

**TOWN OF NORTHAMPTON PLANNING BOARD
DECEMBER 11, 2013
7:00 P.M.
TOWN HALL**

MEETING NOTES

PRESENT:

**ROBERT SMITH, CHAIRMAN
THEO HORESCO
ROBERT ANDERSON
STEVEN NAPLE**

**MATT GINTER, CODE ENFORCEMENT OFFICER
SCOTT D. HENZE, PLANNER/GIS FULTON COUNTY PLANNING DEPT.**

OTHERS: SUPERVISOR KEMPER, DARRYL ROOSA, MAYOR GROFF

I. CALL MEETING TO ORDER:

The meeting was called to order at 7:01p.m.

II. APPROVE MINUTES OF LAST REGULAR MEETING:

MOTION: To approve the minutes to the November 13, 2013 meeting.

MADE BY: Member Horesco
SECONDED: Member Anderson
VOTE: 4-0 in Favor

III. 2014 PLANNING BOARD CHAIRMAN DESIGNATION

A. Adopting Planning Board Bylaws:

Background Information:

- No Town of Northampton Planning Board has ever adopted a set of Bylaws.
- Bylaws are laws established by an organization to regulate itself as allowed or provided for by some higher authority (Town Board).
- Town Law, Section 271 states:

Rules and regulations. The planning board may recommend to the town board regulations relating to any subject matter over which the planning board has jurisdiction under this article or any other statute, or under any local law or ordinance of the town. Adoption of any such recommendations by the town board shall be by local law or ordinance.

- In order to be binding, the Town Board would need to adopt the Planning Boards Bylaws.
- The Planning Board does not need to adopt Bylaws.
- See draft Bylaws attached.
- Is the Planning Board interested in adopting Bylaws?

DISCUSSION:

Member Smith indicated that although he has been acting as the Chair of the Planning Board, to his knowledge, there has never been an action by the Town Board or a vote of the standing Planning Board directing him to be the Chair.

Supervisor Kemper stated that the Town Board has always elected to allow the standing Planning Board to elect, amongst themselves, their own officers.

Scott Henze stated that while he was creating the agenda, and based upon the November meeting of the Planning Board discussion regarding the election of officers, he felt that the Planning Board may be interested in adopting their own set of Bylaws. Scott Henze stated that many Planning Boards within Fulton County have adopted their own set of Bylaws. Scott Henze reviewed the information outlined within the agenda and stated that he emailed to all Planning Board members a draft of Bylaws for the Planning Board to review prior to the meeting.

Member Anderson stated that he believes that it would be a good idea going into the new year.

Member Smith stated that he has several comments on the draft Bylaws. Member Smith proposed the following changes be made to the draft Bylaws.

Article 4. Meetings

4.1 Annual Meeting: The annual meeting shall be held on the first regular meeting in the month of January of each year hereafter. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as may be scheduled.

Proposed to be changed to:

4.1 Annual Meeting: The annual meeting shall be held on the first regular meeting in the month of December of each year hereafter. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as may be scheduled.

4.2 Regular Meeting: A regular meeting shall be held each month, at the Town/Village Hall in Northville, at _____ p.m., The date of the meeting will be decided by the membership and subject to change throughout the year.

Proposed to be changed to:

4.2 Regular Meeting: A regular meeting shall be held each month, at the Town/Village Hall in Northville, at _____ p.m., or at an alternate location agreed to by a majority of members. The date of the meeting will be decided by a majority of the membership and subject to change throughout the year.

4.5 Special Meetings: Special meetings shall be held at the call of the Chairman or as requested by a majority of the total membership. All members shall be notified in writing of the time, place, date and agenda 48 hours in advance.

Proposed to be changed to:

4.5 Special Meetings: Special meetings shall be held at the call of the Chairman or as requested by a majority of the total membership. All members shall be notified in writing or electronic mail, of the time, place, date and agenda 48 hours in advance.

4.9 Notice of Meetings: The Secretary shall cause each member to be notified of the time, place and date of each meeting by a written notice mailed to address of the member, not less than five (5) days previous to the date set for the meeting, unless otherwise specified herein.

