the September letter and the Board decided not to go forward with additional fees at this point. He explained that the Board wishes to go forward in a well thought-out way with any additional impact fees and decided to re-visit the subject next October. Mr. McMahon is not prepared at this point to go before the voters to rescind the authority of the Planning Board.

Mr. McNamara asked if we did put this before the voters who would take over the responsibility of coming up with the solution if the Planning Board has this authority taken away. Mr. McMahon is not sure if public is up to date or knowledgeable about this. Ms. Woolsey said we've had the authority since 2002. She discussed prior and upcoming projects that will be very costly.

Mr. McNamara reiterated for Ms. Woolsey and Mr. Welch about putting this before voters - if voters take away the Planning Board's authority who would then have the authority. Ms. Woolsey said the Board now has the authority that the Planning Board asked for. Our Board asked for that authority and since the Planning Board has this authority, it should have the incentive to start giving some relief to the taxpayers of the Town.

Mr. McNamara said the developers look at the fee of what it will cost, and that impact fee gets passed onto the person who buys the property. The Planning Board decided back in the day to put in a school impact fee. Since that time, it's been collected and disbursed. If we impose further impact fees, not only will we maybe not bring new development into Town, we won't receive additional property taxes payments because developers won't build here. Ms. Woolsey said we shouldn't drown people in Town in their property taxes. She asked about traffic and more services needed. Mr. McNamara said we meet with the applicants and take it from there. Some adjustments to the impact fee have occurred in the past. He discussed a broad impact fee. The Planning Board is just not ready yet to discuss changing the impact fees. Having a subcommittee was discussed.

Ms. Woolsey said we are moving forward as a Town. Time doesn't stand still as a community. The community is incurring all the expenses with no results as far as impact fees.

Mr. McMahon discussed how communities change all the time. We all benefit from police, fire, DPW, good schools. The developer also benefits per Ms. Woolsey.

Mr. Lessard stated we don't arbitrarily make changes to housing units. We don't change the rates for multi-family, single family or duplex. An example is where the Old Salt was, we granted a credit for those spaces.

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Ms. Woolsey said the Planning Board should not leave the Town dangling. Leaving taxpayers hanging on a potential reasonable source of revenue is unfair to the taxpayers. She stated the public is watching and the Board of Selectmen is watching.

Forfeited revenue is coming from the taxpayers per Mr. McMahon. Ms. Woolsey discussed revenue coming from private developers. Ms. Woolsey said we have 11 years down the tubes.

Mr. Emerick stated he is annoyed. We put thousands of dollars into schools.

Mr. Olson said the Planning Board made its decision based on how much development we see. He discussed how much is generated for new construction. Penalizing people and taxing them as soon as they get here is not good in his opinion. Mr. Olson said currently there aren't many units being built to justify the impact fees.

Mr. Welch discussed the sewer plant. We are at 60 percent capacity. Every time a new building is added, a portion of the 60 percent diminishes. We are using it up. When we reach 80 percent, the State will step up and there will be no more connections. This will be \$60-\$100 Million when it's needed. Getting more than \$100 per connection should be collected by the Town. That is under our purview in the impact area. That cost only covers administrative costs. That fee may need to be increased. Mr. Welch said the Town is looking to increase the connection fee which covers inspections and paperwork required by the DES—from \$100 to \$300.

Mr. Lessard asked Mr. Steffen to share the modeling done by the consultant for additional fees for the Fire Department / Public Safety. Mr. Steffen said the study was done in 2009 or 2010. He also discussed collecting impact fees for say sidewalks, if sidewalks aren't done within 6 years, it goes back. Some projects did not fall into being completed within the six-year timeframe. Mr. Welch likes the idea of the sub-committee and he will work with Department Heads on this. Mr. Welch wants people to know there is a cost for every building erected in Town. There isn't revenue. People will get a tax bill. Should we as a resident receive a tax bill which now is lost to the Town in future development and future development use.

Mr. Loopley asked if the Planning Board would assign a municipal impact fee – what kind of number would the Planning Board use as a base to say how much would be used. It should be tailored to what the Planning Board feels it should be per Ms. Woosley. Keeping the loss of cost out of the tax base is her goal. The new builder should not have to pick up the entire fee.

Mr. Lessard asked about commercial development. Businesses cost less on a tax rate. It does depend upon the business. We provide commercial tax collection. Mr. Welch discussed Smuttynose Brewery pre-treatment plan. We'd use up too much capacity of the Town. They are discharging what would come out of a home so there's not a big impact there. A laundromat may be a large impact. The illegal discharge that happened at Foss (luckily Hampton was not impacted), could have been disastrous.

Ms. Woolsey discussed appropriately collecting revenue and the Planning Board should do that in her opinion.

