

**HAMPTON PLANNING BOARD
MINUTES**

November 17, 2021 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Fran McMahon, Vice Chair
Alex Loiseau, Clerk
Ann Carnaby
Keith Lessard
Brendan McNamara
James Waddell, Selectman Member
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT:

I. CALL TO ORDER

Mr. Emerick commenced the meeting by leading the Pledge of Allegiance and introducing the Planning Board members. Master Plan Steering Committee members present are as follows: Brian Warburton, Budget Committee; Erica DeVries, ZBA; Jay Diener, Conservation Commission; Pat Bushway, HBAC; and Chuck Rage, Hampton Beach Village District. Liz Kelly, Resilience Planning & Design was also present. Barbara Kravitz, citizen-at-large, called in to the meeting.

II. ATTENDING TO BE HEARD

Master Plan Steering Committee

1. Public Comment (relating to Master Plan)
2. Resilience Planning & Design – Consultant for the Phase II Comprehensive Update
 - a. Preliminary Community Forum Findings (update on forum/survey input, preliminary findings)
 - b. Discussion of Focus Groups/Community Conversations (review refined topics, format, recruiting of participants, volunteer moderators)
 - c. Example Vision Statements
 - d. Next Meeting (focus group update with draft questions, full community engagement report)
 - e. Future Steps in the Process

Ms. Liz Kelly discussed the items in the presentation (Agenda). She gave an update on the tabulation of findings from the first Master Plan Forum and surveys. They used Survey Monkey. The deliverables will be available to everybody at the December meeting.

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Key findings – People were detailed in their responses on transportation, town facilities, etc.

- Transportation – Expanding and improving infrastructure was high on people’s list. Maintenance of existing sidewalks, bike trails and rail-trail. The rail-trail is of major interest per the responses.
- She noted the need for public transportation. A trolley is a very popular wanting according to the survey. It was noted Hampton had a trolley in the past; it was private and available during the summer. That trolley service maybe ended approximately 5 years ago.
- Senior transportation is needed.
- There’s a concern about how fast the Town is developing. The desire to protect forested lands and waterways, beaches and marshland.
- Increased public spaces/areas.
- Population and housing changes – increase in housing prices.
- The aging community; loss of open space; increase in beach population and condominiums. Larger seasonal population; traffic congestion and control. Parking capacity and desire for more parking. Impact on police and fire.
- Crowd control was mentioned as well.
- The need for indoor recreation space and senior activity space.
- Town Hall and library improvements.

Ms. Kelly said they are still trying to figure out how many people responded; about 220 people from the survey and the Forum have responded.

- Conserving more land and increase landscaped areas also was popular.

Discussion of focus groups. Framing them as “Community Conversations” is how she wants to word it. Ms. Carnaby asked if both terms could be used. One is action-oriented and would appeal to people who want to be heard; the other is a lot softer. She likes both. Ms. Kelly agrees they have two separate connotations. Ms. Kelly does not want people to be confused. Ms. DeVries likes “Community Conversations”—she feels it is more invitational. Then, when you talk about it, talk about the online focus group format. Focus is a technical term. Mr. Lessard concurs. Everyone agreed.

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The revised version was discussed – they have topics. Potential focus group topics were discussed.

Ms. DeVries asked about the students. Senior citizens are missed. Senior citizens fall into transportation or town facilities.

Ms. Carnaby is confused about the students. She asked about the high school group. What about the younger students and what about teachers. Ms. Kelly is trying to think about how to best allocate toward populations. The PTA has been great. That's one way to involve the school community.

Different ages of youth – Ms. Kelly mentioned we went with high school because feedback from the high school would impact action items and implementation in the greatest way. Mr. Emerick said education is all teachers and students. Education could include seniors.

Ms. Kravitz asked about people with expertise. We could add one person to each category (for expertise). Experts can be involved in some fashion. Education – you might have a teacher or parent or school superintendent. A category specialist of some kind. The Board agreed with that. Ms. Kelly asked for the Steering Committee to brainstorm with who the individuals can be. Ms. DeVries said it's important on what their role is – to answers proposed questions by public was asked. We want the community to give input/feedback. Neutrality should be brought into conversations. Mr. Lessard said maybe it should just be conversational; having a clear role of delineation.

Mr. Emerick said having the expert there is a good thing; we want people to express issues as well; not solve them. Mr. Lessard thinks on the topics – they could become polarizing. How do we get potholes fixed as an example; traffic lights fixed; housing being expensive, etc.

