

**VERBATIM Minutes**

**Call to Order:** at 6:40 p.m. by J. Dube, Chairman.

**Members Present:** Jeremy Dube-Chairman, Bruce Holmes, Jeanne Crouse, Bonnie Dunbar, Tom Hoopes, Jim Bureau.

**Members Absent:** Cindy Balcius, Wally Keniston, Cris Blackstone

**Others Present:** Peer Kraft-Lund – Interim Planner, Monica Jerkins-Planning Assistant and Jennifer Fortin-Recording Secretary

**Appointment of Alternates:** Bonnie Dunbar and Jim Bureau.

**Approval of Agenda:** Motion made by B. Holmes to move Amendment #12 to the beginning of the meeting, seconded by J. Crouse. Motion passed with all in favor.

**Public Input:**  
None at this time

**Amendment # 12:** As petitioned by a citizen's group, the Planning Board will hear public testimony regarding a proposal to amend Article 600, Section 603, Personal Wireless Service Facilities Ordinance.

Alden Norman – I am here to represent the interest of the petitioner's and speak on their behalf. We have submitted to the town a petition to amend Ordinance 603, Personal Wireless Communications Facility. The thrust of this petition is to put before the Alton voters in March 2007 a warrant article calling for amendments to ordinance 603. The proposed revisions of the ordinance are three fold: 1. protect and preserve the view sheds, scenic vistas, and the unspoiled pristine natural beauty of our town by referencing specific areas of Alton; 2. provide in the ordinance protective provisions and safeguards for our property owners, townspeople; 3. regulate against permitting of cell towers in Alton's four residential districts and confining cell towers to the outlying unpopulated rural region's of Alton. Let's first review the town's experience in trying to administer ordinance 603 of the last 8-9 months. Numerous hearings have been conducted by the Planning Board and the ZBA pursuant to an application calling for installation of two 120' towers.

J. Dube – We can't address any of these cases that are still pending and I feel both cases you are referencing to are still pending. I am just making you aware that I don't want any direct comments that come about those cases please.

A. Norman – I am commenting about those proceedings that have ensued these last 8-9 months. The testimony and exchange of views have been very interesting and at times quite suprising. In particular I recall a Planning Board member suggesting towers could be located on Barndoor and Rattlesnake Islands.

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J. Dube – This is being specific to these cases. You are saying the Planning Board mentioned this to those specific sites, Mr. Norman, that is specific to these cases that is testimony that was at these cases. You have to be very careful about this and we cannot do that.

T. Hoopes – The difficulty is we are involved in an ongoing case if it is discussed by the Planning Board members.

A. Norman – Isn't this a public hearing to offer testimony in support of a petitioned article that is a legal document. I am not speaking to the Planning Board, I am speaking to the Town of Alton.

J. Dube – I am the chairman and I am in control of this meeting and I have been advised by the town attorney that we cannot have anything that specifically relates to anything that is ongoing and these cases are both ongoing. I don't have any problem with anything you have to say as long as it does not relate directly to these two cases.

A. Norman – I will rearrange my comments to this extent. I will recall some comments from Planning board members suggesting that things could be pursued in the consideration of the two cases under consideration. Is the board serious about sacrificing the beauty of Lake Winnepesaukee? I also question whether Planning Board members can comment publicly that the ordinance and its height above the tree canopy is inappropriate, the 10' limit works quite well in the Town of Wolfeboro. I can also comment that during the course of these proceedings, the applicant.

J. Dube – You are still saying during these proceedings, we cannot comment about these cases, how many times do I have to repeat myself. You need to comment directly about the ordinance and what you want to change about that ordinance.

A. Norman – I have noticed in ordinance 603 there is very little if any consideration for our residents. It was promoted and recommended to the townspeople by the Planning Board as a regulation quoting from the warrant article "to improve wireless service in the area and provide alternative to tall towers with less visual impact upon the town" the build up of support calling for the passage of the new ordinance 603 even involved lobbying of voters as they went to the polls, however the proponents of 603 failed to alert people that towers could be located virtually anywhere in town. I question the motive behind the board's action or perhaps inaction and wonder why there was virtual total disregard for the potential impact on abutters and neighboring property owners in the more populated residential districts. Nowhere in 603 will you find the word abutter or the expression neighboring residents. Nor is there mention of protection of property owner's rights. Zoning Ordinance are supposed to be written to protect the town and its citizen's. The new ordinance was represented as a bulletproof regulation that would stand up to its adverse claims by the applicants during the permitting process on a follow on proceeding in court. In practice, the first crack out of the box, a 120' tower was allowed on Robert's Knoll Campground.

