



TOWN OF HUDSON

Planning Board

Vincent Russo, Chairman

Rick Maddox, Selectmen Liaison



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HUDSON PLANNING BOARD MEETING MINUTES October 7, 2009

I. CALL TO ORDER

Chairman Russo called this Planning Board meeting to order at 7:02 p.m. on Wednesday, October 7, 2009, in the Buxton Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Chairman Russo asked Mr. Schneiderman to lead the assembly in pledging allegiance to the Flag of the United States of America.

III. ROLL CALL

Chairman Russo asked Secretary Stewart to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, George Hall, Tierney Chadwick, Suellen Quinlan, Vincent Russo, Terry Stewart, and Richard Maddox (Selectmen's Representative).

Members

Absent: None. (All present.)

Alternates

Present: Tim Malley, Stuart Schneiderman, and Ken Massey (Selectmen's Representative Alternate).

Alternates

Absent: Brion Carroll None. (All present.)

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Russo noted that no alternates would be seated at this time, as all regular members were present.

He then stated that he would take up the minutes at the end of the meeting and would take up the **Performance Sureties** item at this time.

V. MINUTES OF PREVIOUS MEETING(S)

No **Minutes of Previous Meetings** items were addressed this evening.

VI. CORRESPONDENCE

No **Correspondence** items were addressed this evening.

VII. PERFORMANCE SURETIES

A. Waterview Landing Map 147, Lot 1 Release of 2-year Maintenance Surety for Scenic Lane and Shoreline Drive.

Reference: memo dated 09-28-09 from Gary Webster, Acting Town Engineer to John Cashell, Town Planner.

Chairman Russo read aloud the published notice, as repeated above.

Town Planner Cashell said he had nothing to add to the staff report.

Ms. Chadwick moved, in accordance with the written recommendations of the Acting Town Engineer, Gary Webster, dated September 28, 2009, and staff, to reduce the surety for the Waterview Landing Subdivision from \$110,000.00 to \$12,833.75, in accordance with the following stipulations:

1. That the remaining surety of \$12,833.75 shall be established in the form of a Hampton-style letter of credit or cash deposit; and shall remain held by the Town until the following outstanding subdivision items are completed.
 - a. \$6,833.75 of the above-cited surety shall remain in place until LeClair Drive is approved as a public right-of-way, and
 - b. \$6,000.00 for: (i) the landscaping at the island, located at the end of Shoreline Drive, (ii) the three to four foot solid fence along the top of the berm, which runs the entire length of frontage of this subdivision along Webster Street, and (iii) the shrubbery and mulch in the area of said berm remaining incomplete from said items.

Mr. Barnes seconded the motion.

Selectman Maddox questioned what would ensure that the work would get done if the \$110,000 went away.

Town Planner Cashell said all of the main work had been done, with the only remaining work being the landscaped islands and putting in the fence. He said the issue before the Board was to hold onto the bond or substitute for the \$6,000 a higher amount.

Selectman Maddox said past experience with leaving small amounts was that things did not get done. He suggested that the dollar amount be changed to something sufficient to facilitate getting the work done, and he suggested an amount of \$25,000.

Ms. Chadwick, as the maker of the motion, and Mr. Barnes as the seconder, accepted this proposed change of the amount, making it a friendly amendment. Mr. Barnes noted that the total sum would change from \$12,833.75 to \$31,833.75 and the reserved amount would change from \$6,000 to \$25,000.

Mr. Hall asked what the issue was with respect to getting it done. Town Planner Cashell said there was no cul-de-sac turnaround.

Selectman Massey expressed a belief that the concept at the time of approval had been that the developer would complete the driveway through to the street, with residents on either side of Leclair Drive being responsible for the upkeep until that time.

Atty. Andrew Prolman, of the firm of Prunier, Leonard, and Prolman in Nashua, representing the applicant, said release of the bond was not to occur until after October 31st, adding that the figure of \$110,000, reduced to \$31,000, was fine, but there was also interest of approximately \$15,000 accrued in the account. He acknowledged that there had been a history of finger-pointing between homeowners and builders.

Ms. Quinlan said she shared Selectman Maddox's concerns, saying the Board should be prudent in protecting the taxpayer and should ensure that the amount of the bond would cover the work that needed to be done.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

VIII. WORKSHOP

A. Review and Discussion on Proposed Amendments to Article XII, Signs, Relative to Allowing Electronic Signs in the Business (B) and Industrial (I) Zoning Districts. Deferred Date Specific from the 09-02-09 Planning Board

Chairman Russo read aloud the published notice, as repeated above.