Ms. Carnaby said there may be time later on for bringing in the consulting. Community conversations forming – that makes sense. Mr. Warburton said all sections will have information going back to people anyway. Ms. Kelly said to invite experts later. Our team and town staff will go first.

This will be via Zoom – online. Two to three facilitators will be present. Break out rooms were discussed. She asked if people can join a breakout room. Resilience can provide training.

Taking notes; clarifying questions. Report to larger group. Taking notes is the primary role of the facilitators.

Mr. Warburton noted Zoom is great; people can be in another room.

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Mr. Lessard asked about facilitators. How do we educate the community on these topics was asked. Can they download PowerPoints was asked. Ms. Kelly said a brief presentation is provided at the beginning. Some people shoot from the hip; some do homework. Ms. Kelly said there will be a project webpage. Each topic should have detailed descriptions.

Ms. Kelly is thinking to link to key findings. People can read more before attending. The PowerPoint will be at the beginning.

Ms. Kelly discussed the outline and Zoom etiquette; then an overview and background and information on what we've heard so far from the community. Then, we start the conversation part. 4-5 guiding questions. 4-5 questions and then larger key takeaways.

General questions would be the next step.

Ms. Carnaby suggested we get Steve Whitman from Resilience and Jason Bachand to do another video and put it on Channel 22. They could do a conversational video to promote activity.

Advertising. Creating flyers was discussed. Getting texts together for the website. Printed and shared on social media. Facebook and In-the-Know, etc., the PTA, Chamber, etc. Press release. Newspaper. Mr. Rage brought up school vacations and times—we need to keep that in mind. We should check out school vacation schedules.

**Getting in touch with snowbirds was discussed. Place information on the front page of Town website. Mr. Lessard asked about the time we are picking. Ms. Kelly is thinking evenings. January to February – one a week. Six is challenging per Mr. Lessard. Advertising begins in December. Mid-January would be best to start the meetings.

Mr. Bachand said maybe that (schools) should be held during the day. Kids are in class as are teachers. Mr. Emerick will help for people who do not use Zoom. Ms. DeVries said 7 could be good or could cause conflicts. 7:00 PM for every subject matter may not be the best. Ms. DeVries discussed retirees – Zooming during the afternoon. February 22-26 is school vacation week.

Ms. Kravitz discussed a short paragraph for the coordinator describing what the expectations are. A cheat-sheet.

Mr. McNamara discussed meeting on a Saturday – 2-hour period. The Conservation Commission meets on Saturdays. Could that be considered was asked.

Ms. Kelly would need to ask her colleagues, but she is open to that.

Ms. DeVries said that a Saturday might be good for an omnibus catch-all session.

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Mr. Diener said a lot of Town meetings are not televised.

Ms. Kelly said we could record the presentation.

Six topics for a six-week time period was asked by Ms. Carnaby. Do topics twice, on different days. There could be an alternate time and date. Ms. Kelly said she is not sure if they can make the time to do two of each topic. It could trickle to the omnibus session. Mr. Emerick will still need people for the break-out sessions.

Ms. Kelly said they are asking people to register. Ms. DeVries said we can get people involved.

We got example Vision statements. Also, our Vision from 2020 was attached. Hold onto these for now. Resilience will discuss how to move forward with the next phase. Refining the Vision statement. The Steering Committee should start reviewing them; show what you like or dislike about the current Vision statement. Put together thoughts.

For the December meeting, there will be draft questions for us to look at; draft questions to ask the community conversation groups.

A community engagement report will also be given.

III. CONTINUED PUBLIC HEARINGS

IV. NEW PUBLIC HEARINGS

PUBLIC HEARING FOR ZONING ORDINANCE AMENDMENTS

- 1. Amend Article I – General. Section 1.6 Definitions to modify and expand the definition of “Impervious Surface” to clarify that a deck is only considered pervious if it is not covered by a roof and is elevated a minimum of 6 feet off the ground, is constructed with planks not greater than 8 inches in width with a minimum ¼ inch space between each plank, and the area underneath remains entirely pervious (with no use as a storage area). Also, to further expand said definition to account for decks elevated a minimum of 3 feet off the ground, while providing further restrictions for decks above 160 square feet in size depending on whether they are within or outside of the Aquifer Protection District.**

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Amend Article II – Districts. Sections 2.3.3 Wetlands Conservation District Permitted Uses to clarify that the replacement or repair of an existing deck is subject to the Building Inspector determining that it is elevated a minimum of 6 feet off the ground, is constructed with planks not greater than 8 inches in width with a minimum ¼ inch space between each plank, and the area underneath remains entirely pervious (with no use as a storage area).

