

HAMPTON PLANNING BOARD

MINUTES

September 7, 2022 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Ann Carnaby, Vice Chair
Sharon Mullen, Clerk
Keith Lessard
Alex Loiseau
Brendan McNamara
Richard Sawyer, 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.

II. ATTENDING TO BE HEARD

- **Jay Diener and Rayann Dionne, Seabrook-Hamptons Estuary Alliance (SHEA):**
Discussion of SHEA Estuary Management Plan Vision and Management Objective Chapters

Ms. Rayann Dionne and Mr. Jay Diener appeared. SHEA is a non-profit who works with Seabrook, Hampton Falls, and Hampton. Estuary health is what they focus much of their work on. Ms. Dionne and Mr. Diener are here to give a project update and discuss draft chapters. The project timeline will be discussed also. This roadmap will guide the Towns to where SHEA is going 30 years from now. Techniques to preserve and improve the estuary were discussed. Salt marsh habitat and flood control was discussed. (This presentation is on the Town website: hamptonnh.gov—“Watch Channel 22”; Planning Board September 7, 2022 meeting).

Ms. Dionne discussed three components. First is the information and gathering phase. Scientific data and existing conditions are collected and reviewed along with wildlife species. The surrounding communities will be contacted.

The second phase creates the vision for the estuary.

The last component identifies mechanisms to outline a process to do updates every 5 to 10 years. It is similar to a Master Plan. It can be stand-alone document or a supplement to a Master Plan.

The need for a comprehensive approach became apparent in 2020. The Town can take an action that could impact its neighbors. This reduces the ability to pool resources for the greater good. They are working with the Planning Boards, Conservation Commissions, and Boards of Selectmen.

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It is funded by the NH State Moose Plate grant and the timeline is about 18 months. They have hired a consulting firm.

The first phase is to review the Vision chapter. They will collect from the three noted communities all of their aspirations for the estuary. This is the foundation that SHEA will select strategies from.

FB Environmental is the firm they have been working with. They conducted on-line surveys and hard copies of surveys were distributed. Ms. Dionne read the Vision aloud (available at the Hampton Planning Office).

SHEA and Ms. Dionne and Mr. Diener are interested to hear from the Planning Board their reactions to this document.

Ms. Dionne wants to know if there is anything they were expecting to see or areas that may need extra explanation, etc. The summary table was discussed. It was noted it may lack the results from Winnacunnet High School.

Ms. Carnaby was not clear how this meshes with the Master Plan. Our Plan is not done yet. Mr. Emerick said it could be a supplement to the Master Plan.

Mr. Bachand said their consultant firm is working with our Master Plan consulting firm as well, so it should mesh. It could be adopted on its own or as a supplement. There is flexibility.

Ms. Carnaby discussed the Town was awarded money for a full-time Coastal Resilience Coordinator for the Town. Fully funded for 18 months. It will assist in planning. We have had a lot of projects going on with no coordination. This looks to be a solution.

Mr. Emerick asked who is in charge. Mr. Bachand said there will be a hiring process. This is with funding from the NHDES Coastal Program. Working with the HR Director, Town Manager, and the DPW, there will be a scope/advertisement for the position. We may have someone by October. Mr. Emerick is asking if we will have another entity. We need this coordinated. Mr. Diener said that is the idea, i.e. to coordinate with the Boards and Departments in Hampton. The position will be under the Town Manager's direction.

Mr. Lessard asked about the 18-month grant. This position (Coastal Resilience Coordinator) is just for Hampton. This estuary plan will be for 3 communities and is also a working document for SHEA.

Mr. Diener discussed the draft management objectives. This is the framework of work to be done. Technical and scientific information is put in this document. Five goals are noted with objectives to the goals. This information is available at the Planning Office. Keeping communities involved. Health and safety of people visiting the watershed was discussed.

The objectives give the steps for achieving goals. Strategies and action items are discussed and their goals. This plan crosses political boundaries. Expanding the master plans and ordinances may occur.

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Do those goals align was asked in anticipation of our Master Plan and Town Ordinances. Do we feel anything is missing was asked. It was noted we do not have our Master Plan (update) yet.

The next steps were discussed. SHEA will continue to solicit feedback from the Conservation Commissions, Select Boards, and Planning Boards. Two chapters will be revised. They will meet with Town Planners of each of the communities. By early 2023, they will have final product. A webinar will take place. Adopting the management plan will take place. We need to have this be a working document.

