

DRAFT
TOWN OF NEWPORT, NH
Minutes of the Planning Board Meeting
February 16, 2016 – 6:00 P.M.
Board of Selectmen's Room
15 Sunapee Street
Regular Meeting

MEMBERS PRESENT: Howard Dunn, Chairman; David Burnham, Vice Chairman; Ken Merrow, Bill Walsh, Karen Dewey, Gary Nichols, BOS Representative

MEMBERS ABSENT: Jeff North, Erna McCormick, Alternate; David Kibbey, Alternate

VIDEOGRAPHER: Louis Cassorla, NCTV

STAFF PRESENT: Julie M. Magnuson, Planning and Zoning Administrator; Shane P. O'Keefe, Town Manager joined the audience after the meeting started.

CALL TO ORDER: Chairman Dunn called the meeting to order at 6:00 p.m. followed by a roll call.

AGENDA REVIEW: none

MINUTES:

January 26, 2015

On a motion by Mr. Burnham, seconded by Mr. Merrow; *the Board approved the minutes of the January 26, 2015 meeting. The motion passed 5-0-1 (Nichols abstained).*

COMMUNICATIONS TO THE PLANNING BOARD:

Chairman Dunn stated that the Planning Board members had received a letter from the Chairman of the BOS. As it was public record, he did not read it into the record.

Chairman Dunn stated that the February 16, 2016 meeting was unusual as the Board did not have any reports, unfinished business or new business. The Board had scheduled a review of the Planning Board Rules of Procedure for the meeting. Chairman Dunn raised the question regarding whether the Planning Board should meet every month, as stated by RSA 673:10II: "The Planning Board shall hold at least one regular meeting a month." Chairman Dunn went on to question if this statute should be followed by the Newport Planning Board as they had been known to meet more than once a month as was deemed necessary by the RSA. He stated that in previous years the Planning Board had not met if there was no business in a given month. He directed Ms. Magnuson to include on future public notices "NO BUSINESS TO ATTEND TO", if such was the case. Chairman Dunn cited various considerations the Board would take in the future when considering holding or canceling a meeting. Because of the wording of the law he recommended two things: first, that the Board of Selectmen petition the Superior Court to make a declaratory judgment upon whether a meeting was necessary if there was no business to attend to, and second, individuals should approach their state legislators and ask their assistance in modifying the RSA.

Chairman Dunn gave historical information from 2001 of an attempt to modify RSA 673:10. The bill had passed the House but not the Senate. There was no further record of it.

Chairman Dunn read suggested alternative language he had drafted for a legislative bill: "in any month when no application for official action by the Planning Board have been TIMELY filed for hearing at the

respective month's meeting, in accordance with the Planning Board's written procedures, the Chairman, or a person designated by the Board to act for the Chairman in such matters, may cancel the meeting."

Chairman Dunn addressed the Board and asked for their input.

Mrs. Dewey stated that upon receiving the letter from the Chairman of the BOS, she had thought about the objections the Planning Board had voiced concerning RSA 673:10. The RSA only bound the Planning Board, not any other Town Board. It originally might have been put in place to protect the citizens. She approved the idea of asking for a declaratory judgment. She reinforced the cost impact of holding unnecessary meetings. Continuing, she emphasized that the request for a bill to modify the law should come from the BOS. Mrs. Dewey also requested that Ms. Magnuson, on the Planning Board's behalf, survey other communities with planning boards regarding their monthly meeting management.

Chairman Dunn called for a motion. On a motion by Mr. Merrow, seconded by Mrs. Dewey, ***the Planning Board voted to pass the request to the Selectmen for a petition that they consider a motion for declaratory judgment and their own recommendation to the local delegation that this legislation be amended accordingly. The motion passed 5-0-1 (Nichols abstained).***

Mrs. Dewey again requested that Ms. Magnuson do surveying of other communities regarding their monthly meeting management. Chairman Dunn called for a motion. On a motion by Mrs. Dewey, seconded by Mr. Burnham; ***the Board voted to direct Ms. Magnuson to survey surrounding communities in the state regarding the monthly meeting management of their Planning Boards. The motion passed 6-0-0.***

Chairman Dunn returned to the topic of overall Rules of Procedure for the Planning Board. Addressing Ms. Magnuson he asked the following: Did the Planning Board submit an annual report each year as was noted in C2:3 of the Rules of Procedure. Ms. Magnuson stated she wrote an annual report for the Town report. There was a discussion between the Chair, Board members and Ms. Magnuson concerning the annual Planning Board report: who would draft it and whether it would be sufficient for the requirements of the Rules of Procedure for the Planning Board.