Mr. Bachand said all of the Amendments are on the website; hamptonnh.gov. Look under ‘Alerts’, click “read on” and you can get the full text. Articles will also be discussed and displayed in final format at the Deliberative Session.

Decks and impervious surface were discussed. This was also discussed informally with the Board on October 20th. Mr. Bachand noted that this is acceptable with our Building Inspector and Town Attorney. He also met with the Conservation Commission, and incorporated most of the revisions they suggested.

The word ‘pervious’ is being used instead of “permeable” to be consistent. They are interchangeable. If it is covered by a roof, it may be a porch. The Conservation Commission said it is important that a deck not be covered, so he believes the terminology works. No storage to be underneath the deck as well. There will still be flexibility for homeowners.

Generally, if the construction provisions are met, a deck that is either a minimum of 6 feet off the ground, or a minimum of 3 feet off the ground and 160 square feet or less in size is considered entirely pervious.

If a deck is a minimum of 3 feet but less than 6 feet off the ground, there are additional requirements for any total surface area above 160 square feet, based on whether the deck is located in the Aquifer Protection District. If outside of the APD: 50 percent of the total surface area above 160 square feet is considered impervious. If within the APD: 100 percent of the total surface area above 160 square feet is considered impervious.

The Conservation Commission differed on this point. They thought any deck that is a minimum of 3 feet but less than 6 feet off the ground should be considered 50 percent impervious, unless in the Aquifer Protection District where it would be 100 percent impervious above 160 square feet.

Planks not greater than 8” in width, with a 1/4” spacing between boards was discussed.

Other criteria were discussed. This is available in the Planning Office as well.

In the Wetlands Conservation District - if located in the WCD, the deck must fully comply with the 6’ requirement to be considered pervious in any way. The Commission found that important.

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Mr. McNamara said if not covered by a roof; are we talking about retractable awnings also. Mr. Bachand believes so. The idea is that it remains open. Also, a couple of big tables with umbrellas was asked about by Mr. McNamara. Mr. Lessard said retractable should be okay. Leave the word ‘roof’ as written.

Ms. Carnaby said she has an issue with when is a deck a deck; or when is it a porch. Ms. Carnaby said a deck is not covered by a roof, but then it’s a porch. A porch has a covering.

What if a door is 4’ off the turf was asked by Mr. Emerick. It does not say one cannot do it. It just does not count toward impervious coverage. It’s sealed surface. An awning is not a roof.

If the Board makes any substantive changes, it would need to be heard again.

Mr. Loiseau asked about the WCD - cottages and houses that have decks at the buffer in the rear of the building. Can they do replacement if not 6’ above the ground was asked. It was noted it would count toward their sealed surface maximum.

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MOTION by Mr. Lessard to move this to ballot.

SECOND by Mr. Waddell.

VOTE: 6 – 1 (Carnaby) – 0

MOTION PASSED.

2. **Amend Article I – General. Section 1.6 Definitions to add a definition for “Condominium” stating that it means real property as defined in RSA 356-B:3 of the Condominium Act, and further stating that, for purposes of Planning Board approval, separate condominiums governed under the umbrella of a Master Condominium Association or similar arrangement, or which share infrastructure (such as driveways, utilities, and the like) shall be considered one condominium regardless of whether they are located on separate lots. Additionally, to amend the definition of “Dwelling Unit, Multi-Family” to clarify that this includes any condominium consisting of 3 or more dwelling units irrespective of the number of buildings or lots involved.**

Amend Article VIII – Multi-Family Dwellings. Section 8.1.4 to clarify that said Article applies to any condominium consisting of 3 or more dwelling units irrespective of the number of buildings or lots involved, with exemptions for condominium conversions of pre-existing non-conforming uses or structures.

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Mr. Bachand said this information is available online. Condominium is not defined in the Zoning Ordinance. This adds a definition. It is consistent with State law. Article 8 (Zoning Ordinance) was able to be by-passed as written before. Having one condominium whether they are on separate lots or not. There would be an exemption for condominium conversions of pre-existing non-conforming uses or structures. The Building Inspector and the Town Attorney are in favor of this amendment.

Mr. Lessard asked if this is housekeeping. Mr. Lessard asked about two unit condominiums. He asked if one can still have a two-unit condominium. This does not affect anyone's ability to condominiumize a duplex per Mr. Bachand.