Mr. Malley stepped down from the table, as he was a member of the Hudson Chamber of Commerce, which was sponsoring the proposed changes.

Town Planner Cashell said he had nothing to add to his staff report at this time.

Mr. Barnes referenced #11, questioning whether the proper place for this would be in the Zoning Ordinance, which would be difficult to change, whereas it would be easier to tweak the details if it were in the Building Inspector's regulations.

Ms. Quinlan argued that striking the brightness of the lights was exactly not the way the Board wanted to go. Mr. Barnes said #10 specified the brightness, but #11 had to do with measuring the brightness. Ms. Quinlan questioned whether the Building Inspector had a barometer to determine the brightness, unless this provision remained in the ordinance. She contended that the ordinance could be changed in a year or two if Town staff identified problems. Mr. Hall expressed agreement with Mr. Barnes, saying tweaking was not easy with the Town's voters, and he felt this sort of thing belonged in the regulations.

Selectman Maddox expressed concurrence, saying the Zoning Ordinance would have to be changed every time there was a change in the technology.

Ms. Quinlan suggested that the Board hear input from the proposers with regard to this issue, asking how often technology changed.

Ms. Jennifer Robichaud, a Barlo Signs employee, said she felt both members were right on, saying either it should be kept in or tied directly to the sign application, so that someone would be signing an affidavit every time they applied for a sign. She said Mr. Barnes' concern was valid, long term, but either way it would work. She said this document was one of its kind in the region, with respect to restrictions included. She said the rate of change of the message was the problem, not the brightness.

Ms. Quinlan noted that the rate-of-change was not covered in #11, saying she felt this text should be kept in order to protect the citizens. She said this gave some sort of level for enforcement.

Mr. Bartlett said definite control of brightness was needed, but he did not care where it was. He said he did not see the measurement procedures changing every year because of the technology. He pointed out that one offender could spoil it all.

Chairman Russo asked how #10 and #11 related to each other, asking if it would be possible for this test measurement to be completed if the brightness of the sign were greater than was stated. Mr. Bartlett said it should not be a problem. He said the signs became less noticeable if there were a lot of ambient light.

Selectman Maddox noted that he had an LED flashlight with blue, green, and red bulbs, saying there was a tremendous difference in the amount of light for the different colors. He asked what the maximum brightness was measured against. Mr. Bartlett said the test was performed on white LED signs.

Mr. Deacon Wardlow, Hudson, a Barlo Signs employee, said no signs used all colors, saying a white balance was obtained with a combination of red, green, and blue. He said a sign of 20,000 Nits might exist, but it did not matter, as a photocell read the total value and the control was to ensure that the sign was never above the designated value. He said 20% of the total sign brightness was recommended because that tended to be a value that was significantly lower than most light values given, saying

even pitch-black darkness on a pure white board had no effect on the light values measured 30 feet from the sign.

Selectman Maddox asked if this test were an industry standard. Mr. Wardlow said Nits were a standard, but they translated into foot-candles. He said the wording of #11 was saying that the sign should not be brighter than what was already there.

Ms. Quinlan said things in the permit process sometimes slipped by, whereas enforcement actions could take place if it were in the Zoning Ordinance.

Town Planner Cashell said free-standing signs were allowed in the Business and Industrial districts now, and were allowed to be illuminated, with hand-changed lettering—noting that this proposal would allow 50% of the sign to be an electronic message center. He then referenced the new sign at the Walgreen site on Route 102, which he felt had so many lines of advertising that ... (he did not finish the statement). Compared to an EMC, he said, he felt these would be more attractive than what was already allowed, with manually-changed signs. He said the proposal was not really changing all that much.

Mr. Hall noted that the issue of color of the signs had been raised, saying he still had concerns about that issue, and he asked what the possibility would be for limiting the colors that could be used, suggesting that only white or amber should be allowed, rather than red, purple, etc. He expressed concern about a honkytonk effect.

Ms. Chadwick expressed a belief that this would be getting too far into the world of governing everything, saying she did not think the colors made all that difference.

Chairman Russo referenced the red color of the LED sign at the Sunoco gas station on Lowell Road, asking if something could be done to avoid that—but noted that the red LEDs on the Irving filling station on Route 102 were not offensive.

Mr. Wardlow said older people were more prone to be bothered by certain colors. He said gas stations tended to use green or red as a standard for gasoline stations that had diesel fuel. Chairman Russo asked what control was provided in the ordinance to prevent the issue existing at the Lowell Road station. Ms. Robichaud said the size of the sign was the issue, saying the Lowell Road was oversized and she did not like it—adding that she had hopes that, if this ordinance passed, that sign would be changed.

