



Town of Hubbardston

Planning Board Meeting Minutes

Location: 7 Main Street, Slade Building, Hubbardston, MA 01452

Date: Tuesday, May 14, 2019

Members Present: Thomas Robinson (Chair), Craig Boissoneau, Kendall Daly, Bill Homans, Alice Livdahl, Francois Steiger (Associate Member)

Members Absent: N/A

Other Attendees: Christina Sutcliffe (Admin)

CALL TO ORDER (6:34 pm) "This meeting is being broadcast live and digitally recorded."

NOTE: Call to Order and Adjourn times are specific times of the meeting start and end times. Any times listed as "Time Stamp" within the minutes are those taken from the YouTube video of the meeting.

Orders of Business:

1. Bill Homans makes a **MOTION** to enter Public Hearing. Ken Daly **SECOND's. ALL IN FAVOR.**
2. Notice of Public Hearing read by Tom Robinson: Pursuant to the provisions of MGL Part I, Title VII, Chapter 40A, Section 5 the Town of Hubbardston Planning Board will hold a Public Hearing on Tuesday, May 14th, 2019 at 6:30 pm in the Town Office, Slade Building, 7A Main St., Hubbardston to discuss the proposed change of Zoning Bylaw Article 7: Special Permits, Section 7.6: Associate Member. The proposed change would modify the current text of the first sentence from:

NOTE: Here Chair deviates from the notice to read from the most updated version of the town warrant (see attachment #3).

So that the sentence will read: "Section 7.6 Associate Member. There shall be one Associate Member, appointed by the Planning Board from among the residents of the Town, per MGL Chapter 40A, Section 9."

This bylaw amendment was submitted by Tom Robinson and is recommended by the Finance Committee and not recommended by the Board of Selectmen.

3. Bill Homans asks the Board to entertain the **MOTION** that the Chair recuse himself because the article was submitted by Tom Robinson. Alice Livdahl brings up the discussion point that the Chair may be considered an “interested party” with regards to representing this warrant article at the meeting. Alice Livdahl further suggests that since this warrant was submitted - not by the Planning Board as a whole - but by Tom Robinson the individual, that Tom Robinson chairing the meeting may be considered a conflict of interest. Bill Homans clarifies his **MOTION** that Tom Robinson “step aside as Chairman as [he is] presenting the article to the Board and let somebody else run the meeting tonight.” Discussion ensues. Chair reads the law pertaining to Planning Board, MCL Part 1, Title VII, Chapter 41, Section 81 (A): “No member of a planning board shall represent before such board any party of interest in any matter pending before it” and states that he reads that as “third party.” Discussion ensues. Tom Robinson asks Alice Livdahl if she would like to run the meeting as chair. She states she would and Tom Robinson passes over the duties of Chair. Point of Order is raised that the **MOTION** still requires a vote. Craig Boissoneau **SECOND**’s Bill Homan’s **MOTION**. The vote is three (3) IN FAVOR, one (1) OPPOSED, and one (1) ABSTAIN. The **MOTION CARRIES**.
4. Alice Livdahl explains to the public the process of bylaw change and the details of this particular bylaw change.
5. Alice Livdahl asks Tom Robinson to present his proposed bylaw amendment, stating that afterwards she will open the floor up to public comment.
 - a) Tom Robinson explains:
 - some history with regards to the Associate Member
 - that the change to the article will bring it into full compliance with MGL
 - that the change to the article will establish the authority of the Planning Board to determine their own Associate Member
 - that the change to the article will ensure that the Associate Member is decided from among the town’s residents
 - b) Ed Blanchard reads a prepared statement of the history behind the article under discussion (see attachment #4) and summarizes that he would prefer to leave in place the “checks and balances” that are
 - c) Deb Reed asks for clarification between the previous wording “designated” and the updated wording “appointed” and it is explained that the change to that word occurred on the warrant after the notices were circulated.
 - d) Mary Robinson states that she does support this change and would eliminate confusion and unnecessary legal expense in the procedure of determining the Associate Member.
 - e) Francois Steiger (present Associate Member of the Planning Board) reads a prepared statement (see attachment #5) that summarizes the history behind the article and his opposition to this bylaw change.
(Time Stamp 38:35)
 - f) Tom Robinson responds:
 - That history should not govern now and they should “forge a new direction” forward

