



*OLD VALUES - NEW HORIZONS*  
**PLANNING AND DEVELOPMENT**

PO Box 120, Windham, New Hampshire 03087  
(603) 432-3806 / Fax (603) 432-7362  
[www.WindhamNewHampshire.com](http://www.WindhamNewHampshire.com)

**Planning Board Meeting Minutes  
December 2, 2009**

**Roll Call:**

Phil LoChiatto, Chairman – Present  
Nancy Prendergast – Present  
Ruth-Ellen Post, Member – Present  
Louis Hersch, Alternate – Excused  
Sy Wrenn, Alternate – Excused  
Ross McLeod, Selectman Alternate - Excused

Rick Okerman, Vice Chairman - Present  
Walter Kolodziej, Member – Present  
Pam Skinner, Member – Present  
Kristi St. Laurent, Alternate – Arrived at 7:05pm  
Bruce Breton, Selectman Member - Present

**Staff:**

Laura Scott, Community Development Director – Present  
Elizabeth Wood – Community Planner - Present  
Tracey Mulder – Administrative Asst. – Present

**Call to Order/Attendance/Pledge of Allegiance**

Mr. LoChiatto opened the meeting at 7:00 pm, followed by the Pledge of Allegiance.

**Sign Permit – 4 Cobbetts Pond Road**

Ms. Scott reminded the Board that this has come before them for approval because the Site Plans specified that any signs for this Plaza need to come before the Planning Board for approval. The Windham Beauty Salon currently has a temporary banner with the same color scheme and design they are requesting for their permanent sign. They are requesting a sign 32.5" high x 197.5" in length. The sign is to be centered under the existing wall lights and the colors of the sign are brown and gold. The sign meets the Zoning ordinance and is compatible with the existing signs in the Plaza.

Mr. Breton made a motion to approve the design of the Windham Beauty Shop sign. Second by Ms. Post. All in favor 7-0.

**2010 Town Meeting Proposed Changes**

Mr. LoChiatto discussed with the Board the option of working through the Public Hearing agenda items first then moving on to the Town Meeting proposed changes documents. Ms. Post thought the Chair could poll the audience to assess how many people were in attendance for Town Meeting items or who was in attendance for Public Hearing items. Mr. LoChiatto wanted to get the Boards thoughts first before asking the audience. Mr. Kolodziej indicated he would like to hear the WWPD and WFH at the end. The Board decided to continue with the agenda as originally proposed because most audience members were waiting to hear and discuss the WWPD Ordinance.

**Wetland & Watershed Protection District (WWPD) (Section 601)**

Mr. Keach, of Keach Nordstrom Associates, presented to the Board the second draft of the WWPD ordinance for review. Mr. Keach mentioned that the first draft of the ordinance had a fair amount of input from the public and the Board relative to content of the ordinance. Mr. Keach said the majority of comments came as a result of defining what is considered *the district* rather than true changes. Mr. Keach noted that during the last meeting, Mr. Wilder provided a handout outlining specific revisions and reasons for the changes, which detailed the history of the WWPD ordinance.

Mr. Keach identified the substantial changes to the ordinance from the last draft:

Section 601.1.1 under 'Title" the acronym WWPD (Wetland and Watershed Protection District) was added;

Section 601.1.2 the language was revised to in order to make it easier to understand;

Section 601.4 B the term 'surface waters of the state' was removed from the rewrite and replaced with the original language 'Brook, Stream, or Pond';

Section 601.4.1 C was previously removed, however, after hearing comments from Mr. Wilder from the 11/4 hearing, the language was added back to the ordinance as it seemed to have good rational because of the specific nature of the flood plains and the desire to keep building and development 150 feet from the high watermark of the streams;

Section 601.4.1 D was originally removed from the ordinance but incorporated back in because the term 'surface waters of the state' was replaced with 'Brook, Stream or Pond'; language was added "Unless specifically excluded".....

Section 601.4.2 language was added 'unintended results from construction.....' was added;

Section 601.4.2 B is almost the same with respect to intent and content of existing ordinance but it's the exclusion for Cobbetts Pond, Canobie Lake, Shadow Lake, Rock Pond and Moeckel Pond and land situated within 100-feet of the Normal High Water Mark of the same..." was revised the to include "In such instances, the WWPD boundary associated with such tributary Brooks or Streams shall extend along.....".