Mr. Wardlow said the Sunoco sign was two foot-candles brighter than the one at the Irving station.

Ms. Chadwick said she felt the color scheme should be put to bed, based on that information.

Selectman Maddox noted that he had asked for input from his fellow selectmen. He then asked if the intent of #7 were that the signs were to go off at 11:00 p.m.—noting that some places of business were open until 1:00 a.m. Chairman Russo said he felt the signs could be on as long as the place was open for business.

Selectman Maddox said the committee approach had turned a canoe into an aircraft carrier, and he asked if this were the way the Board wanted to go.

Ms. Quinlan said she felt the intent of #7 was to eliminate changing signs after dark, so as not to distract drivers.

Mr. Hall said he read #7 as saying the signs stayed on during business hours, so that a 24-hour gasoline station could have the lights on 24/7. He said he thought this what the Board had previously agreed to. Town Planner Cashell expressed agreement.

Selectman Maddox asked if #7 should be reworded. Chairman Russo suggested that it should be changed to read that the sign could be on during business hours.

Ms. Stewart said the Town could not enforce it, anyway. Selectman Maddox said he had asked that question last night, at the Board of Selectmen meeting, and there had been silence.

Selectman Maddox asked if the intent was to change the text to hours of operation. Chairman Russo responded in the affirmative, and Ms. Chadwick suggested adding the word "only" after the words "shall operate." General agreement was expressed. Chairman Russo asked if there were any comments on that from the Chamber. Ms. Robichaud said she was comfortable, but she felt some business people who closed earlier might want their signs illuminated until 11:00 p.m., as stated. She noted that such people might go to the Zoning Board of Adjustment for a variance.

Ms. Chadwick said she felt there was no need for the brightness if the business was not in operation. Town Planner Cashell reminded the Board of a world-wide movement to lessen brightness.

Mr. Schneiderman, noting that advertising signs provided great benefit to the businesses that owned them, said he thought #7 should be left the way that it was, noting that the signs would be prohibited from being within 200 feet of residences, unlike the sign for Dr. Ebeed's business.

Selectman Maddox said the smaller and tighter the ordinance was made, the more palatable it would be for the voters in March. The smaller the Board could make this ordinance to start with, he said, the better off the Board would be—adding that the more it was one-size-fits-all, the more opponents would be gained.

Ms. Brenda Collins, 5 Locust Street, Executive Director of the Greater Hudson Chamber of Commerce, said she understood what Selectman Maddox was saying but this proposed ordinance was tightly controlled, noting that it had a time-change limit of 15 minutes, whereas other communities had much shorter intervals, some as low as three or six seconds.

Selectman Maddox protested that this had started as an attempt to get gas station signs, very specifically, but now was into 100-foot electronic message changing centers, which had not been where he had thought the Board was going. Saying the bigger the target, the easier it was to fail, he advised just getting an ordinance passed that was workable in the first stage.

Ms. Collins said the Chamber had started by looking at gasoline signs, saying the Chamber had been conservative, as it could open up for other types of signs. Chairman Russo said the voters would decide.

Mr. Barnes moved to remove section #11 before sending it to public hearing. Mr. Hall seconded the motion.

Selectman Maddox asked for a proviso that the intent would be for the text of #11 to be moved to the permit regulations. Mr. Barnes said he agreed there was a place for it to go, but he wanted to keep his motion simple, saying he would be agreeable to asking Town Planner Cashell to include it in the site plan application or wherever the best place was in the regulations. Mr. Hall said his thought would be to ask staff to propose a regulation change with basically the same wording. Mr. Barnes indicated agreement, making it a friendly amendment.

VOTE: Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Ms. Quinlan and Ms. Chadwick, who voted in opposition, and Chairman Russo declared the motion to have carried (5-2).

Ms. Robichaud pointed out that the maximum electronic message changing sign would be 50 ft² and there would not be any 100-ft² signs.

Chairman Russo asked what the Board wished to do about section #7. Ms. Chadwick moved to change section #7 in the proposed ordinance to read: "The portion of a freestanding sign that contains an Electronic Changing Sign component shall only operate during business hours," with the remainder to be struck. Ms. Quinlan seconded the motion.

VOTE: Chairman Russo then called for a hand vote on the motion. All members present voted in favor except for Mr. Hall, who voted in opposition, and Chairman Russo declared the motion to have carried (6-1).

Chairman Russo referenced the draft motions.

Mr. Barnes moved to accept the proposed zoning amendment to Section §334-60 and §334-64 as amended. Ms. Chadwick seconded the motion.