Mr. McNamara discussed some projects finding a workaround and asked for an example. Mr. Bachand said if someone subdivides a lot into three lots; they put a duplex on each of the three lots, and then they say by doing that they can by-pass the multifamily requirements in Article 8 - that could be an example. The master condominium declaration was referred to. If one is going to take sub-associations and make one association, it should comply with the multi-family ordinance.

**PUBLIC
BOARD**

MOTION by Mr. Waddell to move this to ballot.

SECOND by Mr. McMahon.

VOTE: 7 – 0 – 0

MOTION PASSED.

- 3. Amend Article V - Signs. Section 5.4.1.e to delete the existing non-enforceable content-oriented language; to amend 5.4.2 to provide a clearer reference to Table I; to delete 5.4.2.e regarding residential banners; to amend Table I to prohibit banners in the RAA, RA, RB, and RCS zoning districts and to clarify the existing practice that a majority of sign types require Building Department approval; and to amend Table II to delete the existing size requirements for banners where prohibited under this Amendment.**

Mr. Bachand discussed the language as how it will appear on the ballot.

The Town Attorney strongly advised certain language be deleted - Section 5.4.1.e. It is not enforceable. Two Supreme Court cases on this subject were discussed. A sign ordinance must be content neutral.

Mr. Waddell discussed explicit pictures, etc. He is not happy with this being allowed. Are we just rolling over and not making our own statement was asked.

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Ms. Carnaby agrees. Mr. Lessard said – just because one can, why are you. Some people want to have some decorum. It's freedom of speech, but he gets it.

Mr. McNamara discussed the Supreme Court cases.

Mr. Bachand said he hears Mr. Waddell's concerns loud and clear. He agrees, but was provided with a legal opinion and he has an obligation to pass that along to the Board in this public hearing.

Pictures were brought up.

Ms. Carnaby asked about banners.

Mr. Lessard said to add 'twice a year' for banners, or maybe state 14 days.

For banners in residential zones; state 14 days—14 days contiguous, per banner.

Mr. Lessard stated 14 days/two times a year and approved by the Building Inspector. State annually and contiguous. No more than two, fourteen-day intervals annually. The fourteen days are contiguous.

The Board agreed to strike the profanity paragraph as it won't hold up in court.

It will be continued to make the banner change. Mr. Bachand recommends continuing this to December 1st.

Ms. Carnaby asked about animated signs – being repeated twice. Mr. Bachand said that can be stricken as a typo, it's non-substantive.

Ms. Carnaby asked about Table 1. Are all signs mutually exclusive was asked.

Fifty (50) square feet will stay the same per Mr. Lessard.

Ms. Carnaby asked if any of the sign categories could all apply to one sign. Mr. Bachand thinks that multiple categories could possibly apply to one sign. The Building Department oversees sign permits. This hasn't been an issue.

Mr. Bachand will make the change on banners, with the limited time frame. He recommends the Board hold another public hearing on December 1, 2021.

MOVED by Mr. Loiseau.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

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V. CONSIDERATION OF MINUTES

MOVED by Mr. McMahon to accept and approve the November 3, 2021 Minutes.

SECOND by Mr. McNamara.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VII. OTHER BUSINESS

- **31 Langdale Drive – Request for Wetlands Permit Extension (Two-Year Extension)**

Mr. Bachand noted this is for a Wetlands Permit that was granted in December of 2019. Mr. Bachand talked with Brianna O'Brien (Conservation Coordinator). She noted the Conservation Commission supports the 2-year extension, to expire on December 4, 2023.

MOVED by Mr. Lessard.

SECOND by Mr. Waddell.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **48-52 High Street – Request for One-Year Extension of conditional approval for Site Plan and Conditional Use Permit**

Mr. Bachand noted January 6th of this year is when this application was approved. The applicant is working to meet the conditions, but may not be ready to record by January 6th (2022). He recommends granting a one-year extension, to expire January 6, 2023.

MOVED by Mr. Lessard.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

- **Proposed 2022 Zoning Articles**

Mr. Bachand discussed the Wetlands Conservation District amendment - prohibited and permitted uses. He is getting comments back from the Conservation Commission. There may be more changes. He will circle back with the Board.

Mr. Bachand noted that the Board will hear two new amendments on December 1st.

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VIII. ADJOURNMENT

MOTION by Mr. Loiseau to adjourn.

SECOND by Mr. Waddell.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 9:02 p.m.

Respectfully submitted,

Laurie Olivier, Office Manager/Administrative Assistant

****PLEASE NOTE****

ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING