

# PLANNING BOARD ROLES AND RESPONSIBILITIES

2009 NH Fall Planning Conference

Presented by:

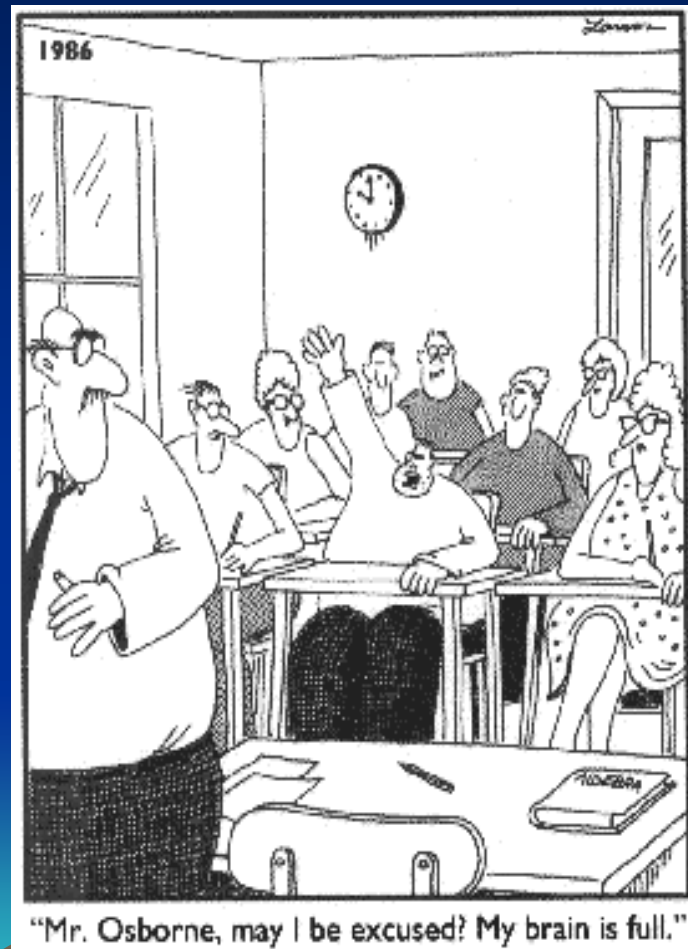
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# TOPICS

- Duties of Planning Board
  - Subdivision and Site Plan Regulations
  - Application and Review Procedures
  - Master Plan
  - Innovative Land Use Controls
  - Conducting a Meeting
  - Affordable Housing
  - Joint Meetings
  - Questions/Comments
- 

# Class Participation



# Opening Comments

Planning Board Members (& Planners) can be:

- Frustrated by inability to do more planning
- Prone to assume worst case scenario
- Unappreciated by unhappy applicants, opponents, or both
- Misled by smooth-talking applicants and presentations



*“We are the Planning Board, not the Wait  
And-See-What-Happens Board!”*

Anonymous Planning  
Board Member



# Basics – Planning Boards

## RSA 673

- Members must be residents
- 9 members in cities, 7-9 in towns with town councils, 5-7 in other towns
- Appointed by Selectmen or elected
- 3 year terms
- May have up to 5 alternates



# Basics – Planning Boards

## RSA 673 (cont'd.)

- 1 year term for Chair; may be re-elected
- Ex officio member cannot be Chair
- Must hold at least 1 meeting per month
- Majority of membership is quorum
- Planning Board designates alternates
- Regular alternates can't fill BOS rep seat



# Basics – Planning Boards

## RSA 673 (cont'd.)

- Members may be removed by BOS after public hearing for inefficiency, neglect of duty, or malfeasance in office
- Need a written statement of reasons for removal
- Board may appoint employees, contract with consultants, accept gifts and grants in exercise of functions



# Rules of Procedure

## RSA 676:1

- Board must adopt rules of procedure (bylaws) for conducting business
- Should address internal procedures such as swearing in of members, organization of Board, time and place of meetings, order of business, who keeps minutes and records, etc.
- Help applicants and public understand the process



# Duties of Planning Boards

- RSA 674:1 – Duties of the Planning Board
- RSA 674:36 – Subdivision Regulations
- RSA 674:44 – Site Plan Review Regulations
- RSA 676:4 – Procedure on Plans
- RSA 155-E:1 – Excavation permits (usually planning board)