Mr. Hall questioned what this meant, asking what "accepted" meant in this case. He pointed out that the normal procedure was to forward proposed ordinances to a public hearing and then forward them to the warrant.

Mr. Barnes said he was willing to withdraw his motion; Ms. Chadwick withdrew her second.

Mr. Barnes moved to schedule a public hearing on December 2, 2009, relative to the proposed amendments to § 334-60 and §334-64 of the Town's Zoning Ordinances on Signs, as amended. Ms. Chadwick seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7-0).

B. Conservation Commission Presentation and Discussion on the Prime Wetlands Study and Proposed zoning Ordinance Amendments to Article IX, *Wetland Conservation District*.

Chairman Russo read aloud the published notice, as repeated above, noting that several members of the Conservation Commission were present.

Mr. Bob Haefner, 1 St. John Street, chairman of the Conservation Commission noted that Commission members Sandra Rumbaugh and Tim Quinn would be making the presentation, after which the Commission would be open for questions. He noted that Michelle Champion, another member of the Conservation Commission also was present, adding that Ms. Quinlan also was a member of the Conservation Commission.

Mr. Quinn said the group had started with a concern of having clean water in the town, noting that it had been a 2-year project, leading to the draft proposals for changing the Wetland Ordinance now being presented to the Planning Board.

Chairman Russo suggested that the Conservation Commission members briefly discuss the proposed changes.

Mr. Quinn noted that the proposed changes were printed in the draft in bold italics. He read aloud the first portion, saying the intent was to beef up the text to establish its authority and purpose.

Selectman Maddox said the draft should be prepared to strike out the text that was being replaced, saying this redundant approach would make things tough to follow along. Ms. Rumbaugh said this format had been suggested to her, saying they were trying to follow some of the State statutes, and noting the changes included "surface water," which had not been there before..

Mr. Quinn read the change of Section A. Chairman Russo said the only change was the word "sedimentation." Selectman Maddox reiterated his concern about being able to follow the changes, noting that the only change in the text was that one word.

Mr. Hall said Selectman Maddox was right, saying there was a certain standardized procedure for handling proposed changes. He said it would-be very difficult to figure out what was being changed if the documentation were not done in the usual way.

Mr. Quinn said items B, C, D, and E were exactly the same as now existed, but the Conservation Commission had added J. Chairman Russo asked for an explanation of what that text meant. Mr. Quinn said they were talking about use of the land and wished to encourage good use.

Mr. Hall said developers would have a field-day with this text, which he felt was an open-ended statement. Mr. Quinn said allowed uses would be discussed later. Ms. Chadwick suggested that a reference to the paragraph in which it was discussed was

needed. She suggested “encourage those uses as referenced in B.2. Town Planner Cashell said it was §334-5.

Mr. Barnes said he was uncomfortable with the use of the word “encourage” after the other words (“protect”) used.

Ms. Rumbaugh noted that work could be done within the Wetland Conservation District if the applicant went through the correct process.

Ms. Chadwick suggested “promote.” Mr. Quinn expressed preference for the word “allow.” Chairman Russo said he liked “promote.”

Chairman Russo suggested that the discussion come back to this one later. He then requested that the mnemonic WCD not be used, but that the term be written out. Ms. Rumbaugh noted that the mnemonic was used freely in the literature.

Mr. Quinn said the purpose of the change was to bring the ordinance into alignment with the best State code. Chairman Russo said this was a big change. Mr. Quinn expressed a belief that it was an overdue change, saying the Hudson Zoning Ordinance was not very specific and the RSAs were very specific.

Mr. Quinn read aloud the proposed definition of “bog.”

Mr. Quinn noted that “buffer” was being added.

Mr. Quinn clarified that the change for “certified soil scientist” was in accordance with the State code, as was “certified wetlands scientist.”

Ms. Quinlan noted that “development,” “erosion control measures,” and “hydric soil” were all additions.

Selectman Massey expressed a belief that the “hydric soil” statement should end with “as amended.”

Mr. Quinn noted that “poorly drained soils” was being revised as defined on the United States Soil Conservation documentation.” Selectman Massey said “SSNNE” (Soil Survey of Northern New England) should be spelled out.

Mr. Quinn noted that “prime wetlands” was being added, saying it had been taken out of the NH RSAs. He read the proposed text aloud.

Mr. Hall said the last map he had showing these things was one from last summer, which indicated that there were enlargements of the areas. He asked if those had been given to the Board. Mr. Quinn and Ms. Rumbaugh said they were in the report. Ms. Rumbaugh said she would E-mail copies to the members of the Board. Mr. Hall said he would like to have more plans. Ms. Quinlan said it would be too cost prohibitive to print additional copies.