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J. Dube – Mr. Norman, we cannot address these things. It is still ongoing and there has been no approval given and I have asked you to please stop mentioning cases that are still ongoing, is there something that you do not understand about that?

A. Norman – I will skip through and I am very disappointed in you cutting me off.

J. Dube – I am very disappointed also that you cannot listen to what I am asking you to do very nicely.

A. Norman – Is it not a fact that the Robert's Knoll Campground was permitted?

J. Dube – Mr. Norman, I cannot comment on any ongoing cases with this here. I do not comment to anybody and it is not something I am doing just for you. That case is still in front of the Planning Board pending.

A. Norman – The petitioners believe that changes in ordinance 603 are in order, Attachment A to the petition sets out the proposed revisions to the ordinance as follows: 603.1 Purpose – calls for striking the first two paragraphs and inserting new language to protect view sheds and hilltop appearances of 13 notable land mark hills and mountains in town. This language is derived from the old ordinance 270 that was in effect from 1999 through 2005. The revision also incorporates language to preserve scenic vistas and skyline views of prominent areas of town such as Alton Bay and 10 other protective provisions safe guarding abutter's interests in retaining the scenic beauty of our town. This is an important point – Nowhere in 603 will you find the word abutter or the expression neighboring residents, nor is there mention of protecting property owner's rights. Zoning Ordinances are supposed to be written to protect the town and its citizens. Section 603.1 – there is a paragraph stating this amendment would supercede ordinance 603 as passed in March 2006, Section 603.4 – District Regulations – calls for striking the first sentence of Section 4.1 and replace it with new language that disallows permitting of cell towers in Alton's four residential districts and further stipulates that permitting shall only be allowed in the less populated outlying areas in the Rural Zone. Alton has a landmass of over 41,000 acres and about 80%-90% or over 30,000 acres comprises the Rural Zone. There is ample room to accommodate multiple, unobtrusive installations without disruption to our residence. Section 4.5 Provides new language to reiterate prohibiting towers in all zoning district except the Rural Zone. Remember the Rural Zone has 80%-90% of the total land area in the town. All other provisions of ordinance 603 remain unchanged and with a tower height limitation of 10' above the tree line still intact and when coupled with the proposed amendments we are putting forth, they would in combination constitute an improved ordinance for the Town of Alton for what counts most, our townspeople. Obviously we urged the passage of the amendment in the upcoming March election. I would be happy to submit to Monica a written copy of my comment, although they were abbreviated significantly by the Chair's ruling. I will also bring to the board's attention there was a slight typo error in the petition Section 603.1 E – where the word soils should of appeared instead of the other expression. I am going to urge the board to listen to these comments, Ordinance 603 has throughout the writing unilateral discretionary privileges for the Planning Board where you can interpret and make rulings that vary considerably. I have heard people talk that the 10' level is not appropriate, it

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was interjected maybe it should be 20', that is not the role of the Planning Board once the voters adopt the ordinance.

J. Dube – The Planning Board does not make those decisions. That is what the Zoning Board is for and that is a public right to go and ask for relief from that.

A. Norman – That is the variance process which is a separate item. The Planning Board at times has been on record to suggest the 10' limitation of the ordinance is not appropriate.

J. Dube – If that has been said that wasn't the Planning Board but a specific member.

A. Norman – It was cited early at one of the hearings in October and later confirmed that last ZBA hearing.

T. Hoopes – It was stated not by the Planning Board but by an individual member.

A. Norman – I am trying to make the point that discretionary rulings by the Board should not be part in passing the ordinance. An ordinance should be written in explicit terms stipulating the regulations that must be followed by applicants pursuing permission to do something in town, it should not be subject to arbitrary interpretations by you but the applicant has always open to him the option of pursuing a variance, if there is non-conformance with the provisions of an ordinance. It is not left to the Planning Board to interpret it or change his application let the application stand and let the applicant if denied by the Planning Board seek relief through the variance process with the ZBA. ZBA has New Hampshire law criteria to consider and grant a variance and that is pretty much a matter of record, it is pretty comprehensive and serves the public's interest quite well. An ordinance is for the protection of the town and the protection of its citizens.

T. Hoopes – It is very clear within the ordinance we do not use the word abutters but we use the word citizens and we do protect the viewscape. Section 603.4, 4.1 – An applicant shall demonstrate to the Planning Board that the facilities effect has been minimized on the view shed containing the facility and that the facility will not visually dominate any view shed in the town. The whole purpose in writing an ordinance is that it has to be written in such a way that it can stand up in court and the difficulty we are dealing with, with personal wireless facilities is this is not something that will go to the local court, it will go to federal court. It has to be written in such a fashion that we can honestly protect the town. There was a great deal of effort spent on this ordinance an a lot of review that was done with it, the former ordinance that we had was abandoned for an extremely good reason, it would not have held up in court. The idea was after a great deal of review that we wanted to get something that gave really good coverage and good protection to the citizens of the town.

