

<b>PLANNING BOARD</b>	<b>November 28, 2023, 7:00 PM</b>
<b>TOWN OF HAMPTON FALLS</b>	<b>TOWN HALL</b>

**FINAL**

**A. CALL TO ORDER:**

Chairman Santora called the meeting to order at 7:00 PM.

**B. ROLL CALL:**

**Present (5):** Todd Santora, Chairman; Edward B. Beattie, Selectmen's Representative; Abigail Tonry, Member; Lisa Brown-Kucharski, Member; Jon Ringel, Member.

**Non-voting (3):** Glenn Coppelman, RPC Circuit Rider Planner; Mark Sikorski, Building Inspector; Rachel D. Webb, Assistant Administrator.

**Absent (3):** Eric Cimon, Vice-Chairman; Will Lojek, Member; Andy Brubaker, Alternate; Mikayla Jerominek, Regional Planner at RPC (non-voting).

**C. PUBLIC HEARINGS:**

**1) Case #23-11-01: Currier's Leather Site Plan Modification re: sign location.**

Chairman Santora explained that this case will not be heard at this meeting tonight. It was erroneously included on the agenda, as the staff had expected to receive the application, but did not, and have been recently informed that the applicant may intend to apply for the Planning Board meeting in January 2024.

**2) Proposed Zoning Ordinances for consideration to move to ballot for March 2024.**

Chairman Santora asked if everyone had been following the prior discussions on the topics under consideration, and L. Brown-Kucharski stated that she has been keeping up with reading the Minutes from the meetings she was absent.

**a) Fireworks Definition and Table of Uses:** Chairman Santora read through the proposed amendments to the definitions and Table of Use regulations regarding the subject of Fireworks, as follows:

- Amend Article I, Section 4, Replace the definition of Fireworks Sales Establishments with "**Fireworks**, as in NH RSA 160-B and 160-C as amended."
- Amend Article III, Section 4, H2 Retail Uses, add additional words "Fireworks (per NH RSA 160-B and C) NOT permitted."
- Amend Article III, Section 4, L1 Wholesale Uses, add additional words "Fireworks (per NH RSA 160-B and C) NOT permitted."
- Amend Article III, Section 4, L2 Warehousing Uses, add additional words "Fireworks (per NH RSA 160-B and C) NOT permitted."

There was no further discussion by the Planning Board, and there was no public present, so there was no public comment.

**MOTION:** To move the proposed Fireworks zoning amendments, as presented, to the Warrant in March 2024.

**MOTION:** E. BEATTIE

**SECOND:** L. BROWN-KUCHARSKI

**UNANIMOUS**

**b) Short-Term Rental Definition and Table of Uses:** Chairman Santora read through the proposed amendments to the definition and Table of Use regulations regarding the subject of Short-Term Rentals, as follows:

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- Amend Article I, Section 4, Add definition of “Short-Term Rental”.  
**“Short-Term Rental”** means any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative, or timeshare, or owner-occupied residential home, that is offered for a fee and for less than 30 consecutive days. Short-term rentals are residential uses of the property and do not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center, or another similar use.”
- Amend Article III, Section 4, A. Residential, add 11. Short-Term Rental, “P” permitted in all four (4) zoning districts. Add “Per Zoning Ordinance definition” under column Supplemental Regulations.
- Amend Article III, Section 4, J. Lodging Establishments, add 5. Short-Term Rental, “P” permitted in all four (4) zoning districts. Add “Per Zoning Ordinance definition” under column Supplemental Regulations.

There was no further discussion by the Planning Board, and there was no public present, so there was no public comment.

**MOTION: To move the proposed Short-Term Rental zoning amendments, as presented, to the Warrant in March 2024.**

**MOTION: E. BEATTIE**

**SECOND: L. BROWN-KUCHARSKI**

**UNANIMOUS**

- c) **Vape Shop Definition and Table of Uses:** Chairman Santora read through the proposed amendments to the definitions and Table of Use regulations regarding the subject of Vape Shop, as follows:

- Amend Article I, Section 4, Add definition of “**Vape Shop**” means any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of electronic smoking devices, liquid nicotine, liquid nicotine containers or vapor products.”
- Amend Article III, Section 4, H2 Retail Uses, add additional words “Vape Shops NOT permitted”.

There was no further discussion by the Planning Board, and there was no public present, so there was no public comment.