Selectman Maddox asked if the Conservation Commission had provided the information to the Town’s IT department, so that it could be put on the Website. Ms. Rumbaugh said she had done so.

Mr. Hall said the easiest thing for the voters would be to vote NO if the voters could not figure out where these things were. Ms. Quinlan said there would be a copy in Town Engineer Webster's office, as well as at the library, adding that it would be online. She said the Conservation Commission could not afford to provide additional printed copies.

Mr. Barnes said a link to the information on the Town's Website should be sent to the members, if it were online.

Selectman Maddox suggested that making copies of the disc provided by VHB would be relatively inexpensive. He then expressed concern about changing lot designations over the course of time. Mr. Hall said people would have to be able to figure it out, using the map and lot numbers. Ms. Rumbaugh said she had provided the electronic copies of this documentation on Monday of this week, adding that it was linked to the Town's GPS system. She said she would send link information to the newspaper when it became available, noting that there would also be public hearings in December and January to which people could come with questions.

Mr. Quinn noted that "prime wetlands buffer" was being added, noting that the salient point was the 100-foot distance, where the Town now had nothing larger than 50 feet.

Mr. Quinn noted that the definition of "swamp" had been rewritten, and that "vernal pool" had been added. He read these aloud.

Selectman Maddox questioned the sense, asking which were primary and which were secondary.

Chairman Russo declared a break at 8:39 p.m., calling the meeting back to order at 8:59 p.m. Noting that Ms. Chadwick had left the meeting during the break; he then seated Mr. Malley in place of Ms. Chadwick.

Mr. Barnes said "vernal pool indicators" needed to be defined, as well—asking if the intent was to use (1) through (4) as indicators and (5) as something else. Ms. Rumbaugh said she had obtained this from the State but she understood the concern and would take care of it.

Mr. Quinn suggested that, instead of his reading the changes, the Conservation Commission just hear the Board's questions. Ms. Quinlan said she felt the changes should be addressed, but noting that there were eleven pages to go.

Selectman Maddox said it would be easier if the text were in the standard format, with replaced text crossed out.

Chairman Russo asked how the Board wanted to proceed. Mr. Hall said it was not necessary to read everything.

Mr. Quinn said the section on "very poorly drained soils" had been completely rewritten.

Mr. Quinn said "wetland" was being rewritten, noting that the rewriting of "wetland buffer" and "wetland conservation district" was still in progress.

Selectman Massey suggested that “as defined above” should in fact identify the exact paragraph that was being referenced. Chairman Russo suggested that it should just refer to the definition.

Mr. Quinn noted that subsections a, b, c, d, and e of the next section were all new.

Ms. Michelle Champion, of the Conservation Commission, said she was concerned as to whether the Town could require all dredge-and-fill applicants to be reviewed by the Conservation Commission first; she noted that the current setup was that the Conservation Commission gets a notice from the state and has 30 days in which to respond.

Mr. Hall said the state statutes were set up so that this could not be required, saying he thought an applicant would have a concern about the long process of going through the Conservation Commission, the Planning Board, and then the Zoning Board of Adjustment, which was a long process. He suggested that the text should say what the Conservation Commission wanted—either to apply here first or to the State first. Ms. Champion said she thought the Conservation Commission wanted applicants to come to the Commission before going to the State. Mr. Hall said the problem came up when the State gave approval for something different than the Town wanted to approve, Ms. Champion expressed agreement, saying the Town’s code was stricter than what the State’s would be, since the State did not have buffer requirements.

Mr. Quinn said he had been given an action item to research the excavation permit process, which he had done, and it had then been given to the Town Attorney for review. He then discussed details of his conversation with the Town Attorney, saying he had determined that the Town never reviewed plans to see if there were a restoration permit granted by the State. Ms. Quinlan suggested that the Town Attorney should be asked whether the Town could require applicants to come through the Town process first. Mr. Quinn said the Town Attorney had told him that other communities had tried that, and the courts had thrown it out.

Mr. Barnes referenced paragraph b, saying he felt there were inconsistencies with the definition, which needed to be tightened up, noting that the definition did not include “prime wetlands.” Ms. Champion said that “prime wetlands” were a subset of “wetlands,” so “wetlands” included them.

Mr. Quinn said both terms were needed, as they referred to two different sources. Mr. Hall contended that it was mixing apples with oranges by comparing the Hudson Town Code with the RSAs. Ms. Rumbaugh said she agreed that more work needed to be done with this section.