A. Norman – the words do not express any recognition of property owner rights or the prospect for concerns over their property values being diminished, it is just not in the ordinance.

J. Crouse – I believe in the zoning ordinance there is no specific mention of abutter or property owners rights in any of the ordinance and while you have objected to the views, I am an

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abutter so it is my property values. Abutter's property values and abutter's rights are not addressed in the zoning ordinance; they are addressed in other ways. They have to comply with the rules.

A. Norman – Your zoning ordinance pertaining to residential construction covers issues like you suggest.

J. Crouse – Not abutters and the zoning ordinance also covers the construction of personal wireless facilities in the Town of Alton for the best interest of the citizens.

A. Norman – Would you concede that an ordinance, as a writer of ordinances, that one of the principle objectives in writing a good ordinance is to protect the town and protect the citizens.

J. Crouse – What you are forgetting is the area that the federal government stipulates what is allowed and what isn't allowed and it is also by evidence by various testimony in the best interest of the town's citizens to provide coverage.

A. Norman – We have submitted what is now considered a legal document and we are looking forward to the article being put on the warrant article and we of course will continue our efforts to convince the voters it is in their best interest to amend 603 and incorporate provisions to protect a lot of the magnificent features of this town and to further protect the owners rights throughout.

T. Hoopes – You should meet with someone from the municipal association in the law series to try to discuss what will stand up on court and what will not.

A. Norman – The legal document is being and we are going ahead with the vote. Everyone has come up with these high-powered words, it is constitutional, it is bullet proof, when it failed its first test.

T. Hoopes – We obey the rules in this town according to what the town attorney as he reads, he interprets, and he is defending the town, so whenever we have anything that we are putting forth it is never even looked at until he has gone over it.

A. Norman – This thing has been around since 2004.

T. Hoopes – Not before the Planning Board.

J. Dube – There is no more discussion on this and no more on this thing either.

J. Dube – The Planning Board for the public has absolutely no discretion in that decision. The Planning Board is only allowed to allow 10' no more that is all the Planning Board can do. It is black and white, if the applicant's need to seek relief they have to go an alternate route. At this point I will open it to public.

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M. Perry – I am concerned with this petition in that it proposes to put the cell towers in just one and that is exclusionary and I think I would be very concerned about legal implications of this and how much is the town going to pay to fight these types of cases if we are so exclusionary.

J. Dube – The town attorney also has the same concerns for that and the enforceability of this and the fact that it excludes many things. The whole reason we went to an ordinance like this is because we had an ordinance before that excluded many places, which was not legal and not defensible in court.

A. Johnson – I have a few issues with the proposed amendment change and one is that it talks about protecting and preserving hill top appearances and talks about preserving the view and skyline. I think if we are going to limit and look at hill top appearances and views, I think the town should look at some of the houses and locations that we are seeing. Most of these residents that signed the petition are all waterfront or lakefront residences, they might get good cell service but this does not help in any way to protect the general public safety and welfare by excluding the towers in some of these locations. I believe that this is something that we need and I think that the petition the way it was is fair and I think that this petition is going to restrict the amount of cell service that we get into the community and I don't believe it should be accepted.

T. Hoopes – We have contracted with a service to provide a study on view shed areas so this is something that would be used not only with view shed but the placement of many different things within the town so in order to decide where you put things you want to know what can be seen from where and what kinds of impacts it will have.

A. Norman – I estimated the town to have 80%-90% rural I think it is closer to 90%, there is ample area in the town in the outlying no populated areas where towers could be installed in an unobtrusive fashion.

J. Dube – That is enough Mr. Norman. If you want to have an argument this is not the place to do it. If you want to comment more about the ordinance that is fine but we are not going to talk about the case.

T. Hoopes – The purpose of the ordinance was to make coverage within the town vastly increased and to make the facilities as invisible as possible. The important part of this is you are supposed to design the system so you are first another building as a disguise, if there is no way you can use one of those then you are permitted to have a facility that is invisible.

A. Norman – Invisible along the skyline view.

T. Hoopes – there are some very good disguises in the trees today.

J. Dube – Section 603.7:F it does show you need 150' buffer around that and that is to help the abutters from the visual effect of those towers.

A. Norman – Why wasn't it 1-mile or 1 ½-mile? 150' is only 50 yards but I heard.

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J. Dube – Mr. Norman we cannot talk about the case.