Mr. McMahon said if the Planning Board chose to do all we could do it would be a small incremental increase in revenue.

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III. 2013 PROPOSED ZONING ORDINANCE AMENDMENTS PUBLIC HEARING

1. Amend ARTICLE IV DIMENSIONAL REQUIREMENTS, Section 4.8 Maximum amount of sealed surface per lot, including but not limited to driveways, parking lots, and roofs to reduce the maximum amount of sealed surface allowed across all zoning districts.

Mr. Steffen stated that the Conservation Commission decided at its last meeting that it does not wish to pursue this amendment for this round.

PUBLIC

Ms. Dionne, the Conservation Coordinator, stated that the Conservation Commission does want to look at this at a later time, but it needs more time to figure out the wording.

2. Amend ARTICLE V – SIGNS, Section 5.2 to add a new definition for Electronic Message Sign.
3. Amend ARTICLE V – SIGNS, Section 5.4.2.c Projecting Signs to add two new subparagraphs which state “2) Where a zoning lot fronts on more than one public street, the provisions of this ordinance shall apply to each frontage.” and “3) Where more than one projecting sign is permitted the minimum distance between the signs shall be 300 feet.”

Mr. Steffen stated that he wanted to discuss these two amendments as one. He explained that he met with the Town Attorney, Town Manager, Building Inspector, and the Town Manager’s Administrative Assistant to review the proposed amendments. Concerns were brought up at that time about all of the proposals. He noted that the red-lined version that he provided the Board is a result of the meeting. The wording in red is what is being proposed and Mr. Steffen read the changes allowed. (The proposed changes are provided at the Planning Office/Town Hall).

Mr. Steffen discussed electronic message signage. He explained that it was going to have a new definition, but it was decided that it needed more detail. He stated that these would be permitted in the Business, Business Seasonal, Industrial and General zoning districts. He noted the size restriction of 32 square feet.

Mr. Olson said it does not appear that this is restricted very much. He asked who decided on 32 square feet. Mr. Steffen responded that it is what the Ordinance allows now and the amendment simply adds electronic message signs to the changeable copy sign definition.

Mr. Emerick noted the scrolling sign at Jumpin’ Jacks Coffee is an example. Enforcement issues were discussed. Mr. McNamara stated he is shocked that there is no enforcement in place.

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Mr. Arthur Moody appeared. He asked if it was the ZBA who wanted the changes. Mr. Steffen responded “yes” it was. He asked how a certain south beach motel and the Ashworth Hotel are getting these signs with no variances. He noted that on Route 1 it went from zero to 7 or 8 flashing lights with no variances. He finds them distracting to drivers. He stated that he feels that it is a loosening up of the prohibition on flashing signs. He mentioned the new car wash has a sign as well. Mr. Moody read a “definition” in Section 5.2 - he thinks the word “moving” should be added in there. Prohibiting lights that “flash (*add ‘move’)”... should be revised. Using an electronic scrolling mechanism was discussed. It was explained that the Building Inspector would not be enforcing flashing or scrolling signs if they do not change more than once every minute. Mr. Moody asked if there is enforcement, and what happens to ones where no variance was given. Mr. Steffen responded that if they are permitted by variance then they would be grandfathered in.

Mr. Steffen noted that there will be another public hearing on the amendments on January 2, 2013. Only editorial changes can be made at that time. This red-lined version replaces Amendments No’s 2 and 3 on the Agenda. The Board discussed adding a definition of an electronic moving sign. Mr. Lessard asked about the word “move” that Mr. Moody wants added in. Mr. McNamara asked if Mr. Lessard wants to make any changes.

4. Amend ARTICLE VI PARKING, Section 6.1 to add a new section 6.1.2 which states “No off-street parking shall be required for any commercial building in the Business District that is located on property that directly abuts: Lafayette Road between Swains Court and High Street; High Street between Lafayette Road and Towle Avenue; and Swains Court”.

Mr. Steffen explained that there were concerns about the area designated and the districts included. The group felt that the “big picture” should be looked. Mr. Steffen stated he feels the the Planning Board should hold off on this one until the downtown study is completed. It will be done 18 months with possible new zoning amendments ready for next year’s ballot. The Planning Board agreed and decided to not go forward with this amendment.

PUBLIC

Mr. Moody appeared, but the Board reiterated it is dropping the proposed amendment so nothing needed to be discussed at that point.

5. Amend ARTICLE VIII – MULTI-FAMILY DWELLINGS, Sections 8.2.3, 8.2.4 and 8.2.6 to add a new sentence to each of those sections which states “This requirement shall not apply in the current Hampton Beach Village District area”.

Mr. Lessard asked what setbacks currently apply. Mr. Steffen responded that within village district there are three different zoning districts with different structure setbacks and that is one of the problems with this amendment as written. Mr. Steffen stated he recommends that the Planning Board not pursue this amendment at this time.