Mr. Keach indicated he is trying to simplify the ordinance administratively so a staff member or landowner could determine if an individual's land is in the WWPD. He also noted that most of the comments offered by the Board and the public from the last meeting were on Section 601.4.

Mr. Keach went on to explain changes in the definition section of the ordinance and that he included an introductory paragraph.

Ms. St. Laurent asked about the absence of the definition of the watershed. Mr. Keach said it is in the definition of the term brook/stream. Mr. Keach said other than the necessary buffers and setbacks there is no watershed protection part of the existing ordinance. Ms. Post followed up on Ms. St. Laurent's question mentioning she does not see watershed defined in the new ordinance. Ms. Post read a definition from the EPA

explaining that a watershed is 'land where all the water that is under or drains off of it goes into the same place'. Ms. Post said that 'watersheds' should not be defined as brooks or streams and she would like to see this addressed and defined specifically in the ordinance. Mr. Keach said the intent is to amend the existing ordinance and the existing ordinance does not directly protect watersheds. Ms. Post commented that she thought it should.

Ms. Scott asked for clarification for the book/stream defining it as 'an area with concentrated water with tributary watershed of 10 acres or more within a wetland of one acre or more.' Mr. Keach responded that is the Town's current definition. Ms. Scott responded that administratively it is difficult to manage, because she does not have a map that outlines the 10-acre catchment area. And, the only way an applicant can find out if they are in the WWPD is hire a wetland or soil scientist to determine if they are in a catchment area of 10-acres or more and the 10 acres may not be their property.

Mr. LoChiatto commented that the other side of the discussion is if you can't or don't prove that there is 10 acres, there is no way to say that the brook or stream falls under the WWPD. Ms. Scott said we do not have that level of detail to prove to the customer. Mr. Keach said this was the reason he initially used the term 'surface waters of the state' in the original rewrite of the ordinance. Mr. Keach went on to read the RSA definition of 'surface waters of the state' pursuant to RSA 485A:2 XIV.

Surface waters of the state" means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial."

Mr. Keach said if it is the Town's intent is to afford a level of protection to something that has flowing water to it for at least 30 days a year (seasonal) then there would suggest using the language 'surface waters of the state' in the ordinance.

Ms. St. Laurent asked if a different definition of brook or stream could be used and Mr. Keach answered, that would be the seasonal or perennial language from 'surface waters of the state'.

Mr. Keach and Mr. LoChiatto had a discussion on the importance of having consistency between local and State ordinances. Ms. Scott said it would be easier administratively if the ordinance was streamlined and consistent with the state. Mr. LoChiatto asked if the Board was comfortable using the states' definition and keeping the exclusions for the major bodies of water. The Board agreed that this was preferable.

Mr. Keach discussed permitted uses, prohibited uses and conditional uses. He said based on the dialog from the last meeting there has been little change to this language

with exception in 601.5 subparagraph G where he deleted the language 'for use of motorized vehicles'. In Section 601.8.1 Conditional Use Permit application Requirements, the only change is from "Planning Board" with "Community Development Department". Mr. Keach went on to say that in Section 601.8.2 C he considered input from the public, and changed the language to include text from Section 601.9.2 so as to universally apply to all conditional use permit applications as opposed to only those conditional use permit applications involving the topic Section 601.9 which is the renovation and/or expansion of a nonconforming structures. Mr. Keach thinks this language holds open the opportunity for mitigation under all conditional permit applications.

Ms. Post commented on Section 601.8.2 subparagraph B where it states "The design and construction of any proposed use within the Wetland and Watershed Protection District has, attempted to the extent practical....." Ms. Post said that whenever she sees language like this from a legal and practical point of view she has issues because the word 'attempt' is to difficult to define and the word 'attempt' should be changed to 'required' or left out. Mr. Keach said that using the word 'attempt' is to provide the Board flexibility. Ms. Post said that she thought by having the language "to the extent practical" would be enough flexibility for the Board. Mr. Keach agreed and this word 'attempt' should be taken out. Mr. Keach read into the record the new language for Section 601.8.2 B.