# Duties of Planning Boards

- RSA 36:56 – determine if application constitutes a DRI (Don't forget to check RSA 674:53 as well)
- RSA 674:5 – CIP (often by Planning Board in smaller communities, required for GMO's and impact fees)
- Local regulations & bylaws
- Court Cases



# Duties of the Planning Board

## RSA 674:1

- Prepare and amend Master Plan
- Make recommendations for development of community, public structures, municipal improvements



# Duties of the Planning Board

## RSA 674:1 (cont'd.)

- Consult with and advise public officials
- Enter and examine parcels of land
- Recommend zoning amendments



# Subdivision Regulations

## RSA 674:36

- Provide against scattered or premature subdivision
- Provide for harmonious development
- Require proper arrangement of streets
- Provide for open spaces
- Accommodate traffic, access for firefighting



# Subdivision Regulations

## RSA 674:36 (cont'd.)

- Require parks and recreation
- Require land suitable for building without danger to health
- Prescribe minimum lot sizes
- Create conditions favorable to health, safety, convenience, and prosperity



# Site Plan Review Regulations

## RSA 674:44

- Provide for safe and attractive development
- Guard against inadequate drainage, flooding, and pollution
- Provide for harmonious and aesthetically pleasing development
- Provide for open/green spaces



# Site Plan Review Regulations

## RSA 674:44 (cont'd.)

- Require proper arrangement of streets
- Require sufficient streets to accommodate traffic and access for firefighting
- Require that land is suitable for development
- Create conditions favorable for health, safety, convenience, and prosperity



# Site Plan & Subdivision Regulations

- Enforcement
- Outside inspections
- Design standards – architecture, landscaping, signage, lighting
- “Creative plagiarism”



# Edward T. McMahon, The Conservation Fund:

*“Growth is inevitable and desirable, but destruction of community character is not. The question is not whether your part of the world is going to change. The question is how.”*



# Application/Review Procedures

## RSA 676:4

- RSA 676:3 – Must issue written decision
- Must provide reasons if a plan is disapproved
- Regulations should specify what constitutes a completed application
- Board determines if application is complete and whether it is a DRI
- Must act within 65 days or agree to an extension with the applicant

# Application/Review Procedures

## RSA 676:4 (cont'd.)

- Need a public hearing to approve or deny a plan, except minor lot line adjustments
- Can impose reasonable fees for expenses and special studies
- May allow pre-application review of plans
- Preliminary conceptual consultations
- Phase and design review phase



# Application/Review Procedures

## RSA 676:4 (cont'd.)

- Opportunities for notice and participation should not be impaired
- Court review limited to compliance with constitution and regulations
- Court may reverse decision only if error of law or unreasonable decision
- Intent is fair and reasonable treatment of ALL parties



# Application/Review Procedures

- Conceptual discussions
- Checklists
- Staff review
- Outside technical reviews
- Site visits



# Allan Jacobs:

*“One of the things about city planning that a lot of people don’t realize is that an awful lot of the time, it’s not what you see that says it’s a good job. Often it’s what you don’t see.”*



# How To Run A Meeting

- Follow Rules of Procedure
- Stick to the agenda
- Chair should introduce members, read agenda, explain the process, control meeting
- All speakers should be recognized by the Chair and should address only the Board
- Physical setting should maintain order
- Keep all discussion civil



# How To Run A Meeting (cont'd.)

- Prohibit interruptions
- Hear all testimony before commenting
- Avoid taking sides
- Don't bog down in details/distractions
- Allow members to speak but none to dominate
- Chair should sum sense of Board and prod motions



# How To Run A Meeting (cont'd.)

- Follow standard order of business: applicant presentation, staff report, Board questions, abutter comments
- Set time limit for end of meeting
- Use extra meetings if agenda is backlogged



# Dealing With Applicants

According to case law, Planning Boards must:

- Provide assistance and advise applicants
- Apply regulations fairly and reasonably
- Not pre-judge applications (favorably or not)
- Not make arbitrary decisions



# What Applicants Want

- Tell them what information is required and what rules must be followed
- Consistency
- Reasonable costs
- Timely decisions
- Fair treatment





# F. Sherkow:

*“Planning without action is futile, action without planning is fatal.”*



# Master Plan

## RSA 674:1-4

- Planning Board prepares and updates the Master Plan
- Purpose is to guide future development, aid in designing ordinances, achieve principles of smart growth, sound planning, and wise resource protection
- Master Plan is the backbone of growth management system
- The Master Plan is **NOT** a regulatory document but a policy document to guide the community