**MOTION: To move the proposed Vape Shop zoning amendments, as presented, to the Warrant in March 2024.**

**MOTION: E. BEATTIE**

**SECOND: L. BROWN-KUCHARSKI**

**UNANIMOUS**

**D. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES: October 24, 2023.**

**MOTION: To approve the Planning Board Minutes from October 24, 2023 as written.**

**MOTION: E. BEATTIE**

**SECOND: J. RINGEL**

**UNANIMOUS**

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**E. OTHER BUSINESS:**

1) Review of Ordinance and Regulations Committee:

a) Update on Sign Ordinance: Chairman Santora reported that he had a meeting with the Land Use Attorney, M. Sikorski, and G. Coppelman to discuss the proposed sign ordinance.

L. Brown-Kucharski asked is there a reason that the town has to allow Digital signs, or can the Town require traditional New England carved signs? She stated that other towns such as Kingston and North Hampton do not allow Digital signs, and she wanted the Planning Board to consider it.

Chairman Santora said that perhaps Digital signs could be prohibited in the Town Common District (TCD), but allowed in the other two business districts Business District North (BDN), and Business District South (BDS). L. Brown-Kucharski said that the Town now has beautiful new signs (Welcome to Hampton Falls) at the Town entrances, and that perhaps those could serve as an example for the type of signage the town prefers, to suggest businesses get creative with their signage proposals, as she said that the feel is much different driving along with Digital signs compared with non-Digital signs.

Chairman Santora stated that one of M. Sikorski's biggest concerns is how often the Digital signs change, and he said that last month it was decided to allow the Digital sign to change once per sixty-seconds (60-secs), so that when you are driving by it would not change.

L. Brown-Kucharski said that it (not allowing Digital signs) would be another way to keep the ambiance of a New England town. She stated that people come to live in Hampton Falls because they want a New England rural town. A. Tonry echoed L. Brown-Kucharski's sentiment and said that she did not think it was unreasonable for the name of the business, and what they do, to be a carved sign, but when the business needs to have a sale, then a change panel is appropriate if allowed to only change one time per day.

E. Beattie said that he has been thinking about this subject since the last meeting. He said that the prior conversation was about focusing on the Town Common District (TCD), and he asked why wouldn't the Planning Board be concerned about the entire town (not just the TCD)? He said that he agrees with L. Brown-Kucharski on why people come to Hampton Falls. He wondered why they wouldn't want to have the same zoning across the town. He said that the three (3) new "Welcome to Hampton Falls" signs recently installed at the town entrances, were developed by the Selectmen with a specific intent or style, and the resulting dozens of positive comments Selectmen Beattie has received about the new signs validate those decisions.

L. Brown-Kucharski said that when she drives through North Hampton, and they do not have Digital signs, she wonders why Hampton Falls has to have Digital signs.

J. Ringel inquired about how practical it would be for someone like the gas station on Route 1 that has changing gas prices, to not have Digital signs, and L. Brown-Kucharski stated that they would be grandfathered.

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Chairman Santora said that his approach to restricting the TCD is because it is the least restrictive zoning district in terms of dimensional requirements and setbacks; specifically, the

- TCD lot area is 32,000-sqft, whereas BDS is 1 acre and BDN is 2 acres
- TCD side setbacks are 10-ft, whereas BDS is 20-ft, and BDN is 25-ft.

He said that with the smaller lot size in TCD and smaller setbacks that the signs could be closer together, which was not desirable, as compared with the two other business districts that have larger lot sizes on which to locate potential signs farther apart. Additionally, he said that M. Sikorski has current inquiries from existing businesses wanting to install Digital signs, and that it is important for businesses to be able to advertise their sales. Chairman Santora continued that he felt that the Planning Board does the best they can to protect the rest of the town off Route 1, but that the town needs businesses on Route 1.

M. Sikorski said that there is a proposal for a trade-off that if a business gets a Digital sign, that no other types of signs would be allowed, such as a sandwich board sign, or a flag sign, etc. The Digital display cannot be a rolling marquee that changes every five-seconds, and there needs to be clarity about the frequency of the changing message on the Digital sign. He stated that he is being responsive to business owners asking, and wanting to use these types of signs.

Chairman Santora stated that most of the character in town is portrayed within the TCD, as that is where there are historic homes and buildings with historic character. He said that the BDN & BDS zoning districts really do not contain New England architecture. If water and/or sewer comes to Hampton Falls along Route 1, then the Planning Board will have some control of the development as proposals are made for Site Plans and there will be the opportunity to apply the Design Review Guidelines for those projects.

L. Brown-Kucharski stated that any proposed new development could be an opportunity to encourage carved signs. E. Beattie said that the focus could be more on the Design Review Guidelines to encourage New England architecture and less on the signs, and that if someone wanted a Digital sign, that their building would need to be of New England character. He stated that the biggest thing that people will notice is the building, not the sign.