Ms. Betty Dunn, addressed the Board and questioned Section 601.4.3 reading the proposed ordinance regarding '.....shall be performed by a Certified Wetland Scientist in accordance with the methodology...." Ms. Dunn wondered who will make the determination if someone is in the WWPDP when they apply for a minor application. Ms. Scott answered that the Community Development Department does not make this determination unless a plan is provided to the Department by a wetland or soil scientist. Ms. Dunn wanted to know what the practical application would be for a person to come in and apply for a shed when it's obvious that the placement of the shed is within 50 feet of a stream. Ms. Scott said they would have to go through the planning process and submit plans for a conditional use permit which would have to show how they would mitigate their request and show where the WWPDP is on their property. Mr. Keach addressed this question answering that this is addressed in the Section 601.4.2 under Identification and Delineation of Wetlands.

Ms. Dunn questioned Boundary disputes and asked that the Zoning Board be added to the language to be able to hire, at the landowners expense, a certified wetland scientist and/or Licensed Land surveyor. Mr. Keach suggested changing the language to "Planning Board or its designee" keeping the control within the Planning Board.

Mr. Case said that if there was an appeal of an administrative decision before the ZBA it would not be incumbent upon the ZBA to prove but up to the applicant to prove. Ms. Dunn said this was a good idea in theory.

Mr. LoChiatto wants resolution on this issue. Ms. Scott said if the ZBA needed outside engineering services that can be authorized if the applicant is willing to pay for it. Ms. Scott thought that it doesn't impact the intent either way to add the ZBA language to the ordinance.

Ms. Post thought adding the language sounded like an easy fix. Mr. Kolodziej said to keep as written. Mr. LoChiatto said either way. Mr. Okerman said he would like to add the word 'designee'.

Ms. Dunn asked about what happens when a culvert interrupts a wetland under Section 601.5? Mr. Keach said the reason there is a need for interruption today is because what is being interrupted is the 10-acre that was taken out of the ordinance. Mr. Keach said if we have taken out the 10-acre rule then there is no need to add any language for what Ms. Dunn mentioned, in his opinion.

Mr. Bill Schroeder addressed the Board requesting a word change in Section 601.4.2 B taking out the language 'High Water Mark' and replacing it with "Reference Line" due to interpretation problems in the past. Mr. Keach said that he agreed with Mr. Schroeder to a certain extent, and his initial draft used the word 'reference line' but he went back to High Water Mark to maintain what is considered 'the district' with what it is today. He went on to say in items C & D under Section 601.1 he references 'Normal High Water Mark' and he is hesitant to use two different terms for a reference line.

Mr. LoChiatto asked if Mr. Keach used one definition for Normal High Water Mark for a brook or stream as referenced in Section 601.4.1 C & D can he add the definition of reference line to the bodies of water? Mr. Keach said he could insert the language "for the purpose of administering section 601.4.2 B of this section, Normal High Water Mark shall be defined to be the reference line of the water body as defined in NH RSA 483 B:4."

Mr. Bruce Richardson addressed the board stating he had concerns with the definition of brook and stream and he believes it has been misinterpreted in the past, causing confusion and Supreme Court cases in the Town of Windham. Mr. Richardson has a commercial property in Windham that has an underground culvert the state built that goes under a portion of his property. He believes that this ordinance, if passed, potentially puts his entire property in the WWPD. Mr. Keach responded to Mr. Richardson and the Board stating the circumstances he provided will be unchanged from a regulatory standpoint with the rewrite of the WWPD ordinance.

Mr. Peter Zohdi addressed the Board stating that he understands that Mr. Keach is saying the ordinance is not changing, but we are changing in this Town. Mr. Zohdi said that with the construction of the Rt. 111 and I-93, with the new ordinance, the Town

would be putting additional land in the WWPD. Mr. Zohdi offered to bring the highway designs to the Board at the next meeting and review them.

Mr. Zohdi went on to suggest there should be a joint meeting between Conservation Commission and Planning Board.

Mr. Zohdi explained the various changes in Town where land that is currently not in the WWPD could become part of the WWPD if the changes are adopted. Mr. Keach noted under Section 601.4.2 that the circumstances that Mr. Zohdi was discussing would be excluded from the WWPD. Mr. Zohdi wanted to have roadside ditches excluded as well. It was noted by Mr. Keach that the word conveyance should be added to Section 601.4.2.

Mr. Andrew Land provided to the Board a handout outlining his key points for discussion. Mr. Lane noted that there were three different definitions for reference line for Canobie Lake at the state level.