T. Hoopes – there are a lot of different rulings already from federal court about the FCC '97 law and we have to abide by those, we cannot arbitrarily restrict, we have to allow coverage but you can regulate how the community handles the coverage and what it appears as.

J. Dube – Tom that is not appropriate and that is not for us to discuss.

A. Norman – The variance rulings by the ZBA are all pursuant to NH Law, I don't worry about that.

M. Perry – I would like to take exception to that Tom. One thing with this the more things that are stipulated, the more places here the more likelihood that this goes before zoning and zonings prerogative is to look at each individual case so you are forcing more to go before the ZBA for variances, this is too restrictive and it isn't a good regulation if every single case has to go before zoning.

A. Johnson – Looking at the list of hillsides, mountain tops, Alton Mountain, those are all the high ground and I am not saying that the towers need to be on the high ground there but if you force the towers at 10' above the tree lines to be out in the valley's you just should throw them out all together because you are not going to get the radio transmissions out.

J. Dube – 2 minute break to change videotape.

A. Norman – I do know that technology does not stand still. We need to take into consideration of what is ahead of us not the past.

A. Sherwood – The previous zoning was only on four hilltops, the old ordinance guaranteed that any new tower would be tall towers on top of those peaks and it didn't allow for towers anywhere else. It is clear that the concept didn't stand because the towers in those locations wouldn't provide coverage for the whole town. One of the primary reasons for the ordinance in fact was to look ahead to the future and new technology. Initially it was to provide coverage but eventually it is to provide capacity. There is protection on screening, noise and providing a buffer and there is also direct protection against the viewscales. The proposed ordinance change specifically excludes the Lakeshore Residential Zone and they have thrown on the other "Residential Zones". I would like to point out that almost all of the subdivisions in recent several years have been in the rural zone. It is only called that as a leftover from a long time ago, about 90% of Alton is the rural zone but that is where most of the subdivisions are going in and that is where the future is going to be in terms of population of the town. This is snob zoning at its worse for them and I hope that this board puts a recommendation on the warrant article not to recommend this. This is dividing people in that exclusive zone against the rest of the town; I think it is really bad to put one group against another group. This board didn't do that on purpose.

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A. Norman – it is not about the Lakeshore Residential Zone that is a part of the proposal but there are four residential zones and nowhere do you see cited in the changes that the Lakeshore Residential Zone is given any preferred treatment. We are not trying to discriminate one zone against another but I would suggest to you that it is less populated.

T. Hoopes – All the zones in this town are residential. The purpose of having the facilities available in all zones is because people live in them and you want to have the telecommunication services available to the people who are in the Lakeshore, Residential, Rural, all of the zones, if it is removed out to the Rural Zone it is not going to be as good as coverage. If these facilities are not visible there is not going to be an impact.

A. Norman –I would suggest some day the board members take a trip down the Jersey Turnpike or Route 95 South to Florida and you will find a network of high towers with 6-7 antennas all located in non-residential, non-populated areas along the interstate.

B. Longabaugh – In going over things you say 90% of the town is rural and towers would be permitted there then we have this long list to protect and preserve the hilltop appearances do I interpret that all of those places would be off limit for towers.

A. Norman – Not preclude putting those towers on those hills or close to those hills, but through camouflage, tower height limitations and other considerations you would not ruin the view sheds. All we are saying is protect the view sheds and scenic vistas.

T. Hoopes –If it not precluding the use of these hills I see no need to mention the individual ones.

A. Norman –Tom define a viewscape.

T. Hoopes – Viewscape and skyline are similar they are not exactly the same. The viewscape is what you see from a certain point, the skyline is what you see of the hill line. The ordinance says that the applicant will demonstrate visual impact of the proposed facility by using a crane test and balloon test. The applicant should demonstrate to the Planning Board that the facilities effect has been minimized on the town.

A. Norman – That all pertains to the viewscape of the skyline of the tower. There are other considerations.

J. Dube – Beside the view and appearance, is there any other benefits to the town that your revision offers the town such as public safety.

A. Norman – We are suggesting changes to confining the towers to the unpopulated rural regions of town 90% of the land mass where they could be installed in a network, repeater towers or whatever that they would be less obtrusive than they would if they were bolted in a residential area where there are neighboring residents.

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T. Hoopes – There are a great many people if you want to add up the numbers of people who are residential in the rural zone.

A. Norman – you know the background of our petition, what our objective is, and whether to put it before the voters in March and we are prepared to talk at the deliberative session, which I presume will be in front of a public hearing. We regret that in past deliberative sessions you might have an attendance of 30-40 people, tonight we may 8-10, that is sad but we will handle it one way or the other.