Mr. Barnes noted that the definition of “wetland conservation district” also did not include “vernal pool”; he suggested that there were inconsistencies that needed to be tightened up. Ms. Champion said she would argue that a vernal pool was a wetland, but she expressed agreement that the Conservation Commission needed to go through the text and make sure that all definitions were consistent.

Selectman Maddox said he presumed the numbering system would be added from the existing ordinance.

Referring to Page 6, Mr. Quinn noted that it showed a table of the prime wetlands, which would be added to the overlay map. He noted that the designation numbers were merely the sequential numbers as the different wetlands were addressed.

Selectman Massey expressed a belief that at first only five or six of the key prime wetlands were going to be addressed. Ms. Quinlan said that VHB had said that all of these were significant; Chairman Russo noted that VHB had done this based on a fixed set of parameters. He then asked if Selectman Massey were suggesting that they should be listed in order of importance. Mr. Haefner said he recalled that they had discussed doing just a half dozen or less, but VHB had pushed the Conservation Commission into going for this list. Selectman Massey said he did not see any purpose in ordering them in order of rank, if VHB were contending that all of these were important.

Mr. Quinn noted that new buffer limits were being proposed, including expansion to 100 feet for prime wetlands, 75 feet for surface wetlands, including vernal pools, 50 feet (the current uniform buffer) for wetlands of one-quarter acre or larger, and reduction to smaller buffers of 30 feet for wetlands of less than one quarter of an acre.

Mr. Barnes questioned the applicability of "all" to vernal pools, noting that no minimum size was being designated, as had been done on the preceding page.

Mr. Hall questioned how differentiation would be made on the basis of poorly drained soils. Mr. Quinn said this was not any different from what was defined by the existing ordinance. Mr. Hall demurred, saying a 75-foot buffer would be obtained from very poorly drained soils. Mr. Quinn said it was just for the wetland. Mr. Hall professed not to understand what was meant by the definition, saying a 10-acre wetland with a small portion of poorly drained soil would apply to both #2 and #3. Mr. Quinn professed to be lost by the question, saying the poorly-drained area would have a 75-foot buffer but not the whole tract. Mr. Hall said the text did not say that.

Ms. Quinlan referred to "334-XX" on Page 5, saying 75 feet would apply. Mr. Hall said he did not think that was appropriate, citing his example of a 10-acre area with a small area of poorly drained soils. Selectman Massey expressed agreement with Mr. Hall, saying it would impose a hardship on property owners. Mr. Hall said this had to be looked at again.

Referring to Page 7, Mr. Quinn noted that A had been rewritten in total.

Mr. Quinn noted that the paragraph on forestry and tree-farming had been rewritten to bring it into conformity with the RSA.

Mr. Quinn noted that Item 2 had been rewritten but was a work in progress, with a question to the Town Attorney not yet resolved.

Selectman Massey asked if wells and pumping stations should be included in Item 3, as well—citing the pump at Compass Point as an example, since it had not been sufficient and a new one had to be constructed.

Mr. Hall asked if the Conservation Commission's intent was to put a private well in a prime wetlands, saying he could not envision a reason why someone would put a well

in a prime wetland or in any wetland. Mr. Quinn said it was already an allowed use in wetlands. Ms. Rumbaugh said she was not in favor of that. Mr. Hall pointed out that prime wetlands raised restrictions to an whole new level. He suggested that what was being allowed in a prime wetlands ought to be reviewed, reiterating that he could not think of any reason to allow a well in *any* wetland.

Referring to Page 8, Mr. Quinn said that Items 5 and 6 were being proposed as additions, noting that Item 5 was still a work in progress. Ms. Champion said she felt pumping stations were covered as structures. Selectman Massey referenced two wells that he said were big structures, saying they were at least as large as the pumping station on the Stop-&-Shop property. Ms. Champion responded that maybe the Conservation Commission needed to be more restrictive about what could be in a buffer. Ms. Quinlan suggested prohibiting wells from being placed in the wetlands. Ms. Champion expressed agreement but suggested that pumping stations be allowed by Special Exception. Selectman Massey expressed agreement, saying they were dictated by where the Town needed to get the water to.

Chairman Russo noted a proposed change in Item 1, Conditions. Mr. Quinn said the change was "and designed to have the least amount of impact on the wetland and the buffer," saying this was to make it more specific.

Mr. Hall said the issue between what was allowed in wetlands versus what was allowed in prime wetlands also occurred here, saying subparagraph (b) did not say what was being talked about, and adding that he thought the whole thing needed to be rethought and rewritten..