Mr. Lane discussed his concerns regarding protecting a culvert or enclosed pipe with a 100 ft set back on each side. Mr. Keach and Mr. Lane discussed the radius of a stream in the WWPD and its borders.

Mr. Lane discussed a previous court case regarding Heron cove and that the Supreme Court stated that they would have decided with the intent of the law to exempt the land 100ft around the lake instead of the literal interpretation they were forced to make, if the WWPD had been written more clearly. Mr. Lane spoke about wetlands contiguous to an exempt lake and that under the prior WWPD these were exempt but he could not find this in the revision. Mr. Keach said if it is within 100 feet it is not contiguous to brook or stream.

Mr. Wayne Morris addressed the Board stating he had concerns about the procedure in the developing the WWPD revised ordinance. He thinks what would have been proper would have been a workshop between the Conservation Commission and the Planning Board. He went on to say the first time Conservation heard of this rewrite was when they were asked to help pay for Mr. Keach's services.

Mr. Morris respectfully does he not agree with the non-protection of a culvert.

Mr. Morris questioned the rewrite of the WWPD and wondered about the time and effort of revising the entire WWPD. Mr. Morris said that since the original WWPD there have been only two high profile cases and he does not see the need to rewrite the entire WWPD.

Mr. Morris went on to question the Conditional Use requirements within the WWPD and wondered with the new storm water mgmt systems how the two meshed. He thinks

they should go back to the drawing board, go through the old ordinance, and see what works and what does not.

Mr. LoChiatto said the consultant has gone through the ordinance line by line.

Ms. Scott made sure she had all changes:

1. Section 601.4.2 A Storm water treatment conveyance and or detention facilities
2. Section 601.4.3 to delete second sentence
3. Section 601.4.4 add in "the Planning Board or their designee may"
4. Section 601.5 change Brook,Stream definition to "natural, perennial and seasonal streams within the jurisdiction of the state of NH
5. Section 601.8.2 B change to "The design or construction of any proposed use within the WWPD has to the extent practical, avoided and minimized Development within the District.

Motion to take the Wetland and Watershed Protection District proposed ordinance to public hearing as amended by Mr. Kolodziej. Second by Mr. Breton. Motion carries 7-0.

The Board took a 5-minute break from 9:25-9:30.

#### Workforce Housing Overlay District

Ms. Scott explained the draft of the Workforce Housing Overlay District. The items that have changed are since the last time this was presented to the Board are:

#### Development Standards

- ❖ Density – included the language "Certified High Intensity Soils Survey (HISS) Plans including.....detailed soil area plans and spreadsheets shall be utilized in the calculations".
- ❖ Density – change language to 'one set density whether mixed use or all workforce housing for constancy and ease of enforcement.
- ❖ Dwelling units – included the language "The architecture should be complimentary and harmonious with abutting developments".
- ❖ Dwelling units – included language that 'dwelling units should be compatible in style.'
- ❖ Frontage, Setbacks and Yard Regulations - clarified language
- ❖ Roads – removed NFPA Standards

Mr. Okerman commented under Density regarding mixed-use development, he stated most developers could not afford a minimum of 45% workforce housing units. Ms. Prendergast stated that the committee started at 30%, went down to 25% and now they are back up to 45%. Mr. LoChiatto said he thought it was 25%. Ms. Scott reminded the Board this was originally a range and a request was made for a set number and now because it is one set density rate regardless of whether it is Workforce Housing or market rate, the request from the Board was to increase the percentage

because if the minimum is 25% then the other 75% still gets the density bonus with the 25% being WFH. Mr. LoChiatto said that when talking about a 20 acre site the number of units is very small. Mr. LoChiatto asked what the Board thought of the minimum of 45% WFH units. Ms. Prendergast's concern was that if the Board agrees to a minimum of 45% WFH then it may appear that they're really asking for 50%-100% WFH and this was not the intent. The reason to have this number is to have a mixed income use so the Town would not have an area that was isolated with just Workforce Housing units. Ms. Scott asked the Board what percentage would work and Mr. LoChiatto said he thought a minimum of 25% would be reasonable for mixed income development or they could do all work force housing.