# Master Plan (cont'd.)

## RSA 674:1-4

- Must include Vision Section and Land Use Section
- May include sections such as:

Transportation

Economic development

Natural hazards

Utility/public services

Regional concerns

Community Design

Implementation

Community facilities

Natural resources

Recreation

Cultural/historic resources

Neighborhood plan

Housing



# Master Plan Preparation

- Data collection and inventory
  - Base maps, statistics, inventories, surveys
- Data analysis and evaluation
  - What do the facts mean?
- Plan preparation
  - Summarize data and analysis
- Plan adoption
  - Public hearing, Planning Board vote



# Charles Darwin:

*“It is not the strongest of the species that survive, nor the most intelligent, but the one most responsive to change.”*



# Innovative Land use Controls

## RSA 674:21

- Open space-cluster-conservation subdivisions
- Impact fees
- Inclusionary zoning/workforce housing



# Common Problems with Open Space Subdivisions

- Open land is often an afterthought – unusable land, not visible from the street, unclear boundaries
- Lots poorly configured – awkward building envelopes, no trees left, closer together
- Finished product looks worse than a conventional subdivision
- Yield plan often overstates # of lots allowed



# How To Get Good Open Space Subdivisions

- Visit other projects
- Make sure your ordinance says what you want (and don't want)
- Educate landowners and engineers/surveyors
- Don't settle for bad projects
- Get outside help



# George S. Patton

*“ A good plan executed right now is far better than a perfect plan executed next week.”*



# Impact Fees

## RSA 674:21(v)

- Purpose is to help meet needs for capital facilities created by development
- Include a list of approved facilities
- Fee must be proportional share of capital improvement costs reasonably related to capital needs created by and benefits accruing to development
- Must have CIP to adopt impact fee ordinance



# Impact Fees

## RSA 674:21(v) (cont'd.)

- Must be segregated from general fund
- May be spent by governing body
- Assessed at PB approval (if needed) or prior to building permit, collected prior to occupancy permit (if no PB approval needed)
- Must have time limit – 6 years maximum
- Project-specific exactions (RSA 674:21V – limited to roads, drainage, water, and sewer upgrades) may be coordinated with impact fees



# Salada Tea Bag:

*“The most efficient way to cope with change is to help create it.”*



# Working With Other Boards

- Share goals
- Hold joint work sessions
- Recognize that each Board has different functions and priorities
- Conflict is inevitable but can be minimized by open communication
- Other ideas????



# Workforce Housing Bill (Ch. 299/2008)

- All municipalities must provide for reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing
- The collective impact of all local land use regulations shall be considered to determine if such opportunities exist (a facial test)



# Workforce Housing Bill (Ch 299/2008) Cont.

- Workforce housing of some type must be allowed in a majority of land area where residential uses are permitted (but not necessarily multi-family in a majority of such areas)
- Existing housing stock shall be accounted for to determine if a municipality is providing its “fair share” of current and reasonably foreseeable regional need for workforce housing

# Workforce Housing Bill (Ch 299/2008) Cont.

- Reasonable restrictions may be imposed for environmental protection, water supply, sanitary disposal, traffic safety, and fire & life safety protection
- As part of the application, the developer must notify the Board that a workforce housing development is being proposed



# Workforce Housing Bill (Ch 299/2008) Cont.

- Planning Board RSA 676:4 plat review (or other process) proceeds as normal
- Upon approval, with conditions, the Board notifies the applicant of the conditions, who then has at least 30 days to identify the cost impact of the conditions upon the economic viability of the project. The Board may then modify its conditions accordingly.
- **EFFECTIVE DATE: 1 JULY, 2009**



# Daniel Burnham:

*“Make no little plans; they have no magic to stir men’s blood and probably will not be realized. Make big plans; aim high in hope and work, remember, that a noble, logical diagram once recorded will never die, but long after we are gone will be a living thing, asserting itself with ever-growing insistency. Remember that our sons and grandsons are going to do things that would stagger us. Let your watchword be order and your beacon beauty.”*



# Resources

- The Planning Board in New Hampshire: A Handbook for Local Officials. NH Office of Energy and Planning. January 2006. [www.nh.gov/oep/resources.htm](http://www.nh.gov/oep/resources.htm) and OEP Annual conferences.
- Municipal Law Lecture Series. [www.nhlgc.org](http://www.nhlgc.org)
- The Job of the Planning Commissioner. Albert Solnit. American Planning Association. 1987
- Your local Regional Planning Commission: <http://www.nharpc.org/>



# QUESTIONS

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