Proposed to be changed to:

4.9 Notice of Meetings: The Secretary shall cause each member to be notified of the time, place and date of each meeting by a written or electronic notice mailed or via electronic mail to the physical or electronic mail address of the member, not less than five (5) days previous to the date set for the meeting, unless otherwise specified herein.

Article 5. Quorum

5.1 Quorum: For the transaction of ordinary business, a majority of the total membership shall constitute a quorum.

A majority vote of the members present shall be necessary for the adoption of any matter; however, no business shall be conducted in the absence of a quorum, except as otherwise specified in these Bylaws.

Proposed to be changed to:

5.1 Quorum: For the transaction of ordinary business, a majority of the total membership shall constitute a quorum.

A majority vote of the members present, either in person or via electronic means shall be necessary for the adoption of any matter; however, no business shall be conducted in the absence of a quorum, except as otherwise specified in these Bylaws.

Article 6. Voting

6.2 Disqualification: In the event that any member present shall have a personal interest of any kind in a matter of consideration, he shall be disqualified from voting upon the matter, and the Secretary shall so record in the minutes that no vote was cast by such matter.

Proposed to be changed to:

6.2 Disqualification: In the event that any member present, being in person or by electronic means, shall have a personal interest of any kind in a matter of consideration, he shall be disqualified from voting upon the matter, and the Secretary shall so record in the minutes that no vote was cast by such member.

Article 8. Amendments

8.1 Amendments: These Bylaws may be amended at the annual meeting, provided that notice of the proposed amendment is given to each member in writing, at least five days prior to said meeting. The Bylaws may also be amended at any special meeting called solely for that purpose, provided that five-day notice of the meeting and the amendment is given to each member in writing.

Proposed to be changed to:

8.1 Amendments: These Bylaws may be amended at the annual meeting, provided that notice of the proposed amendment is given to each member in writing or electronic mail, at least five days prior to said meeting. The Bylaws may also be amended at any special meeting called solely for that purpose, provided that five-day notice of the meeting and the amendment is given to each member in writing or by electronic mail.

8.2 Vote: These Bylaws may only be amended by a vote of a majority plus one of the total membership.

Proposed to be changed to:

8.2 Vote: These Bylaws may only be amended by a vote of a majority plus one (super-majority) of the total membership.

DISCUSSION: Planning Board members discussed each proposed change. A general discussion ensued by all members regarding the ability of the Planning Board to have flexibility pertaining to the location of Planning Board meetings and the ability of a Planning Board member be in attendance via electronic means (Skype, Facetime etc).

Mayor Groff stated that a member of the Village Board utilizes Skype to be in attendance. Mayor Groff stated that the Village has the equipment in order for a Planning Board member to be present via electronic means. Mayor Groff indicated that he believes that the Village Board would allow the Town Planning Board to utilize the equipment.

Scott Henze stated that the Planning Board would need to finalize the draft Bylaws and present them to the Town Board. He stated that the Town Board would need to adopt the Bylaws via Local Law or ordinance. Scott Henze indicated that the Town Board could adopt the Bylaws via Resolution however he stressed that the Town Board should seek a legal opinion regarding a Resolution.

IV. RESIDENCY REQUIREMENTS FOR PLANNING BOARD MEMBERS:

A. Background Information:

- During the November 13, 2013 Planning Board meeting, Member Horesco informed the Board that in 2014 his official Residency will be changed from New York to Florida.
- Member Horesco will continue to own residential property within the Town of Northampton and reside at said property for several months each year.

- Scott Henze consulted the NYS DOS to request information regarding the ability of a Planning Board member to continue serving on said Board if the Members residency changes from the State of New York.

B. NYS Public Officers Law (Provided by NYS DOS):

§ 3. Qualifications for holding office. 1. No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions or recreation commissions only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before appointment to such youth board, youth commission or recreation commission, be a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he shall be chosen, or within which the electors electing him reside, or within which his official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.