Ms. Post indicated she would like to hear from real estate developers because she does not understand what incentive a developer would have to do mixed use. The Board responded that this would be a density bonus and get a few more units on the lot if they do WFH as well. Ms. Post asked what the incentives are for a developer to build anything more than all Workforce Housing. If they do mixed use, they get the density bonus for the entire development and not just for the WFH units. Ms. Post asked if there was really an incentive for developers to build mixed income developments. Mr. Okerman indicated that other developers are building mixed income developments. Ms. Scott responded that if a developer does a mixed income development there are incentives in the ordinance such as, density bonus, setback relaxation, roads can be narrower, not as many requirements for facility and amenities, and conditional use permits for landscaping that are not available if it is strictly a market-rate development.

Mr. Keach commented that he is one of the authors writing the states municipal guidance documents on the subject of WFH. He thought relative to this question of density and percentage he would suggest the Town consider the land rather than using an arbitrary number. He went on to say that in the case of a mixed-use development under our current zoning ordinance in rural, res A, B or C districts, that piece of land would yield a finite number of homes. Any number beyond this would be workforce housing and the density bonus provided under WFH ordinance goes toward WFH. Mr. Keach explained how the Town could come up with a good number. Ms. Scott considered this type of approach but ultimately did not propose Mr. Keach's idea for yield plans due to the burden it places on applicants.

Mr. Dubay addressed the Board, saying that he supported Mr. Keach's idea regarding the yield plan. Mr. Dubay said in the past, for measurement, he has used the elderly housing calculations. He said for the purposes of this workshop, we should err on the side of more density than less. We should go to hearing to consider more market rate with a percentage and refine at the hearing level.

Mr. Zohdi, addressed the Board, and indicated he thought we should just establish the percentage of houses based on what the state allows.



The Board decided to use a minimum of 25% WFH units for mixed income development.

Mr. Zohdi went on to say it is good to know what density we can get then discuss the percentage and the density should be decided first. Mr. Zohdi discussed with the Board site-specific soil survey mapping.

Mr. Breton thought the extra step requiring HISS mapping under the density requirement should be removed. Mr. Zohdi asked to change language to remove certified high intensity soils and replace with Site Specific Soil Survey Mapping per the state rule.

Mr. Keach addressed the Board indicating that he agreed the Board was calculating density the correct way using the Site Specific standards. He went on to explain how HISS mapping standards do not plug cleanly into DES lot sizing requirements.

Mr. LoChiatto asked under Applicability about the Village Center District and why it was excluded and thought it should be added.

Mr. Jim Tierney, addressed the Board and questioned why under Applicability, WFH was not allowed in the Village Center District. In addition, also under Applicability he commented about why duplexes would be allowed in the Rural District. He does not believe duplexes are currently allowed in the Rural District. Ms. Scott said under this ordinance, they would be allowed but must meet the criteria of WFH.

Mr. Tierney would like the following changes under Applicability:

- Bullet one should include Village Center District
- Bullet two include Residential A and Rural District and remove duplexes
- Bullet three include Village Center and remove Residential

Mr. Zohdi addressed the Board regarding Zone C and commented that in Windham we do not have land in Zone C that is not already developed. Majority of Zone C is the Department of Transportation or Mammoth Road that is already developed. Mr. Zohdi indicated that to the best of his knowledge any land that might be available is WWPD. He went on to say that in Zone B he doesn't think any developers can afford to do WFH in Zone B which leaves the Town with Zone A and it is practically all developed except for a couple of parcels. Mr. Zohdi believes the only area that can be WFH is in rural district and if duplexes and multifamily aren't allowed then he does not think we can do a WFH development.

Mr. LoChiatto responded to Mr. Zohdi by stating that by state law, we have to provide the opportunity for Workforce Housing and whether the opportunity is utilized is another matter. Mr. Zohdi agreed with Mr. LoChiatto but thought the Town need to

provide an opportunity that his true. Mr. LoChiatto summarized Mr. Zohdi comments by stating that he understands that Mr. Zohdi is suggesting that we provide for more types WFH in the Rural District and in the Village Center District because all of the other zones in Town are either too expensive or already developed.

Ms. Prendergast indicated she understands the rational and part of the law is to allow WFH to happen and the law provides definitions for single and multi family. Ms Prendergast understands that Mr. Zohdi is saying there are too many restrictions in the current proposal.

Ms. Scott responded to Mr. Zohdi indicating that as the ordinance is currently written, he is saying it does not provide realistic opportunities. Mr. Zohdi reiterated his point that the only district the Town for WFH is in the Rural Zone.