A. Sherwood – Zoning articles will not be debated at the deliberative session, the public hearing for those is what is going on now. The first page of the proposed change, Mr. Norman has admitted that there is nothing in here new relative to protecting those, the protection is based on what is currently in the existing ordinance and this is just some pretty words up front, his change doesn't do anything to protect those hilltops other than what is in the current zoning. I think he has also acknowledged there is quite a bit in the current zoning to protect those. I think the feeling of the petitioners is that the zoning ordinance is pretty good the way it is currently written as long as it is not in their zone.

A. Norman – Mr. Sherwood seems to persist that it is “our zone” it is the town for residential zones that these amendments are crafted for. It started with the Lakeshore Residential because the initial thrust of the applicant's proposal was to impact Alton Bay and the Lake. The words speak for themselves; they pertain to all four residential zones. I would appreciate you not continue to make reference to Lakeshore Residential, that is not the purpose of the amendment. Perhaps if you lift your views a little bit.

T. Hoopes – The petitioners are listed as people from Lakeside, Cedar Cove, Black Point Derby Side, Echo Point, Route 11D, Woodlands Road, that is predominately the Lakeshore Residential. You have Lakeshore Residential, Commercial Residential, Rural Residential, Rural the rural zone is also a residential zone so don't refer to it as not a residential zone and I don't think you are aware of how much activity there is in the rural zone.

A. Norman – I am not blind to the developments going on Tom, let's be honest with one another, the citation in there about protecting the Lake Winnepesaukee areas. The petitioners are not from those areas.

T. Hoopes – I am referring to the people you have listed in your reference here.

A. Norman – What people?

T. Hoopes – Listed names

A. Norman – They volunteered, but nowhere in the petition itself and the proposed amendment language are they identified or talked about.

T. Hoopes – If people don't understand what the ordinance really says and once the case is over people will understand how the rules work.

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A. Norman – They could build on hilltops with smaller towers and apply for a height variance.

T. Hoopes – The reasoning we specifically removed the listed names from the old ordinance was because we didn't want them there and it made it very difficult to defend this ordinance in court.

J. Crouse – I would like the board to take note of the fact however that while it has been stated over and over again that an applicant can go to the ZBA for a height variance, an applicant if this proposed revision were accepted could also just as easily go to and have legal right because of coverage and capacity go to the ZBA and request to put one in Lakeshore Drive, request to put a personal communications facility, those are the words we use and residential commercial, they can still request for a variance, this doesn't do anything to stop it or prohibit it, it just makes the ordinance less tight.

A. Norman – I agree with your observation yet you are overlooking one factor, it is incumbent on all applicant's to demonstrate their detailed investigation of all sights and obviously the changes to 603 would lead them into the direction of the rural zone. If they can demonstrate and it is an obligation they have it is incumbent on the applicant to demonstrate that they cannot handle it elsewhere.

J. Bureau – These mountains and hills, roads and corners, how many of these listed are in the rural zone?

J. Dube – It is concerning to me about the proposed amendment where under A. it goes to list protect and preserve the hilltop appearances of, it does not say to protect and preserve the hilltop appearances of but not limited to, so what we have is a direct list of things that are limited but there could be other places in town that are just as much if not more important and now they are not listed, what is going to happen is someone will come in and say that is not on the list so we don't have an issue there but we will have an issue and the way our ordinance is now it protects every place in town and that was the intent of the ordinance and that is what it does. What your list does is protect a certain amount of bulleted areas that you and the other petitioners have come up with but you have missed areas in town that are going to come up and we were thinking about the whole town when we did this not just a short bulleted list and everyone is effected by it.

A. Norman – It does not limit these.

J. Dube – There is no language to say it is not limited to that and that is the language you need in an ordinance.

A. Norman – This is an ordinance that cites that these areas should be protected for the view sheds, scenic vistas, and we just numerated some of the hills that were part of the previous ordinance.

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J. Dube – If it comes through and it is what the townspeople want I would hate to see we lost ground that we already have with the wording “not limited to”.

A. Norman –I don’t see that there

J. Dube – That is the point. It should be there.

A. Norman – I would suggest to you that the balance of the provisions in ordinance 603 as it reads today provides protections for lots of areas, what we are trying to do is limit the area under consideration by applicants to the rural zone outside the residential zones. Anywhere in the rural zone would be subject to the provisions now in ordinance 603. This is not the final word.

T. Hoopes – I think the point we are trying to make though, is that every scenic vista should be protected.

A. Norman –There are provisions in ordinance 603 that do that.

M. Perry – Looking at the last two restrictions 603.4 and 4.1 location personal wireless facilities shall only be permitted in the rural zone and under 4.5 locations for ground mounted facilities, ground mounted personal wireless services shall be prohibited in all the zoning districts except for rural, if that isn’t snob rule, I really hope that the board will not support this petition.