- To the concept that the process by which he submitted the warrant was referred to as not “transparent” by reading the charter with regards to how bylaws are changed (see Francois Steiger’s statement, attachment #5) and states that he followed this process
 - That Francois Steiger is currently running against him in the up-coming election
 - Reads a prepared statement by Vin Ritchie (not present - see attachment #6) in favor of the bylaw change, stating that it will avoid future misunderstandings
 - By offering his interpretation of the presented histories of the appointment of the current Associate Member and the process by which this bylaw was submitted. Discussion ensues.
- g) NOTE: Before the discussion above (item 5,f,#5) between Francois Steiger, Ed Blanchard and Tom Robinson - Alice Livdahl makes mention that the MGL allows the town to determine the process for appointing the Associate Member and does not “weigh in one way or the other.”
- h) Alice Livdahl asks if there are any other comments. Bill Homans makes a **MOTION** “to close the hearing.” Craig Boissoneau **SECOND’s**. The vote is three (3) IN FAVOR. 2 ABSTAIN. **MOTION CARRIES**.
(Time Stamp 57:30)
- i) Alice Livdahl invites each member of the board the option to speak:
- Bill Homans states he was “blind sided” and would have appreciated if the board had worked together to submit this article. Also, personally believes in checks and balances.
 - Craig Boissoneau states that he wishes Tom Robinson had brought the article forward differently. Also feels that the bylaw doesn’t need to be changed.
 - Ken Daly states he wasn’t happy with the process and feels it should be changed.
 - Tom Robinson states that he submitted this bylaw change “by the book;” that the concept of “checks and balances” is a “false issue” with an elected board as the checks and balances of the board are provided by the voters and this correction maintains the board’s autonomy; and that this bylaw change is what he feels as his “obligation to work hard to correct a bad situation” [referencing the resignation by the former Planning Board Chair in response to the process of the appointment of the current Associate Member]
 - Alice Livdahl states that she sees the pro’s and con’s of this bylaw change; feels that the concept of making the Associate Member a resident would be a positive move; does not feel the Planning Board should appoint it’s own Associate Member because of the possible conflict of interest in the Associate Member being appointed by those they may have to fill in for later; feels that the involvement of the Select Board in the process provides a needed checks and balances; so does not feel that the bylaw change as presented is the answer
- j) Bill Homans makes a **MOTION** to “proceed to vote” and that the recommendation will then be written up by the Planning Board Admin. Ken Daly **SECOND’s**. **ALL IN FAVOR**.

- k) Bill Homans makes a **MOTION** to “not support this bylaw change.” Craig Boissoneau **SECOND’s**. The vote is three (3) IN FAVOR, two (2) OPPOSED. The **MOTION CARRIES**.

MOTION to ADJOURN (XXXXXX pm): Alice Livdahl

- **SECOND:** Ken Daly
- Kris Parego asks of the Chair if the Article will still be on the warrant. Alice Livdahl responds that the article will still appear on the warrant, but that the article will be noted to not be recommended by the Planning Board.
- **ALL IN FAVOR**

Action Items:

- 1- Admin to write up Planning Board recommendation to article based on vote.

Minutes Recorded by: Christina Sutcliffe (Planning Board Administrative Assistant)

These minutes were approved by vote of the board on July 10, 2019.

Attachments:

1. Agenda
2. Attendance Sheet
3. Updated Warrant Article Verbiage
4. Letter from Edward Blanchard to the Board
5. Letter from Francois Steiger to the Board
6. Letter from Vincent Ritchie to the Board

NOTE: Attachments are digitally inserted representations of available files. For original documents, see Planning Board Office.

Planning Board Agenda May 14, 2019

Slade Building, 7A Main Street

SUBMITTED ON APRIL 24, 2019 - 1:13PM

Date: Tuesday, May 14, 2019 - 6:30pm

Related Event: [Planning Board Meeting May 14th, 2019](#)

Planning Board meetings and Public Hearings are broadcast live and digitally recorded

- Call to Order
- Public Hearing: Pursuant to the provisions of MGL Part I, Title VII, Chapter 40A, Section 5 the Town of Hubbardston Planning Board will hold a Public Hearing on Tuesday, May 14th, 2019 at 6:30 pm in the Town Office, Slade Building, 7A Main St., Hubbardston to discuss the proposed change of Zoning Bylaw Article 7: Special Permits, Section 7.6: Associate Member. The proposed change would modify the current text of the first sentence from:

"There shall be one Associate Member, recommended by the Planning Board and appointed by the Selectboard."