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MOTION by Mr. Emerick to not move forward on proposed amendments No's 1, 4 and 5 on the agenda.

SECOND by Mr. Griffin.

VOTE: 7 – 0 - 0

MOTION PASSED.

IV. NEW PUBLIC HEARINGS

12-054 370 High Street

Map: 165 Lot: 5A

Applicant: James P. Burke

Owner of Record: Same

Special Permit to Impact Wetlands: Add fill to raise level of existing soil by 6 inches for a 43' x 10' area.

Mr. Burke appeared. He raised the existing ground gradually to the wetlands. In one spot it's 1/2" and in another part he raised it 6". He stopped right away once he was told of needing a special permit. This is an after-the-fact permit.

Mr. Lessard was on the walk and Mr. Burke was remorseful of his project. He went along with the recommendations of the Conservation Commission. There is no fee for this being an after-the-fact; the additional fee for after-the -fact submittals will start in January, 2013.

MOTION by Mr. Lessard to approve the special permit with the stipulations contained in the Conservation Commission letter dated November 29, 2012.

SECOND by Mr. Emerick.

VOTE: 7 – 0 – 0

MOTION PASSED.

12-055 236 & 244 Winnacunnet Road

Maps: 205 Lots: 2 & 3

Applicant: Ted and Katherine Morris

Owners of Record: Ted & Katherine Morris &

Two Hundred Thirty-Six Vineyard Path, LLC

Lot Line Adjustment

Waiver Request: Section V.E. Detailed Plan of Subdivision Regulations.

Mr. Ted Morris appeared with his wife, Casey Morris. They are requesting a minor lot line adjustment. No changes to the building, driveway or utilities will take place.

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Applicant: John Roberge
Owners of Record: Nancy Higgins Revocable Trust
Special Permit: Construction of fence.

Mr. Roberge appeared. Mr. Roberge is now the owner of record. He has three dogs and he wanted a fence for his dogs. He met with Ms. Dionne about 6 times. Ms. Dionne's and the Commission's requirements were that a chain link fence be installed rather than vinyl. They want it to be a chain link fence and it cannot be attached to the shed. The plan has to be changed. He put up a fence already.

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Mr. Lessard asked how dogs won't dig under fence. Erosion was discussed.

PUBLIC

Ms. Dionne appeared. She was surprised to hear that the fence is installed. She discussed that the original plan had the fence further out. It should be in line with the shed. She was going to go to the property and meet with Mr. Roberge to verify where fence was going to go, but it's already built. The Commission said only the corners would have to be cemented. Ms. Dionne will go out and look at this and then the Planning Board can vote on this at that time.

The Board discussed that it can make this a conditional approval. If Ms. Dionne finds something wrong after viewing the installation then the applicant would need come back to the Planning Board for further review.

MOTION by Mr. Emerick to continue the matter to the Planning Board's December 19th meeting date.

SECOND by Mr. Loopley.

VOTE: 7 – 0 – 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES of October 17, 2012 & November 7, 2012.

Mr. McMahon went through the October 17, 2012 Minutes for approval and/or changes.

MOTION by Mr. Lessard to accept the October 17th Minutes.

SECOND by Mr. Emerick.

VOTE: 6 – 0 – 1 (Loopley)

MOTION PASSED.

Mr. McMahon went through the November 7, 2012 Minutes for approval and/or changes.

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MOTION by Mr. Lessard to accept the November 7, 2012 Minutes.

SECOND Tracy.

VOTE: 6 – 0 – 1 (Griffin)

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

Mr. McNamara asked about the status of the Ocean Wok. Back in June the Planning Board went through this situation. Mr. Welch said the Town met with four government agencies last week. There may be a solution to the problem and he's asked the Federal Government to give those solutions in writing. The GSA is promising the material next week and he will convey it to certain parties, but it is confidential. Once that takes place, it will be over with. By the end of the year it will hopefully be resolved. The Town is going through great lengths to get this taken care of. Written information should be to the Town next week.

Mr. McNamara asked about follow through with Ordinances. Mr. Welch said it has to come to the Building Department and that someone has to file a Complaint. For the Town to successfully complete a complaint, it has to be filed by a citizen. Mr. Welch explained the complaint process and follow through.

Mr. Emerick asked if we are meeting on the 19th and Mr. McMahon stated "yes". The Planning Board may receive petitioned articles through December 12, 2012 as well.

VIII. ADJOURNMENT

MOTION by Mr. Lessard to adjourn.

SECOND by Mr. Olson.

MEETING ADJOURNED: 8:40 p.m.

Respectfully submitted,
Laurie Olivier
Administrative Assistant