

**Town of New Haven Selectboard Public Hearing and Budget Meeting**  
**7:00 pm**  
**Town Offices**  
**Tuesday, October 13, 2009**

Present: Pam Marsh, Roger Boise, Kathleen Ready, Pat Paquette, Treasurer, Barb Torian and Clerk, Pam Kingman

Absent: Keith Hall

Visitors: Jim Foley, Jr., Al Karnatz, Jim Walsh, Linda Horn, Amy Dupoise, Angela Dunbar, Kathy Barrett and Beverly Landon

**Statement of Purpose:** To take public comment on a Planning Commission recommendation to correct the Town Zoning Map. Said correction would reflect a past amendment designating a parcel to be located in a Highway Commercial Zoning District however: the current zoning map shows the parcel to be located in a Residential Zoning District.

Acting Chair Pam Marsh opened the hearing referring back to the Planning Commission memorandum and minutes from their Public Hearing on said parcel owned by Paul and Linda Horn at the corner of River Road and Ethan Allen Hwy.

Public Comment included:

Linda Horn: Said she hopes the Selectboard agrees with the Planning Commission and corrects the error.

Pam Marsh: The position of the P.C. is that the change in the zoning map was an error from vote changing it in 1980 to Highway Commercial.

Discussion on whether the zoning map is attached to the Town Plan id part of the Town Plan and therefore subject to adoption by town vote.

Al Karnatz: Ideally the zoning map will mirror the Town Plan, but that often is not the case.

Jim Walsh: the Horn property and parts south are all Highway Commercial. He referred back to the 1980 vote which changed the property now owned by the Horns to H.C. Mr. Walsh also referred to 1990 when zoning regulations and their map were printed in a "yellow book". When the supply of books was exhausted, at some point inaccurate maps were inadvertently copied. There was a revote on the Town Plan in 2003; that is when everything changed. Maps went back and forth and somehow got swapped. This was not agreed to; it just happened. When the Horns purchased the property it was Highway Commercial. There has been no notice that that has ever changed. Even the Horns have used the property as a Bed & Breakfast and briefly had a shop on the premises.

Jim Foley: How many times has the Town Plan been voted on?

Al Karnatz: Town Plan was readopted in 2000 by Australian ballot; it is good for 5 years; the current town plan is due to expire in 2011. It was last voted in 2006. The Official zoning map however can be changed by the Selectboard.

Jim Foley: As a lawyer, he knows that changes to the Town Plan require a town vote. Modifications to the zoning regulations by the Selectboard are ok. The Selectboard does not have the authority to make amendment changes to the Town Plan. His gut reaction is that whatever the Planning Commission recommends is the way the town will vote. He is concerned that if the statutes are not being followed it could create a nightmare for lawyers searching titles and for landowners if there are inconsistencies in how such issues are handled that could create clouds in titles. Suggests, by putting this to a vote, possibly at Town Meeting. He didn't know if the Horns had any time constraints.

Bev Landon: She has found that zoning maps supplied to the town from Regional Planning have had errors and suggested going back through town records to clarify.

Al Karnatz: The Planning Commission has already done that research. There was never any intent to change it back to RA-10; it is just an error that needs to be corrected. If it does need a vote, it is only correcting an error that goes back to as far as 2004.

Discussion on how this error was noticed and if the property is one lot deep on River Road. The house faces Ethan Allen Highway, the only reason they have a River Road address is because the post office will not deliver their mail on Ethan Allen Highway along that stretch.

Al Karnatz: The Planning Commission is working on updating the Town Plan, their hope is to do this throughout 2010, and vote on the town Plan then.

Discussion of what the Town Plan may have looked like back in 1980.

Barb Torian: Is this a zoning change or an amendment to the zoning regulations? Can you just change the map?

Al Karnatz: Yes, the map can just be changed. An amendment can come through on zoning; it is the Selectboards prerogative to put it to a town vote. The right steps are being taken now by holding the public hearings.

Pam Marsh: Suggests that matter be referred to the town attorney, to determine whether the vote in 2006 adopting the Town Plan with the erroneous map attached somehow nullified the 1980 vote.

Barb Torian: Appears to be a mistake, she wants to be sure it is legally corrected. She cited the old highway issue a number of years ago that someone took to the Supreme Court and won because it didn't go through the proper legal channels. She doesn't want the same thing to happen with this.

Roger Boise: It would be legally changed if the Selectboard changes it.