Mr. LoChiatto defined attached single family homes as attached dwellings that have individual entries to their own units. A multifamily home is like an apartment house where you have one entry.

Ms. St. Laurent is seated for Rick Okerman 10:15 pm.

Mr. LoChiatto asked Ms. Scott where the Board would like to be with regard to this ordinance. Ms. Scott indicated that to make it most permissive to list the following:

- Developments under this ordinance are allowed under Res A, B, C, Rural Districts and Village Center District.
- Dwelling types allowed under the Workforce Housing Overlay District are single family (attached and detached), duplex and multifamily.

Ms. Scott noted for the Board that the only change would be to allow multifamily in the Rural District and Village Center District.

Ms. Post said she had no problem with WFH Rural District including town houses and row houses, but she does have a problem with multi story garden apartments in the Rural District, as it sounds too urban.

Ms. Prendergast said that the Rural District allows a lot more than housing, for example a school, a hospital or a church can be in the Rural District. Mr. LoChiatto said that the Board should leave everything in the ordinance and let it go to Public Hearing.

Mr. Tierney made an additional comment relative to Condition Uses and he is a fan of CUP but currently we do not have conditionals uses in our zoning ordinances and wondered if this would be remedied. Ms. Scott said this document would allow it and spell out the conditions under which they should be granted. Mr. Tierney thinks we should have one document outlining the role of the conditional use permits.

Mr. LoChiatto asked Ms. Scott if she could incorporate the changes decided upon and move this to public hearing. Mr. Kolodziej motioned to move the Workforce Housing Overlay District document as amended to public hearing. Second by Mr. Breton. Motion passed 7-0.

Motion to accept new business after 10 pm by Mr. Kolodziej. Second by Ms. Post. Motion passed 7-0.

**Public Hearing - 2010 Town Meeting Zoning Amendments**

- Section 503 New Construction & New Uses. Amend Section 503 to remove the exemption for Site Plan Review by the Planning Board for certain types of changes of use or expansions of use.

Mr. LoChiatto read into the record the amendment. Ms. Scott explained to the Board that the bolded striked through writing is the current language to be deleted.

Mr. LoChiatto opened to public hearing. Motion by Ms. Post to accept Section 503 New Construction & New Uses for public hearing. Second by Ms. Skinner. Motion passed 7-0.

No public comment

Mr. LoChiatto closed the hearing to the public. Motion by Mr. Breton to move Section 503 New Construction & New Uses to Town Warrant. Second by Mr. Kolodziej. Motion passed 7-0.

- Section 610.6.1.1 Housing for Older Persons. Amend Section 610.6.1.1 by deleting the words "or to the resident's spouse" in order to conform to State law.

Mr. LoChiatto read the amendment into the record.

Motion to open Section 610.6.1.1 for public hearing by Mr. Breton. Second by Mr. Kolodziej. Motion passed 7-0.

No public comment

Mr. LoChiatto closed the hearing to the public.

Motion to send proposed section 610.6.1.1 to Town Warrant by Ms. Post. Second by Mr. Kolodziej. Motion passed 7-0.

- Section 904.1 Board of Adjustment. Amend Section 904.1 to allow a 30 day appeal period for building permits, as opposed to 5, and to remove the posting requirement of such permits.

Ms. Scott addressed the Board regarding the posting of all building permits to allow the opportunity for appeals. Mr. Breton noted for the Board that he suggested this change three years ago.

Ms. Scott is requesting to reschedule this Public Hearing to December 16<sup>th</sup> in order to make the changes suggested by legal counsel.

Mr. Breton made a motion to move the new language for section 900 to public hearing for the December 16<sup>th</sup>. Second by Mr. Kolodziej. All in favor 7-0

- Appendix A-1 Minimum Lot Area by Soil Type. Amend Appendix A-1 to add language to allow Workforce Housing developments, as defined in NH RSA 674:58, to use NH DES Regulations ENV-Wq 1000 to determine lot sizing.

Mr. LoChiatto read into the record the amendment and Ms. Scott noted an additional change to be consistent with WFH Overlay District regarding mapping.

Motion by Ms. Post to open Appendix A-1 Minimum Lot Area by Soil Type for public hearing. Second by Ms. Skinner. Motion passed 7-0.

Ms. Scott noted that she sent this amendment to legal counsel and attached are the comments from Attorney Campbell. Ms. Scott did not agree with his proposed changes as he was questioning the Board's rationale.