Mr. Emerick said version control is important. Have documents (for all Towns) be similar/identical.

III. NEW PUBLIC HEARINGS

22-032 501-503 Winnacunnet Road

Map: 222 Lot: 117

Applicant: David & Elizabeth Cargill

Owner of Record: Same & Jenna Jerrett (501 Winnacunnet Rd #A)

Wetlands Permit (ATF): Construction of a vinyl fence approximately 150' along property line; replacing a split-rail fence. An additional 50' fence on the westerly side within the 50' buffer to be added at a later date.

Mr. and Mrs. Cargill appeared. They have owned their property since 1988. It has turned into 3 units. In November of last year, it became a condo association--Salt Marsh by the Sea. They wanted to address privacy and security issues and wanted to erect a fence. They applied for a building permit through the Town. They got the permit. There is usually a plot plan (told by the Building Department). They went to the Assessor's Office for the plot plan. They drew on the plot plan where fence was going and gave it to the Building Department. Mr. Cargill received a call from one of the inspectors stating they needed the plot plan, but they found it and he was told he was all set. The permit will be mailed to them. The applicants put the fence up. It was up for a while, then he told the Building Inspector it was up and could be checked out. The assistant stated it hadn't been approved yet in the computer, but they were all set.

A few days went by. Mr. Cargill ran into the Town Manager and discussed he still did not receive his permit for the fence. He said it came to the Town's attention that it also needed a Wetlands Permit. Brianna O'Brien (Conservation Coordinator) called to take a look of where the fence is. It was already up.

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They don't have copy of Building Permit. It did specify how long the fence could be – 150' for first section (east side). Ms. O'Brien said they don't need to come back for the additional 50'(west side) —to get it all done now. The second portion has not gone up yet. Mr. McNamara discussed the fence going past where old fence was located. That was an issue for Mr. McNamara.

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The Conservation Commission issued its recommendation. Only a portion of the fence is located in the Wetlands Conservation District. The fence was already installed. Mr. McNamara said the fence is nice looking. It's taller than 6' per Mr. McNamara.

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Ms. Nanci Duggan appeared. She has been the Cargill's neighbor for 13 summers. On June 1st when she came to her cottage, she saw the fence and cried. She asked if the Board received everyone's letters. There are letters from Unit 1, 6, 7, 8 and 12. It was a 3' tall split rail fence that was there before and that was fine. Pictures were discussed. They love the marsh and the views. It completely blocks the view of the marsh, air, breezes. There was an annual barbecue on Sunday. Everyone felt closed in. She sees nothing now out back, but the fence.

Ms. Duggan discussed property values. Tides coming up were discussed. Some people discussed it being a spite fence. Mr. Sawyer said they are good neighbors, so it is not a spite fence. Ms. Duggan said Mr. Cargill said their backyards are messy.

Mr. McNamara understands Ms. Duggan's concerns but noted the Board does not know what is in the mind of a person putting up a fence. He knows it is unfortunate. People can put fences on their own land. Nothing can be done about a view.

Ms. Cargill said the intention 11 years ago was to put up a fence. Over the years, their privacy has been removed with the cottages being raised. That is why they wanted a fence.

Mr. Emerick said they are using their land according to, and in compliance with, the Zoning Ordinance. They can buy viewing rights (neighbors). This Board is hearing this as an after-the-fact Wetlands Permit only. If there were no wetlands, we (the Planning Board) would not even be hearing this. Ms. Duggan said it interferes with their comfort and enjoyment. Mr. McNamara said there are land courts where they would have to take this up.

The Cargills noted the fence is on their own property.

This is to for a Wetlands Permit only, post-installation approval. The Building Department issued the permit without taking into consideration the wetlands.

A gate was asked about.

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Mr. McNamara asked about the special emphasis in the Conservation Commission letter. Mr. Loiseau said he was on the site walk and noted that came out of a discussion as to whether anything should be allowed in the buffer, and that the points need to be clear as to no pesticides, etc.

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MOTION by Mr. Loiseau to approve the Wetlands Permit with the conditions contained in the Conservation Commission’s letter dated August 24, 2022.

SECOND by Mr. Lessard.

VOTE: 6 – 0 – 1 (McNamara)

MOTION PASSED.

22-033 72 Island Path

Map: 281 Lot: 30

Applicant: Robert and Judith Holder

Owner of Record: Same

Wetlands Permit: Raise the elevation of the building to comply with the floodplain management ordinance and avoid potential flood damage (construction already complete). Also to add steps to access the second story deck (not yet constructed).