- "There shall be one Associate Member, designated by the Planning Board from among the residents of the Town, per MGL Chapter 40A, Section 9."
- Matters Not Reasonably Anticipated by Chair
- Adjourn

Posted by the Chairman of the Planning Board

Attachment #2: Attendance Sheet



**Town of Hubbardston
Planning Board Meeting**

LOCATION Slade Building **DATE** 14-May-2019

Sign In - Please Print

Name	Address	Email
ED BLANCHARD	23 EAST COMET POND ROAD	
Kris Parany	151 New Westminster Rd	—
m. Robinson	5 Brigham St.	
Deb Reed	16 Streeter	

Attachment #3: Updated Warrant Article

ARTICLE 27. To see if the town will vote to amend the Hubbardston Zoning Bylaw Article 7, Special Permits, Section 7.6, as follows:

First sentence:

Delete: "recommended"

Insert: "**appointed**"

Delete "and appointed by the Select Board"

Insert "**from the residents of the Town, per MGL40A, Section 9**"

Such that the sentence, as amended, will read:

Annual Town Meeting

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June 4, 2019

7.6 Associate Member

There shall be one Associate Member, **appointed** by the Planning Board **from among the residents of the Town, per MGL Chapter 40A, Section 9...**

(2/3 vote required)

(Submitted by Thomas Robinson, Hubbardston elected official)

(Not recommended by the Board of Selectmen)

(Finance Committee Recommends)

Attachment #4: Letter from Edward Blanchard to the Board (2 pages)

Background and History of Article 28 and 29 on the Town Warrant

Back in 2018 an opening for the Associate Member of the Planning Board became available. Anyone interested could apply to the Board of Selectmen's office. Two candidates applied for the position. The Planning Board reviewed the applicants and voted 3 for Scott Leblanc and 2 for Francois Steiger. Both candidates were invited to a combined meeting of the Select Board and Planning Board. After interviewing both candidates, the Selectmen appointed Francois Steiger. The reason given to not appoint Scott Leblanc was that he had just lost a Planning Board election and the Selectmen felt that someone new to the board was appropriate.

The Chairman of the Planning Board, at the time, Tom Bratko resigned and Tom Robinson as Vice Chair took over the Chair of the Planning Board. Mr Robinson then refused to seat Mr. Steiger as the associate member to the Board. He stated that he had the right to not seat the associate member. Other members of the Planning Board, asked to vote on whether to seat the associate at a regular Planning Board meeting. Mr. Robinson would not allow such a motion to be made. This stalemate went on for three months until it was determined that sending the case to Town Counsel would get a legal opinion on the bylaw. Mr Robinson drafted the letter to the Town Counsel on behalf of the Planning Board. In that letter to Town Counsel, Mr. Robinson stated his personal opinion and not those of the Planning Board. The other members of the Planning Board did not have an opportunity to see the letter till after it was sent. Some members of the Planning Board said it did not represent what the Board had discussed at their meeting. A month later, Town Counsel ruled that the Planning Board had the right to recommend an associate to the Selectmen, but that the appointment was to be made by the Select Board.

At next Planning Board Meeting, Chairman Tom Robinson did not seat the new associate until members of the Board asked that Mr. Steiger be recognized as the associate. During that 4 month period with no associate member, any Special Permit that required a super majority vote would have been at risk. The opinion from Town legal counsel cost the tax payers \$612 according to the Town Administrator.

Articles 28 and 29 are not submitted by the Planning Board, they are submitted by Mr. Robinson as a Town official. As an individual, you or I would have to get 30

signatures to place an article on the Town warrant, but as a Town official Mr. Robinson can place the article on the warrant.

The reason behind having the Select Board appoint people to Boards and Committees is one of checks and balances. Allowing a Board to place it's own associate member allows for Boards to stack the board with friends or those who think like the rest of the Board. The Select Board has appointed associate members to the Planning Board in this way for decades with no problems and we should leave our bylaws as they stand today. Before this hearing is over, I would hope to hear from the full Planning Board as to their recommendations regarding these articles. Thank you for listening, respectfully, Ed Blanchard, 23 East Comet Pond Road, Hubbardston, Mass.

Edward H. Blanchard 5/14/19

Attachment #5: Letter from Francois Steiger to the Board (3 pages)

To: Hubbardston Planning Board members holding hearing on May 14, 2019
From: François Steiger, Associate Member Hubbardston Planning Board
Re: Position on Articles 27 & 28 submitted into the 2019 Town Warrant

I would like to thank the Planning Board members sitting and listening at this evening's hearing for granting me and my fellow citizens of this town a voice in opposition to the articles under consideration at this evening's hearing.

The proposed articles submitted by Mr. Robinson to change the Hubbardston by-laws, are the result of a 2018 challenge to his and the prior Planning Board Chairman's interpretation of MGL, the Town of Hubbardston Charter and Bylaws regarding my appointment to the position of Associate Member of the Hubbardston Planning Board. A narrow and erroneous interpretation by Mr. Robinson of the MGL, the town charter and town bylaws, created to an unprecedented impasse for the town's Planning Board members, due to his steadfast opposition to address the situation and disallowing any progress to take place to resolve the matter of my appointment to the Planning Board.