Mr. J. Bradford Seabury, a member of the Zoning Board of Adjustment, pointed out that Hudson had a "restrictive" Zoning Ordinance that listed what was allowed, with anything not listed not being allowed, but this proposed text greatly expanded the list of what could not be done in a wetland, which he felt introduced problems. He noted that the Zoning Board of Adjustment was now getting requests for Variances from the Wetland Ordinance, which had not occurred before. He stated that, as Selectman Massey had often said, most of the good land in Hudson was already being used, so developers were now looking at the "bad" properties. He expressed a hope that both the Conservation Commission and the Planning Board would look very carefully at this list and consider the ramifications of what might occur.

Chairman Russo asked if the Board wanted a list of prohibited uses, asking if things not included in the list would be presumed to be permitted.

Mr. Quinn argued that the list said "included but not limited to." Ms. Quinlan suggested adding the statement that whatever was not listed was not allowed. —noting that the text said "included but not limited to" as a qualifying phrase.

Mr. Quinn read through the proposed prohibitions.

Ms. Quinlan argued that applicants could come in and say the desired use was allowed, but the Conservation Commission could deny on the grounds that it might harm the surface water. Chairman Russo asked what the qualifiers for that list would be. Ms. Quinlan said they would be anything that would bring a leachate into the wetlands system. She said the Conservation Commission could reject some proposed

uses on the grounds that it was going to harm the water. She noted, as an example, that many people did not understand that dumping grass cuttings into a wetland meant that the breaking down of the gases would put nitrates into the water system. She said she felt the list indicated that the Conservation Commission was trying to stop things from going into the wetlands.

Selectman Massey said he felt the Board needed to consider carefully what Mr. Seabury had said, saying the words "not limited to" would be subject to interpretation. He argued in favor of just listing what was allowed, with the Ordinance then prohibiting everything else.

Mr. Quinn noted that things would have to go through the Conservation Commission first, so the Zoning Board of Adjustment would not be left to its own devices. Selectman Massey said that was correct, but the Zoning Board of Adjustment ultimately was the "decider," and an applicant might make a persuasive argument to the members of the Zoning Board of Adjustment sitting on the case that night. He noted that the Zoning Board of Adjustment had to go to Superior Court to defend its decisions if challenged. Ms. Quinlan argued that the Zoning Board of Adjustment was not alone, as it would have the recommendation of the Conservation Commission before it as backup.

Mr. Quinn said he had only seen the Zoning Board of Adjustment revise a Conservation Commission recommendation once in the seven years he had been a member of the Commission.

Mr. Barnes noted that people who fertilized their lawns would not be coming before the Conservation Commission, which would not be in the enforcement loop if the Code Enforcement Officer brought that person to the Zoning Board of Adjustment.

Ms. Quinlan said citizens often came before the Conservation Commission, after being cited, saying "We really did not know that what we were doing was wrong." She spoke in support of including a list of prohibited uses for just that reason, saying that information would relieve the Conservation Commission and the Zoning Board of Adjustment of many such items.

Selectman Maddox responded that house buyers did not read the Hudson Zoning Ordinance, saying people would read it only after they had been cited, in order to see what they had been cited for. He noted that he lived in a condominium development, where residents did strange things because they had not even read the condominium agreements.

Mr. Quinn said he did not have a sense of direction.

Ms. Quinlan suggested polling the Board on the question.

Selectman Maddox said Mr. Seabury's suggestion made more sense.

Selectman Massey said he felt the list should be of permitted things, not unpermitted things, with anything not listed not being permitted.

Mr. Barnes said that was definitely the way to go.

Ms. Stewart said she liked the way it was written.

Ms. Quinlan expressed agreement with Ms. Stewart.

Mr. Hall said he thought it was a problem in the Zoning Ordinance for the reasons that Mr. Seabury had stated, arguing that the information could be got out in other ways that would be much more likely for people to read. He said only the allowed uses should be given in the ordinance.

Mr. Schneiderman said he would pass for now, as he somehow felt that both lists could be put in in a way that they would work, but he did agree mostly with Mr. Seabury.

Mr. Malley said he would stick with allowed uses, only.

Selectman Maddox concurred with Mr. Malley, as did Chairman Russo.

Selectman Massey said another caveat should be that there should be a differentiation between wetlands and prime wetlands, as there might be uses that could be allowed in a regular wetland that should not be allowed in a prime wetland.

Mr. Haefner said he liked the idea of a flyer that said things could not be done, saying this would serve a good use. Chairman Russo suggested that the Towns' Website would be another good location.

Ms. Rumbaugh noted that she had added "or wetland buffer" in §334-38, because right now buffers were not included. Mr. Barnes and Ms. Quinlan said they were in favor of that addition.