A. Johnson – If you look at the addresses on this petition change between the Trask Side Road, Route 11D, and look at the hillsides and vistas they are looking at or mentioned, all of those are visible from those locations of the petitioners.

A. Norman – We don’t have pride of authorship we merely captured the language of the previous ordinance 270 that survived 5-6 years of life in the Town of Alton and some towers were built. We are not aiming at any specific areas, your ordinance 603 is broad enough that all areas in the rural zone, the unpopulated rural zone, the bottom line is get them away from the residential concerns.

T. Hoopes – In 1997 when the FCC passed its law, local towns, cities, and other places were scrambling to try to react to this, it was two years before Alton responded because there was activity coming towards the town and as a last minute ditched affair the previous ordinance was adopted in what people thought of as the farthest outlying areas. It turns out that we impacted the greatest number of people by having these up on top of hills and mountains. We would have them in other locations as well today except for two landowners refused access to these people. The FCC was saying that was far too restrictive and if you don’t allow better coverage in the town than your zoning ordinance will be over turned. To say that you are reverting back to the old language of a previous ordinance that would not stand up in court today and the reason that we re-wrote it was because it was totally invalid. We were trying to bring decent coverage to the town.

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A. Norman – We proposed the amendment to capture some of the language in the other one. The citing of the hills and referencing of the areas are designed to protect view sheds and scenic vistas in the more prominent areas in town. There is nothing wrong with that.

J. Dube – Public input closed

J. Bureau – It seems that going back to the old ordinance where it wouldn't hold up in any court case.

J. Dube – The reason that we shied away from the old ordinance is a fact that it wouldn't hold up in court and that is what our town attorney wanted us to do was to develop a new wireless facilities ordinance and we came up with something that was defensible in court and still allow the town to have coverage and protect the people in town. The old ordinance didn't do that. I stand by our ordinance.

B. Dunbar – I think Jim needs to know that we have had people come and speak to us about this ordinance and we adopted a model ordinance tailoring it to our needs and it was an ordinance that has held up in court a few times with Amherst.

T. Hoopes – I think if you restrict it to the rural you are going to lose any potential coverage that the Lakeshore Residential and there were a lot of people who testified who wanted to have coverage. If we hold strong and we ask people to conform to the existing zoning that we have proposed and they put in a system or network of different places I think we can get extremely good coverage but to get coverage for the western side of the lake you have to have some tower with visibility at a certain level from the eastern side and vice-versa because it is down in the valley and you can't get decent coverage any other way. In order to get better safety for the entire town I think we need to allow it in every single zone and really stick to the regulations.

B. Holmes – I live in the rural, I do think that this is singling out a zone and if these are all listed mountain tops and hilltops the way it does read someone would confer that you could out 150' tower on something that is not on the list.

J. Crouse – As the chairperson of the subcommittee that prepared the ordinance that was presented to the Planning board last year I can attest to the fact that a great deal of effort went into crafting that ordinance to ensure that we had as much as we could possibly have covered and that involved talking to different Planning Boards, Planners in different towns, it involved talking to people in the community and the consultants that the Planning Board had hired. I think the ordinance to the best of our ability covers the view sheds because it limits the height and it does not allow for telecommunication tower it allows for wireless facilities and that was a very clear distinction. Everything is to be camouflaged and it is allowed everywhere to provide the best possible service for every resident in Alton.

**Motion made by T. Hoopes to not recommend the petition article that has been presented to the Planning Board, we let Amendment #12 go forward and not recommend it, seconded by B. Holmes. Motion passed with all in favor.**

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**Amendment # 9:** The Planning Board proposes to amend Article 400, Section 443, Residential Commercial Zone – Restrictions Governing Use, and Section 452, Rural Zone – Restrictions Governing Use, to add the following language regarding building size limits: ***No building used for retail or wholesale sales shall be greater than 25,000 square feet.***

Rationale: The purpose of this amendment is to limit the size of new proposed retail or wholesale sales buildings in the above referenced zones. Continued discussion from December 27, 2006 hearing.

A. Johnson – NFPA is very specific about fire protection for commercial buildings. Depending on what it is whether it is a big box store, they're governed by hazards and what is contained in the building, the construction of the building (concrete, steel, wood) all of those things are taken into consideration when NFPA looks at hazard classifications for commercial buildings. Once they decide what we are going to have in a building it doesn't make any difference what the square footage is the fire protection systems the fire alarm systems are built and designed according to the structure that it is going to be going in. Depending on what the building is square footage doesn't make a difference.