C. Planning Department Review:

Fulton County Planning Department staff have discussed the above residency issue. It is recommended that the Planning Board do the following:

1. Request the Town Board to seek a legal determination regarding the NYS Public Officers Law Section 3. Qualifications for holding office specifically regarding the following:
 - Whether or not an unpaid Planning Board Member is officially "holding an office".
 - A general determination regarding the issue.

DISCUSSION: Scott Henze indicated that the Planning Board requested that he research the residency requirements of Planning Board members. He stated that his research is outlined within the agenda.

Member Horesco stated that this agenda item deals directly with himself. Member Horesco stated that he has applied for residency in the State of Florida. A discussion ensued regarding what constitutes "holding an office". Mayor Groff indicated that each member of any board, to include Town Board, Planning Board or ZBA must sign an Oath of Office prior to serving.

It was noted that once Member Horesco changes his residency to the State of Florida that he would no longer be able to hold his Planning Board membership status due to the NYS Public Officers Law § 3. Qualifications for holding office.

V. CREATION OF JOINT TOWN/VILLAGE PLANNING BOARD:

A. Background Information:

- During the November 13, 2013 Planning Board meeting, member Conkling questioned whether or not the Town of Northampton and Village of Northville could share one (1) Planning Board.
- Planning Board members requested Scott Henze to review and provide background information at a subsequent meeting.

B. Town Law

Section 271 Planning Board, creation, appointment of Town Law states:

1. Service on other Planning Boards. No person shall be disqualified from serving as a member of the Town Planning Board by reason of serving as a member of a Village or County Planning Board.
2. Town Board Members ineligible. No person who is a member of the Town Board shall be eligible for membership on such Planning Board.

C. Village Law

Section 7-718 Planning Board, creation, appointment of Village Law states:

1. Service on other Planning Boards. No person shall be disqualified from serving as a member of the Village Planning Board by reason of serving as a member of a Town or County Planning Board.
2. Village Board of Trustees ineligible. No person who is a member of the Village Board of Trustees shall be eligible for membership on such Planning Board.

D. Establishment of Joint Planning Board:

There are two (2) avenues for a Town and Village to share a single Planning Board.

1. Interminicipal Agreement
2. Adoption of a Local Law

Intermunicipal Agreement

- General Municipal Law Article 5g, Section 284 of Town Law and Section 7-741 of Village Law allows for Intermunicipal Cooperation in Comprehensive Planning and Land Use Regulation.

** See handout Town & Village of Clayton Planning Board Intermunicipal Agreement*

Local Law

** See handouts Town of Brutus and Village of Weedsport Local Laws creating one (1) Joint Planning Board.*

DISCUSSION: Scott Henze stated that during the November 2013 meeting of the Planning Board, the board requested that he research the legality of the Town and Village Planning Board combining into one. Scott Henze reviewed the information provided within the agenda and stated that Town and Village Planning Boards can be combined into one to represent both Town and Village Ordinances. Scott Henze stated that there are several ways to structure the new joint Board and several ways to create such board either through an inter-municipal agreement or Local Law. Scott Henze provided two (2) handouts of examples of other municipalities within NYS that used both forms.

Member Anderson questioned whether the Town and Village Boards would be supportive to combine their respective Planning Boards into one.

Mayor Groff indicated that the Village Planning Board does very little planning and does not meet on a regular basis.

Member Naple questioned how the Village Planning Board members would be able to adapt to the new Town of Northampton Zoning Ordinance. Member Naple indicated that even the Town Planning Board members are still learning the code.

Supervisor Kemper asked what Matt Ginter, CEO felt about combining the Town and Village Planning Boards.

Matt Ginter stated that the new Town Ordinance is very extensive and adds a significant amount of responsibility to both himself and the Planning Board. Mr. Ginter questioned how the fees would work regarding a Town project versus a Village Project. Mr. Ginter questioned how project mailings would work and who would be charged for the mailings?

Member Smith indicated that all of the "inner workings" of a joint Planning board would be listed within the Local Law or Inter-municipal agreement that creates such board.