Mr. and Mrs. Holder appeared with Brenda Kolbow from TFMoran. Ms. Kolbow discussed the after-the-fact Wetlands Permit. It is in the RCS Zone. It is in 50’ wetland buffer. It has had flooding issues in the past. The Holders received a Building Permit to raise the home about 3’. A Wetlands Permit should have been required and that is why they are here. There is no impact to the wetlands. They also want a new set of steps. They have a new configuration for the steps. Impervious coverage was discussed. The Conservation Commission recommends native plantings at rear of the house and they are fine with that. Ms. O’Brien gave them ideas for plantings.

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Mr. Bachand said this was the result of an error that occurred from the prior Building Inspector. This is not the fault of the applicant.

MOTION by Mr. Lessard to approve the Wetland Permit with the conditions contained in the Conservation Commission recommendations, Plan #46016-11, last revision date of July 29, 2022 and the conditions stated in the Conservation Commission letter dated letter August 24, 2022.

SECOND by Ms. Carnaby.

VOTE: 7 – 0 – 0

MOTION PASSED.

IV. CONTINUED PUBLIC HEARINGS

IV. CONSIDERATION OF MINUTES of August 17, 2022.

MOVED by Mr. Loiseau to approve the Minutes of August 17, 2022.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

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VI. CORRESPONDENCE

- **Rockingham Planning Commission (RPC) Municipal Officials Forum - September 14, 2022 @ 6:30PM at Stratham Town Hall**

Mr. Bachand discussed that the RPC has a Forum coming up. It is at 6:30 p.m and it is at the Stratham Town Hall. This forum is for municipal officials to have a chance to discuss regional and local issues. It was noted that one needs to RSVP by Monday, September 12th. Mr. Bachand noted that he believes this is more for municipal staff and Boards/Commissions.

VII. OTHER BUSINESS

- **Discussion - 2023 Zoning Articles**

Mr. Bachand discussed that the Planning Office is working on zoning ordinance amendments. At the September 21st and October 5th meetings, he will get into the more detailed amendments but wanted to bring a couple of smaller ones forward this evening.

Chickens were discussed. Mr. Bachand noted Ms. Olivier and he discussed that this amendment (adopted in March 2022) was too restrictive in a couple of spots. He changed it noting that people should be able to sell their chickens' eggs.

Ms. Mullen discussed wetlands and Aquifer and wellheads. **Mr. Bachand will check on that note. He did not recall seeing that in other Ordinances.** Mr. Emerick thinks this is a good thought, to check this out.

Eight is the maximum amount of chickens to have. Ms. Mullen said maybe the zoning amendment could address another issue with wellheads. Mr. Bachand will take a look at this.

Mr. Bachand discussed materials used in making a henhouse. Scrap material was discussed. It should be solid and have compatible visual appearance, etc., but scrap material may be fine in many instances. Mr. Bachand read it aloud. Area for chickens = 25 s.f.

The Board was happy with the above changes. **The wellhead protection area will be checked out.**

Mr. Bachand discussed mobile food service vendors on private property. He discussed the BS and RCS zones. When adopted in March, the use was permitted everywhere except for the BS and RCS zones. We are circling back on this. Mr. Sawyer said the Board of Selectmen have not had any inquiries. Some businesses affected by the fire may be interested in being able to do this. Only businesses directed by the Fire Department were taken into consideration with the Board of Selectmen. The use is only for special events. Should we call it permitted in all zones, but leave

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it to the Board of Selectmen who are already in charge of the decision making was asked. The location of the BS zoned areas was discussed.

Mr. McNamara said a food truck is from anyone in any area; it (food trucks) takes from businesses down at the beach. Mr. McNamara discussed safety. He felt the original decision was fair. Mr. McNamara said it's detrimental to businesses, students, and kids. Food trucks can be anyone for any given time; rent areas to food trucks, etc. There is no help to the community in this case. People who own businesses down beach, brick and mortar establishments have a foundation—it won't change weekly. Mr. Sawyer said this is strictly for special events. It is not allowed in any zone unless the special event is approved by the Board of Selectmen. Location of RCS (Glade Path and Island Path) was discussed.

Mr. Loiseau gave an example of road races. They are allowed to come in and they bring in outside food trucks. He noted the Town does not get any benefit there. He does not want the BS Zone included in this.

Let it lie per Mr. Emerick - no one was opposed. This amendment will not move forward.