Mr. LoChiatto opened Appendix A-1 Minimum Lot Area by Soil Type to the public.

No public comment

Motion to move Appendix A-1 Minimum Lot Area by Soil Type to Town Warrant by Mr. Breton. Second by Ms. Post. Motion passed 7-0.

- Section 715 Impact Fees. Amend Section 715 to add 715.8.3 which would waive all impact fees for residential units that are approved as Workforce Housing, as defined in NH RSA 674:58.

Mr. LoChiatto read the impact fee ordinance amendment in to the record.

Motion to move Section 715 Impact Fees to public hearing by Mr. Kolodziej. Second by Ms. Skinner. Motion passed 7-0.

Mr. LoChiatto opened Section 715 Impact Fees to public hearing by Mr. Kolodziej. Close to public.

No Public Comment

Motion to send Section 715 Impact Fee waiver to Town Warrant as amended by Mr. Kolodziej. Second by Mr. Breton. Motion passed 7-0.

- Section 602.1.9 Accessory Apartments. Amend Section 602.1.9 to allow accessory apartments to share a common wall or floor with the main dwelling unit or be located in a standalone structure; increase the allowable size of an accessory apartment from 750 to 1,000 sqft and remove the bedroom limitation; to clarify how the outside of the structure should appear; deleted language about foreclosure and other judicial sales; deleted language about common wall areas; added language about driveway design; clarified the septic and water supply requirements; added language about dedicated parking; added language about supplying copies of legal documents to the Town; and deleted language about Variances.

Mr. LoChiatto read Section 602.1.9 amendment into the record.

Ms. Scott noted for the Board she made the changes to the draft document the Board had requested, which was posted for public hearing. Attached are the legal comments from Attorney Campbell. Ms. Scott noted she made two changes Mr. Campbell had suggested and she explained why she did not incorporate other changes that Attorney Campbell had suggested, rather she wanted the Board to review and consider. She went through the changes Attorney Campbell suggested and discussed this with the Board.

Motion by Ms. Skinner to open Section 602.1.9 Accessory Apartments for public hearing. Second by Ms. Post. All in favor 7-0.

Ms. St. Laurent asked about comment number three from Attorney Campbell and whether the word 'accessory' has another purposed other then a dwelling. Mr. LoChiatto said this came under the Customary Home Occupation Ordinance. The change allows an accessory apartment in a detached garage and right now they have to build a breezeway from their garage to their house.

Mr. LoChiatto opened Section 602.1.9 Accessory Apartments to the public.

Mr. Tierney addressed to the Board stating he had an issue with the stand alone structure because it is creating two dwelling units and this is no longer an accessory structure. Mr. Tierney went on to say as a stand alone building is allowed, a second principal dwelling.

Ms. Dunn addressed the Board stating she is in favor of the entire ordinance change except for the wholly contained assessorly building. She is concerned anyone can build a large space and put a 1000 space of accessory apartment. Her request is to take out the section that is wholly contained.

Mr. LoChiatto closed Section 602.1.9 Accessory Apartment to public.

Ms. Post asked why the separate structure request was added. Ms. Scott said because she has had several inquiries from landowners that want to put an accessory apartment in a detached garage and they are unable to do so under the current ordinance. Ms. Post asked if the intent of this language was to apply for a preexisting structure. Ms. Scott said no, that if someone wants to build a small cottage on their land it is still an accessory.

Mr. LoChiatto is concerned with a separate structure. The Board thought rewriting this and adding more constraints would be helpful. Mr. Breton wondered if it could be rewritten as to only remodel a current structure that already exists. Ms. Scott commented that this would be difficult to enforce because once a building is built it is considered existing. Mr. LoChiatto said that at this point he likes the changes except the separate structure.

The language allowing a separate accessory structure would be removed from the ordinance.

Motion by Mr. Kolodziej to move to this to a second hearing on December 16<sup>th</sup>. Motion second by Mr. Kolodziej. Motion passed 7-0

Ms. Scott noted that the meeting for December 16 will begin at 6:30.

Motion by Mr. Kolodziej to move Customary Home Occupations, and the 11/11 & 11/18 minutes to December 16<sup>th</sup>. Second by Ms. Post. Passed 7-0.

Motion to adjourn by Mr. Kolodziej. Second by Mr. Breton. Motion passed 7-0.