Member Naple stated that when the Town makes a decision, it can ultimately affect the Village. Member Naple stated that in the future, there maybe one Comprehensive Plan and Zoning Ordinance for each entity.

MOTION: That the Planning Board understands that both the Town and Village Zoning is important for future development. The Planning Board understands that the Town and Village, due to their geographical location between one another is unique in that proposed projects can affect one another in both positive or negative ways. The Planning Board is in agreement to request that the Town and Village Boards look into the possible merge of their respective Planning Boards via Local Law or Inter-municipal agreement.

MADE BY: Member Horesco
SECONDED: Member Naple
VOTE: 4-0

VI. CODE ENFORCEMENT REPORT:

Matt Ginter, CEO stated that he has started a list of proposed changes that he would like to provide to the Town Board. He stated that he spoke to Scott Henze who recommended to him that rather than providing the changes to the Planning Board that he request some form of action by the Town Board regarding the review of the Ordinance.

Scott Henze stated that since the Town Board will be made up of a new Supervisor and a new Council Member he believes that they should be afforded the ability to make a decision whether or not the Board wishes to entertain an amendment to the Ordinance, particularly since the ordinance is so new.

Planning Board members discussed how the process could work regarding amendments to the ordinance. It was noted that the CEO would have amendments as well as both the Planning and Zoning Boards. Members

discussed holding a workshop of Town, Planning and ZBA members to discuss their proposed changes and having the workshop open to the public.

Scott Henze indicated that if the Town Board agrees to pursue amendments to the Ordinance, the Town Board would authorize either an existing Board or a Committee made up of members of an existing board and public to propose amendments. Scott Henze indicated that holding a workshop made up of all members of the Town, Planning and Zoning Board could prove to be difficult to be efficient.

Member Smith stated that Matt Ginter should provide his list and concerns to the Town Board for their guidance.

Member Naple stated that Mr. Ginter should simply explain the concerns regarding the existing ordinance to the Town Board.

MOTION: To request that Matt Ginter, CEO attend a Town Board meeting to indicate that he and the Planning Board have concerns regarding certain parts of the existing Ordinance and wish to address those concerns in whatever format the Town Board chooses, if any, to address them.

MADE BY: Member Horesco

SECONDED: Member Anderson

VOTE: 4-0

Matt Ginter indicated that in other business, he has recieved an application for a major subdivision from the Adirondack Escape, LLC in Fish House. Matt Ginter indicated that the applicants did not know that the Town adopted subdivision regulations. He stated that the applicants have an approved APA Permit to proceed with the subdivision and the building of three (3) single family residential buildings. Mr. Ginter stated that it wasn't until the applicants went to the County Clerk to file the subdivision that they learned that the Clerk would note file the subdivision because the Plat was not signed by the Chairman of the Northampton Planning Board. Mr. Ginter stated that the applicants have already starting the advertising of the properties.

Mr. Ginter provided all Planning Board members with copies of the project information.

Member Smith asked Mr. Ginter whether or not there was any aspect of the application that is being presented where the Planning Board would deny it?

Mr. Ginter indicated that he could not think of one at the moment but that it is not his responsibility to approve or deny it.

VII. OTHER BUSINESS:

Member Smith indicated that he had received a letter from an Attorney regarding a project along Bunker Hill Road in the location of Buda Drive.

Matt Ginter, CEO provided some background information regarding two property owners along Buda Drive that are at odds regarding development of a lot.

Member Smith asked Mr. Ginter whether or not he or the Planning Board need to respond to the letter.

Mr. Ginter indicated that the letter does not need to be responded to.

Next Meeting:

Due to the unavailability of a majority of Planning Board members to hold their next meeting on January 8, 2014, members agreed to hold the next meeting on Friday January 17, 2014 at 7:00 p.m. at Town Hall. It was noted that the Town Clerk announce the change of the meeting date at the next Town Board meeting.

VIII. CLOSE OF THE MEETING:

MOTION: To close the meeting at 8:20 p.m.

MADE BY: Member Horesco

SECONDED: Member Anderson

VOTE: 4-0