J. Dube – I spoke with Jim and spoke to him about changing the number and Jim said that is not the type of factual evidence we need to show for that type of ordinance. It is usually part of an ordinance and it is addressed in the Master Plan, which our new Master Plan that will be coming out will have that addressed in it. You can limit the square footage if you have a good piece in the ordinance a good way to do it also is by appearance of buildings and to come up with some sort of calculation on the lot it is on, something that is backed by some data. His opinion on what we had was that he could not enforce that and he said we need the scientific data behind it.

T. Hoopes – So until we adopt the new Chapters there is nothing we can do.

B. Dunbar – We also need to do an Economics Chapter in the Master Plan and that hasn't been done since 1985.

J. Dube – I will re-open this to public.

Reuben Wentworth – I am for the 25,000 sq. ft because less disturbance of wetlands, it would require less storm water run-off. If they build more stores the fire department will need more equipment, more manpower. This had nothing to do with competition.

T. Hoopes – I think you need a certain amount of justification for anything.

R. Wentworth – If we don't do something, something is going to be here. Alton seems to move after the fact not before. I think if we don't do anything we are putting a spear in Alton's heart. I think if we don't try to save the character of this community and integrity it was built upon and what it stands for today I think that is what we will lose if we don't do something to try to control the building in retail and wholesale, etc. No matter how you do it you are going to have legal fees, court costs, etc but it doesn't hurt to protect the town.

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M. Perry – I am disappointed to see this on here now without a lot more homework done for the size of this. I think we have to prepare ourselves for growth because it is coming.

M. Jerkins – There are books on this one line we are discussing and perhaps we should pursue it in an educated way perhaps by starting to purchase some of these books written by authorities on the subject and then we could start to develop the ordinance to support this type of regulation.

B. Longabaugh – Pick a number and get the town attorney to amend it so it is more defensible as the time goes by and when the town attorney comes up with better reasons then tinker with it but lets get it in place soon.

T. Hoopes – In order to make a proposal like this it has to appear in the Vision Chapter or the Master Plan in different places as something we want to work towards and then go on with it. It is not justifiable at this point.

Peer – We need to look at the traffic generation.

J. Dube – Public input closed.

J. Crouse – I would like to see something enacted that will give the Planning Board more clout in the event that in the next year a major entity we have the opportunity now to put something in that may or may not be defensible in court or before ZBA. Read from another town's zoning ordinance "The applicant is encouraged to consult with the Planning Board in developing alternative site layouts to duplicate historic patterns of development and avoid conventional strip development patterns" also "the standard design package for any formula business or formula restaurant shall be subject to modification to comply with the architectural and site plan standards of the town".

B. Dunbar – We certainly have tried to address this and that is what is put forth in the Master Plan but everybody has been dragging their heels about trying to get that approved and you are not supposed to do that.

J. Crouse – I don't see where everybody has been dragging their heels trying to get it approved so I object to that, I don't know who, you wrote it and other people on the board weren't real happy with it.

T. Hoopes –It was written by a committee. I think we are at a point here that rather than adopt something that is.

J. Crouse – Let just not do anything.

B. Dunbar – The RSA's says that you have to have a Master Plan in place that gives you direction for your zoning amendment. That is what you are supposed to uphold as a member of the Planning Board.

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J. Crouse – I need a copy of the current Master Plan and take a break because I have heard repeatedly how the existing Master Plan does not allow for this but you know quite truthfully I am think the existing Master Plan has to allow for something because have at least  $\frac{3}{4}$ " of zoning amendments and they have to be based on something.

B. Dunbar –We also proposed a cell tower amendment last year and it was in the Master Plan to be put forth but the Master Plan never got approved.

J. Dube – As Jim relayed to me, we need this stuff in place and that he agrees completely that we need something like this in effect and he said he would help us on it.

T. Hoopes – I am with the opinion to see Amendment #9 withdrawn until we get more study and research on it.

J. Bureau – I would like to see some restriction on that but I don't feel comfortable with throwing something out there in the meantime, so would rather wait and do it right.

B. Holmes –I think the comment to change from 20,000 to 40,000 doesn't do us any good either and we do need to do a lot of work on this particular section. I would like to see something also but I think at this point we should withdraw it.

B. Dunbar – It doesn't have backing from a Master Plan so I don't feel it is appropriate.

J. Dube – I would like to see this in effect but I need to listen to what the town attorney says and I am not supportive of an amendment that he does not support.