Mr. Hall hypothesized disturbance of 2,000 ft² of a buffer, asking what he would have to do for compensation. Mr. Quinn said the Conservation Commission normally asked for a plan for restoration, but mitigation might apply. Mr. Hall said this text did not say that, saying it said he would have to create a wetland if he disturbed more than 1,000 ft² of buffer; he then stated that buffers were usually disturbed temporarily. Ms. Rumbaugh said she did not fully agree, as there had been cases in which the disturbance had been permanent. Mr. Hall said the text should be reworded for permanent losses. Ms. Rumbaugh said she would address that.

Selectman Maddox referenced the reservation of 334-36, expressing a belief that a lot of renumbering was needed.

Mr. Quinn addressed Page 11, noting that it began with a rewrite of the text ending on the preceding page.

Mr. Barnes said "bodies" needed to be stated.

Chairman Russo spoke in objection to including the List of Acronyms. Selectman Massey noted that the given meaning of RSA was incorrect.

Chairman Russo asked if any members of the Planning Board had questions or comments. Mr. Barnes encouraged the members of the Conservation Commission to keep working on this. Selectman Massey noted that he had sat in on many

Conservation Commission meetings, saying they should be applauded for the work they had done in order to bring this to the town.

Ms. Rumbaugh noted Town Planner Cashell's draft motion. Mr. Cashell asked if the board wished to take this up again at the November 4th workshop. Selectman Maddox said it would be a challenge to get this on the March warrant, as there were only two months left. Mr. Hall said the draft would have to be put in the standard format.

Town Planner Cashell spoke in favor of retaining the acronyms, provided that they were defined first.

Selectman Massey noted that in order for this to be on the March ballot, the public hearing would have to be held in January and would have to be advertised by the end of December. Mr. Quinn expressed a belief that they had a good chance of accomplishing that. Mr. Cashell noted that the Planning Board could address it at both the November and December workshops, expressing a belief that the Town Attorney's review could be ready by the December workshop.

Ms. Champion asked if there were an electronic form of the current Zoning Ordinance that was editable. Town Planner Cashell expressed a belief that the version he had in his computer was pretty much what was required, saying he would make it available to Ms. Rumbaugh. Selectman Massey said it would be helpful to have two copies—one showing all the strikes and additions, and the other with a finalized copy.

Town Planner Cashell said he thought it had been quite an accomplishment to get the proposed text in the form it was presented tonight.

Mr. Barnes moved to defer further review of the proposed amendment to the November 4th workshop. Ms. Quinlan seconded the motion.

Selectman Maddox said the devil was in the details, as had been true with the sign ordinance, saying he felt there were many remaining questions to be resolved. He advised against racing to a date if it could not be ready.

VOTE: Chairman Russo called for a verbal vote on the motion to defer. All members voted in favor, and Chairman Russo declared the motion to have carried unanimously (7–0).

IX. DESIGN REVIEW PHASE

No **Design Review Phase** items were addressed this evening.

X. OLD BUSINESS

No **Old Business** items were addressed this evening.

XI. NEW BUSINESS/PUBLIC HEARINGS

No **New Business** items were addressed this evening.

XII. OTHER

Chairman Russo addressed the proposed schedule.

Selectman Massey noted that the October dates were questionable, because of the Local Government Center's law lectures. Ms. Quinlan suggested marking those as tentative.

Chairman Russo referenced the items on True Value. He then suggested putting the review of the minutes off to another night and so ruled.

Mr. Barnes noted for the viewing public that volunteers were wanted for Bensons cleanup this weekend, saying there would be jobs for everyone who came, young or old.

XIII. CONCEPTUAL REVIEW ONLY

No **Old Business** items were addressed this evening.

XIV. ADJOURNMENT

All scheduled items having been addressed, Selectman Maddox moved to adjourn; Mr. Hall seconded the motion.

VOTE: Chairman Russo called for a verbal vote on the motion. All members voted in favor.

Chairman Russo then declared the meeting to be adjourned at 10:27 p.m.

Date: November 1, 2012

James Barnes, Chairman

J. Bradford Seabury, Recorder

Marilyn McGrath, Secretary

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**HUDSON PLANNING BOARD Meeting Minutes
October 7, 2009**

Page 18

These minutes were accepted as amended following review at the 01-09-13 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes
October 7, 2009**

Page 19

The following changes were made to the draft copy in accordance with review comments at the Planning Board meeting of 12-05-12:

Page 13, 4th paragraph, 7th line — corrected typographical error to spell Selectman Massey's name correctly.