A. Tonry reminded the Planning Board about how she drew hypothetical shutters on a photo of the building at 19 Lafayette Rd to introduce a Colonial architectural feature, when the proposal was before the Planning Board, and the idea was not implemented as it was not part of the approval. Another comment A. Tonry made was regarding the recent proposal of 12 Lafayette Rd for a 58,000-sqft building, and she said that Colonial buildings were not 58,000-sqft in size. She said that her concern is that there may not be a commercial district on Route 1 if there is such a demand for housing, and developers can get \$500,000 per unit for condos, and so there may not be as much of an issue with signage if the land use changes along Route 1 in the future.

L. Brown-Kucharski said that she likes the idea of multi-use. Chairman Santora said that the Planning Board could limit the percentage of the lot that is proposed for residential, and promote mixed-use and state a certain percentage for residential.

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Chairman Santora asked if the Planning Board was interested in advancing the proposed Digital Sign ordinance to public hearing in December, and he said that he was as long as they were prohibited in TCD. A. Tonry stated that the Planning Board needs to make a decision to help M. Sikorski to respond to the business owners asking for these signs. G. Coppelman spelled out that if the Planning Board changed its position and decided to prohibit Digital signs, then a new paragraph would need to replace the current proposal. L. Brown-Kucharski asked if what was being proposed was enough controls? M. Sikorski responded that the proposal takes what is currently allowed and moves it to a Digital form with a very narrow allowance for Digital signage. The restriction of no moving nor flashing signs remains the same as it is currently, but makes the sign more usable for the business owner. He said that he has two sign applications currently that will proceed ahead of any sign ordinance changes, and the hope is that they may be receptive to go along with what is being proposed. M. Sikorski said that with the investment required to purchase a Digital sign that the hope is that the business owner have enough care in the community to use their sign responsibly. Chairman Santora asked how much a Digital sign costs, and M. Sikorski responded approximately \$70,000. E. Beattie said that the “Welcome to Hampton Falls” signs each cost \$7,000, by comparison. There was discussion about the combination of a carved sign for the business name, with a small Digital change panel beneath it, as an eventuality. Chairman Santora stated that it seemed as though there was consensus to move the topic to a public hearing.

Chairman Santora questioned M. Sikorski and G. Coppelman about the proposed section 3.3.3.1.2 regarding “...the change time may be adjusted by the Code Enforcement Officer...”. M. Sikorski stated that the Planning Board’s Land Use Attorney wrote the language and the previous sentence states that “Frequency of change ...shall be no closer than 1 minute apart.” He continued that any change from that one minute would be to decrease the frequency of change by increasing the amount of time between static image changes on the sign, so he felt that the prior sentence set the context, and that it was fine to leave in the sentence about the CEO. Chairman Santora confirmed with M. Sikorski that the version under consideration by the PB was the version written by Attorney Johnston and there were no changes made to it since their conversation with him.

There were no further questions about the proposed sections 3.3.3.1.1 through 3.3.3.1.6. The Planning Board discussed in which zoning districts Digital signs would be allowed within a new proposed Table of Sign Types that identifies most sign types by zoning district. It was decided to allow Digital Signs in BDN and BDS, but to prohibit in A/R and in TCD. E. Beattie stated that the TCD is the picture of what Hampton Falls is, and he was in favor of prohibiting the Digital signs in the TCD, and going with the recommendation of M. Sikorski and Attorney Johnston for the other business districts, and J. Ringel agreed. Chairman Santora agreed as well and reiterated his earlier comments regarding the least restrictive lot sizes and property setback requirements for the TCD. A. Tonry stated that she did not see the TCD changing its density without complete rebuilding of buildings. She said that if the buildings in TCD all converted to business uses then imagine what that would look like with every building having a Digital sign. She asked the Planning Board if the preference is for the business to have a sign with a Digital change panel under it, or to have a non-Digital sign with a separate sandwich board sign to address changing

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signs. E. Beattie said that the Planning Board needs to look at what is there now, and what they want to maintain.

L. Brown-Kucharski confirmed that for the businesses in the TCD, if Digital signs are not going to be permitted, then those businesses can utilize a sandwich board sign for their changeable copy signage needs, so she changed her mind and decided to agree to prohibit Digital signs from the TCD.