T. Hoopes – If we as a Board take action against what town counsel says, our liability is not covered by the town.

J. Crouse – There is in the October 1999 Land Use Section of the Town of Alton under commercial development a section that says, "Alton must be careful to avoid the type of strip development that has plagued many communities. The Planning Board will need to take special care in establishing site plan review guidelines that will prevent strip development". Your reference is already in the existing Master Plan in the Land Use Section, therefore we could add at least a section that goes to non-box structures.

B. Dunbar – I don't equate strip development with a box structure.

J. Crouse – Then why don't you go move the Boston suburb?

J. Dube – Jim said we didn't have the public safety and we have a Fire Chief with what he has it doesn't affect him and so that again would not help us in defending it.

**Motion made by T. Hoopes to withdraw Amendment #9 from consideration for this years vote, seconded by J. Bureau. Motion passed with 5 in favor and 1 opposed.**

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J. Crouse – Left the meeting at 8:45pm.

**Amendment # 11:** The Planning Board proposes to amend Article 300, Section 380, Impact Fees. Rationale: The purpose of this amendment is to strengthen the current impact fees ordinance. Continued discussion from December 27, 2006.

M. Jerkins – There is a recommendation from the town attorney regarding this that was given to you yesterday.

Peer – You have Bruce's cover letter #'s 1-4 and the bullets on the bottom of the page describe why those changes are in front of you to be considered. This is more for protection in a future court case.

T. Hoopes – What we adopted a few years ago was vague and this language is much more defensible by the specific that we will be adopting in the future. I would agree with what is there.

J. Dube – I have no problem with any of this. I will open this to public. Seeing none I will close public input.

B. Dunbar – I am fine with it.

Peer – Bruce will come to a meeting and discuss the fee schedule.

**Motion made by T. Hoopes to move forward on Amendment #11 in its presented state, seconded by B. Holmes. Motion passed with all in favor.**

J. Dube – We need to make a date for the second hearing.

B. Dunbar – There a couple things I would like the Board to consider adding a word here or there. One is about the RR Zone under single family and multi-family what we left out was duplex. I just want the board to be aware that duplex was not mentioned.

M. Jerkins – There is also an issue with amendment #1 Construction Trailer and Storage Containers yet we eliminated the section that pertains to those.

B. Dunbar – It doesn't matter it doesn't hurt to have a definition out there because you will eventually address it.

B. Dunbar – The business about the 25% must have a minimum buildable area of contiguous upland and slopes not greater than 25% of no less than 75% of the minimum required zone, I thought the 25% of slopes not greater than 25% grade. If you put the word grade or () around 25%. The meaning is not going to be changed it just clarifies the meaning better.

**Motion made by B. Dunbar to put grade and the () and that would separate that, seconded by T. Hoopes.**

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J. Dube – Open to public. Seeing none public closed.

**Motion made by T. Hoopes to move forward on Amendments 2 & 3 for the clarification of the 25% grade, seconded by B. Holmes. Motion passed with all in favor.**

**Amendment #6:** Do you want to lump duplex in by saying Duplexes and Multi-family dwellings must have a minimum of 1-acre per unit.

J. Dube – Open to public. Public input closed.

**Motion made by B. Dunbar that duplex and Multi-family dwellings must have a minimum of 1-acre per unit with no more than 4 dwelling units per structure and no more than one duplex or multi-family dwelling per lot, seconded by T. Hoopes. Motion passed with all in favor.**

**Motion made by T. Hoopes to send Amendment #6 to the next public hearing, seconded by B. Holmes. Motion passed with all in favor.**

M. Jerkins – We need to pick a date for the second public hearing and it needs to be before the 16<sup>th</sup> and there needs to be enough time from tomorrow to get the notice to the paper.

J. Dube – The 15<sup>th</sup> and the snow date of the 16<sup>th</sup> at 6:00pm.

**Motion made by T. Hoopes to have the second hearing for Monday the 15<sup>th</sup> at 6:00pm and see the 16<sup>th</sup> at 6:00pm as a snow date, seconded by B. Holmes. Motion passed with all in favor.**

M. Jerkins – We need a date for the work session for the Master Plan, either the 8<sup>th</sup>-12<sup>th</sup> or the week after the Planning Board meeting.

J. Dube – What about the 9<sup>th</sup>?

**Motion made by B. Holmes to have a work session with Mike Izard on January 9<sup>th</sup> at 6:00pm seconded by T. Hoopes. Motion passed with all in favor.**

**Motion made by B. Holmes to have a work session with Bruce Mayberry on January 23<sup>rd</sup> at 6:00pm, seconded by T. Hoopes. Motion passed with all in favor.**

**Motion made by B. Holmes to adjourn, seconded by T. Hoopes. Motion passed with all in favor.**