Mr. Bachand noted Ms. O'Brien will come in to discuss the Conservation Commission Amendments (probably September 21st). He also noted the Aquifer will be brought up again, but he first needs to touch base with the RPC. Short-term rentals will be coming up, and signage also will be addressed.

Short term rentals were discussed. Mr. Bachand said he and Ms. Olivier are working on that amendment now. Mr. Emerick asked what is the difference between short-term rentals and rentals. How it is classified, etc. Mr. McNamara asked about condominium documents. Would this override condominium documents. Mr. Lessard said we have condexes and timeshare regulations. Also, rent by the week. Mr. Bachand said short-term is rented out for 30 days or less at a time. Mr. Lessard asked how do we expose awareness of square footage being used for this. Mr. Bachand does not have all of the answers right now. Ms. Olivier said the draft is 5 or 6 pages long now. Mr. Lessard asked about Rooms and Meals tax. Mr. Emerick said if it is over 179 days, it's a lease and there is no rooms and meals tax. Mr. McNamara said condominium documents are all over the board. Mr. Bachand said this (short-term rentals) is probably the hottest item right now.

Mr. Lessard said condos are constructed, it's their ownership of a person's unit. The owners then start subletting and they are leasing it out for weekly rentals. We create one-bedroom condos, are they one bedroom for a certain period or day to day. Mr. Bachand said it is a form of ownership. Short-term rentals can be dictated in the condominium documents as allowed or prohibited. The Town still needs proper regulations, proper oversight, inspections by Fire and Building, etc. In condominium documents it will say if someone can or can't.

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Mr. Lessard asked if we are looking at other communities. Ms. Olivier and Mr. Bachand have looked at many communities. North Conway is up in arms about short-term rentals. Mr. Emerick asked who enforces this; Ms. Olivier said that's the tough part. Mr. McNamara said people come in, pay the desk, take a room. Mr. Lessard said they are also on websites. Search Hampton Beach, NH and there are unregulated rentals. How many are done by word of mouth.

Mr. Loiseau said you need a Certificate of Rental Occupancy. Ms. Olivier said we are dealing with short-term rentals only. Ms. Olivier mentioned a house on North Shore Road; it's being rented. It's not just the beach. We just need something for guidelines.

Mr. Bachand said it's currently tied to the use "Lodging House", and that's what the Building Department has been doing for years. It has no teeth. We need to know where they are. Interior (inland) residential neighborhoods were discussed. Mr. Lessard mentioned ADU's. Mr. Bachand said it can impact a neighborhood.

Mr. Bachand sent it to legal counsel today. The Building Department also looked at it. Mr. Lessard asked if it can be restricted from RA lands. Mr. Bachand said not entirely. He said we have the numbered streets at the beach, zoned RA and RB; perhaps those are areas where this is suitable. Maybe (for example) a neighborhood off Exeter Road is not as suitable.

Ms. Mullen asked about grandfathering. Existing operations that were in place prior to this. Mr. Bachand said if there is a CO that allows it to be that; otherwise, probably not.

Mr. Loiseau does this for a living. In his experience, they need CO's. It's been more of a staffing issue than enforcement. Maybe do this with the Selectmen and deal with the existing ordinance and increase staffing. The new rental inspector is fantastic. They are so far behind and there is no one to enforce it.

Mr. Sawyer said it (Code Enforcement Officer) went down at Town meeting years ago. Mr. McNamara said maybe it was vague. Mr. Sawyer said we were looking at a number of things from buildings to parking. The Building Department was straight out. Maybe we should bring this up again. It was 4 or 5 years ago. Mr. McNamara said we have new issues that we are dealing with, so maybe old issues and new issues will be the catalyst to bring something up. Damage can be done to the Town.

Mr. Lessard said the Building Department is cash positive – it could support another person to do this. Should there be fees with permits was asked by Ms. Mullen. It's \$35 every 10 years per Mr. Loiseau.

Mr. Sawyer said they will get CO's; that's the known. The unknowns are the ones that are tough to find. Posting evacuation routes should be shown per Mr. Lessard.

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Ms. Carnaby discussed ADUs – they are rentals. They are a minimum of 6 months; they do not qualify under short-term rentals (not supposed to be used as that).

Mr. Bachand will bring this up in two weeks if he hears from Town Counsel.

Mr. McNamara wished Mr. Bachand a happy belated birthday from the Board.

VIII. ADJOURNMENT

MOTION by Mr. McNamara to adjourn.

SECOND by Ms. Mullen.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:26 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