Pat Paquette: Town Plan voted – Selectboard can change. Zoning Regulations & Map. In 2006 came through on the Town Plan, do we need to go to a vote?

Al Karnatz: The Town Plan is a vision; it would be nice if the vision matched actual zoning. The map is labeled Future Land Use Map.

Jim Foley: Town Plan is bedrock, 10 years ago illegal use or improper use under the Town Plan and zoning regulations not in compliance, was ok. Now it seems to wreak havoc when they don't match.

Kathleen Ready: Agrees this is an error that needs to be corrected. She would like to check with VLCT and our town attorney before making any decisions.

This item will be added to the Agenda in early December after more information is gathered from the Vermont League of Cities and Towns and town attorney, Cindy Hill.

Adjourn public hearing at 7:45 pm

### **BUDGET MEETING:**

Pam Marsh received a phone message from Rob Naylor of Naylor & Breen. Mr. Naylor is annoyed that they haven't received final payment for the building. We finally received the contract between the Town and Naylor & Breen today, a copy has been mailed to town attorney, Cindy Hill for her to review.

Barb Torian said the bills from N & B are legitimate; all the change orders seem to be in order. There is concern that N & B will respond slowly once final payment has been received, maybe that can be negotiated further.

Discussion about final punch list items and if they have all been attended to. The smell in the ladies restroom has been remedied. The last item on the punch list is the lockset on the storage room door. A new one has been ordered, N & B is scheduled to replace it this week.

Kathleen Ready made a motion to pay Naylor & Breen \$150,000, withholding \$39,174 until Peter Morris certifies the final installment and Cindy Hill has had time to look over the contract, with attention to completion. Motion seconded by Pat Paquette. 4 yes / 0 no

Treasurer, Barb Torian will transfer monies to cover the costs for payment to N & B. She said all of Peter Morris money was transferred into the General Fund. Peter Morris fees were not part of the Bond so this was not anticipated. Although we have already paid Mr. Morris \$32,000 for 2007 & 2008, budgeted as Architectural fees; Clerk of the works for this project was never budgeted for. In the contract with Peter Morris it lays out Architectural fees: \$37,000 for 2007 and \$32,000 for 2008. She questions whether he should have been billing us separately; total amount for Mr. Morris is \$64,000.

Barb Torian and Cindy Hill have met about the way Peter Morris has handled his billing. Ms. Torian said Mr. Morris was supposed to give the Town an accounting every two weeks. Cindy Hill will draft a letter to Mr. Morris asking him for more information on the accounting.

Barb Torian: Considering everything else, the town received a "true up" from the school this money can be used to cover the cost of the clerk of the works and Architect. She would like to keep the Park n Ride separate from the building, as it was covered by the grant, and not part of the building costs. She will ask N & B to submit separate bills so that the building costs are within the amount we budgeted.

Payroll – Kathleen Ready made a motion to approve the payroll, seconded by Roger Boise. 4 yes / 0 no

Pay orders – Kathleen Ready made a motion to pay the fund transfers amended from the previous meeting of October 6, 2009, seconded by Pam Marsh. 4 yes / 0 no

Barb Torian – The Town collects the school taxes. The first pay order to the school won't be disbursed until October 20, 2009. The Town and school have along standing agreement that we can pay them in two installments, one in October and one in November.

Pay orders – Pat Paquette made a motion to approve pay orders of \$2,861,250.61, seconded by Pam Marsh. 4 yes / 0 no

Bev Landon came to the Selectboard to discuss the Fiscal year v. calendar year. She was the Town Treasurer for 23 years and Barb Torian has been the Treasurer for 13; that is 36 years combined experience. The system works very well now, why consider changing it?

Barb Torian agreed with Mrs. Landon; she feels it would be confusing for townspeople to understand. The first year is especially hard working with an 18 month budget.

Discussion about fiscal year v. a calendar year; the Selectboard will consider putting it on the warning for Town Meeting for discussion.

Other budget items to be addressed in the future include:

- Attorney fees
- Fire Dept. Insurance/ relationship between them and the Town / Formalized agreement between the Fire Dept. and Town
- Wages
- Fuel (on road and heating) - put out to bid
- Paving

Adjourn: 9:00 pm  
Respectfully submitted:  
Pam Kingman  
Approved:

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Roger Boise

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Pam Marsh

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Pat Paquette

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Kathleen Ready