I remind you that Mr Robinson was forced by the other members of this planning board to request town counsel advice on this matter, however Mr. Robinson took it upon himself to write a one-side opinion letter on this matter to the attorney overseeing the matter and mischaracterized said opinion letter as representing the voice to the town's planning board.

The articles being presented at this hearing by Mr. Robinson and his past actions on this matter go to the heart of why the articles must be opposed.

First - The bylaws have been in place and have been effective to this town for many years, including in 2018 when for the first time in memory the Select Board decided that the not unanimous Associate Member recommendation presented by the then Planning Board members was not a well guided recommendation. Other than in 2018, past Associate Member recommendations from the Planning Board had always been approved by the Select Board, resulting in the appointment of the recommended candidates. History clearly demonstrates that there is no inherent malintent behavior by the Select Board of not appointing the candidate recommended by the Planning Board.

Second - I am sure all are well versed on checks and balances, which by the way does not only apply to Federal government but also applies at state and municipal levels. In essence it provides counterbalancing influences by which an organization or system is regulated, typically those ensuring that political power is not concentrated in the hands of individuals or groups, especially when it comes to special interests. The articles Mr. Robinson has proposed go fundamentally against these checks and balance that were put in place some time ago by the wise individuals who drafted the town's charter and bylaws and I therefore question the intention of Mr. Robinson's actions by proposing the articles to remove this protection.

Third - These articles are being presented into the town warrant in a legal albeit a very unusual manner by Mr. Robinson. A fully transparent route would have been to use the body he chairs in order to address modification to the bylaw in question or alternatively to submit the articles by means of a citizen's petition, which requires a modicum of 10 Hubbardston residents to include article in the town warrant. Instead Mr. Robinson used the least transparent way to submit these articles into the warrant, namely the privilege of being an elected town official to submit the articles. Is it legal? Yes, but I again question Mr. Robinson's intentions in using the least transparent way to put these articles into the warrant.

MGL - Title VII Chapter 40a, Section 5 states that "The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review."

I respectfully raise my objection to the process used by Mr. Robinson, the acting chair of the Hubbardston Planning Board, who himself initiated the scheduling of this hearing, but bypassed a required prior review of the articles being presented at this hearing by the Planning Board body as required by MGL Title VII, Chapter 40a, Section. Mr. Robinson is not allowed to pick and choose sections of the law that are convenient in the process for submitting articles to the town warrant.

This procedural defect, in my opinion, violates MGL, rendering the process defective and should invalidate the articles for submission at the Town Meeting that is to be held on June 4, 2019.

I respectfully request that the members on this board to **not recommend** the articles presented in this hearing and to caution the Town Administrator and Select Board as to the defect in the procedure used by Mr. Robinson to submitting the articles for the town warrant, a process he himself managed and is himself responsible for failing to follow the process established by law.

Respectfully submitted on May 14, 2019.

François Steiger
Associate Member, Hubbardston Planning Board

A handwritten signature in black ink, appearing to be 'François Steiger', written over a light blue circular stamp or watermark.

Attachment #6: Letter from Vincent Ritchie to the Board

Vincent K. Ritchie
1 Ed Clark Rd.,
Hubbardston, Ma. 01452

May 14, 2019

To the Town of Hubbardston Planning Board

Please accept this letter as my testimony in support of the proposed change to the Hubbardston Zoning Bylaws Article 7, Section 7.6: Associate Member.

As provided by MGL Ch. 40A, Section 9: Special Permits, the Town voted the current bylaw wording. The Planning Board, at that time, felt that the wording of the current bylaw would allow the elected officials on the Planning Board to choose the Associate Member by nominating that choice to the Selectboard who would then confirm the selection by appointing that nominee as Associate Member. A process that would be consistent with MGL and honor the positions of both elected bodies.

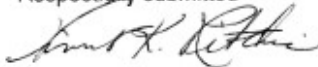
This procedure worked for several terms in the past and has resulted in many capable residents being chosen and appointed as the Associate Member.

It is my opinion that one elected body should not impose it's will or power over another elected body. While the Town of Hubbardston Charter gives the power of appointment to the Selectboard I do not believe it was intended to over rule other elected committees. If the Selectboard does not respect and support the wishes of another elected body then they are disrespecting and ignoring the will and mandate of the residents who voted for the other elected committee, whether it be the Planning Board or the Board of Health or the Finance Committee.

When a situation like this occurs I believe it is appropriate and necessary to change the terms of either the charter or the by laws to correct it and insure such a misunderstanding does not occur again.

I therefore support and endorse the proposed Zoning Bylaw Change.

Respectfully submitted



Vincent K. Ritchie