There was a lengthy discussion among the Board members on individual changes that were necessary to the current Rules of Procedure for the Planning Board.

The proposed changes included:

- Change Section D1 to accommodate the aforementioned meeting constraints.
- Change Section J 8:b to specify that the time limit for public comments will be 3 minutes
- Change the added preamble to state, "The following order of the meeting is exemplary only and can be modified at the call of the Chairman."

Mrs. Dewey asked what the Planning Board procedure would be to make the proposed changes. Chairman Dunn stated that it would be discussed further in the March 1, 2016 meeting. There was a discussion between Chairman Dunn, Ms. Magnuson and the Board concerning the short amount of time allotted if the proposed changes were to be discussed at the March 1, 2016 meeting. It was decided that the Public Hearing would be held at the April 12, 2016 meeting.

Chairman Dunn referenced a document stating that no public hearing was required to adopt the amendments to the Planning Board Rules of Procedure. Ms. Magnuson addressed the Chair and stated that a public hearing was required under the originally adopted Rules of Procedure. She explained that the State did not require a public hearing but the Town did; thus, the Town rules would be followed.

Ms. Magnuson addressed the Chair and made suggestions to modify the Rules of Procedure.

- Alter the format of the entire document so it was consistent.

- Move the revision dates to the top of the page, add a signature page and to have it certified with the Town Clerk.
- Under Section C, strike the Chairman's responsibilities relating to the annual report (Ms. Magnuson would look into whether it was a statutory requirement).
- Change all instances of 144 hours to 5 business days.
- Strike the Vice-Chairman's responsibilities relating to the annual report.
- Change "June" to "July" under Section C. 2 (in keeping with all Town Boards and Committees).
- Strike Section H. 3 (Disqualification) and replace it with Statute 673:14. This mirrored state law, which stated, "upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.
- I.4 Change the 'Planning Board' to the 'Town Manager' (authority to hire and fire).
- N. 1. Amend "public hearing" to "regular public meeting" under.

Ms. Magnuson was directed to make the changes proposed by the Newport Planning Board as well as the suggestions made by her on February 16, 2016. She would present the revised document to the Planning Board members before the April 12, 2016 meeting. She was also directed to notify a Public Hearing for April 12, 2016 to adopt the proposed changes to the Rules of Procedure.

Chairman Dunn asked if there was any other business. Mr. Walsh presented information regarding the removal of a Town building inspector. Mr. Nichols explained that the necessity was discussed at the last Board of Selectmen meeting in relation to rules, regulations and zoning. Chairman Dunn requested Mr. Walsh present his information to the BOS directly. Chairman Dunn addressed Ms. Magnuson and asked that the topic of the potential elimination of the building inspector's position be put on the March 1st agenda. Ms. Magnuson agreed.

The Board members then held a lengthy discussion on the building inspector's position in Newport and surrounding towns.

Chairman Dunn asked if there was any other matter for the Board from the public. Shane O'Keefe, Town Manager, questioned Chairman Dunn regarding the Public Hearing for changing the Rules of Procedure. There was discussion between Mr. O'Keefe, Chairman Dunn and Ms. Magnuson concerning the preparation needed for the hearing and proposed date. It was decided that the Public Hearing to change the Planning Board Rules of Procedure would be held during the April 2016 Planning Board meeting.

Chairman Dunn moved to public comments. He requested the three minute rule be relaxed to five minutes for the February 16, 2016 meeting. Mr. Bert Spaulding addressed the Board and thanked them for holding the meeting. He reiterated comments from previous meetings concerning obeying the letter of the law.

On a motion by Mr. Burnham, seconded by Mrs. Dewey; ***the Board voted to adjourn at 6:48 pm. The motion passed 6-0-0.***

Respectfully submitted,

Maura Stetson
Scribe

Approved on: XXXX XX, 2016