M. Sikorski stated that Currier Leather is wanting to move their sign, and so will be submitting a Site Plan Modification for discussion with the Planning Board for a future meeting. He stated that Currier Leather and Allen's Wayside Furniture both have currently applied for sign permit applications. M. Sikorski stated his opinion that he did not think that Digital signs in the TCD are appropriate, and there are not that many businesses located within the TCD. There was a consensus reached to prohibit Digital signs in the TCD.

E. Beattie stated that the Town Common should only have the one (1) wood sign that is for Applecrest Farms (that is grandfathered), and the one (1) wood sign that is a Town sign with changeable copy for Town Common and Bandstand events. Any other temporary sandwich board signs should be removed from the Town Common, and M. Sikorski said that he removes them when he sees them, and he requested a text message when apparent sign violations appear, so that he can enforce the ordinance. M. Sikorski identified the places in town where he frequently removes the temporary (disposable) signs that advertise, hot tubs for sale, pressure washing services, painting services, etc, at the "Kensington triangle", and also at the "Brown Road triangle". A. Tonry asked if it was the point of the Digital signs to remove the Sandwich Board signs. M. Sikorski stated that the Shoppers Village, at the traffic light, uses Sandwich Board signs because so many businesses are physically located way in the back, and it is their only way of advertising, except for the one strip of signage (one line of text) on the large ground sign in front. He said that it is a problem for those multiple business sites to manage through their business association.

M. Sikorski said that he foresees a problem at the zoning district boundary between TCD and BDN where there are multiple business sites, and the one in BDN will be allowed to use a Sandwich Board sign, and the business located in the TCD will not. L. Brown-Kucharski talked about the temporary sign the Church erects seasonally, and M. Sikorski said that that is temporary and seasonal, and is not a business use. He stated that some of these portable signs have time limits, or frequency restrictions that have been written into the ordinance as minor changes over the years. He said that, from his perspective, the goal is to minimize the visual clutter and randomness of the signs. E. Beattie said that if the Town keeps BDN and BDS equitable, and then TCD as different, that people will accept it. There was a consensus reached to prohibit Sandwich or Sign Board signs in the TCD.

On the subject of Banners, E. Beattie explained that the Historical Society recently obtained permission from the Board of Selectmen to install a temporary Banner sign to hang on the Museum building to advertise an upcoming specific event for a short-term only. M. Sikorski

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stated that the Museum is located in the A/R district where Banners are not allowed, so that is why the Historical Society went to the Selectmen to request permission. He continued that there is not a lot of specificity in the ordinance about Banners, and he has not had any issues about Banners; typically, Banners are the “Grand Opening” type of messages, and are temporary. R. Webb asked if the Planning Board wanted to add a definition of Banner to the Definitions section of the Zoning Ordinance, because the term “Banner” is used in the ordinance, but it is not defined. There was a consensus to prohibit Banner signs in the TCD. G. Coppelman pointed out that if the Planning Board has decided to prohibit Banner signs in the TCD, then there are a few other changes in the ordinance that would have to be made where Banners are referenced for all business districts, and R. Webb responded that those sections are identified in 3.2.1.5 and 3.2.2.5. G. Coppelman stated that because there have been substantive changes to the proposed Sign Ordinance tonight, that the Public Hearing will need to be continued to the December Planning Board meeting.

M. Sikorski read the section of the sign ordinance regarding the A/R District, and the types of signs that are allowed for the district. Chairman Santora said that reference needs to be made within the new Table of Sign Types, new section 3.4, that *“for signs in A/R Agricultural Residential District, please consult the Zoning Ordinance, Article IV, Section 3.1”*: Signs in “A” District, and R. Webb responded that she would add that note to the Table.

Chairman Santora said that if a business gets a Digital sign does that prohibit all temporary signs like Banner signs and Sandwich or Sign Board signs, and the consensus was yes.

**MOTION: To move to Public Hearing at the 7:00 PM December 19, 2023 Planning Board meeting the revised proposed Sign Ordinance.**

**MOTION: L. BROWN-KUCHARSKI**

**SECOND: J. RINGEL**

**UNANIMOUS**

There was a discussion about the timing of the next Planning Board meeting/Public Hearing on the revised Sign Ordinance in terms of the timing requirements for compliance with the State’s 2024 Zoning Amendment Calendar, which specifies the last date a public hearing can be held on zoning amendments is January 29, 2024. The Planning Board had proposed their January meeting date on January 30<sup>th</sup> due to potential conflicts with January 23 (4<sup>th</sup> Tuesday) that is a Primary Election Day. Instead, in light of the January 29<sup>th</sup> requirement, the Planning Board decided to amend their proposed 2024 Calendar of Meeting Dates and Deadlines to meet on the 3<sup>rd</sup> Tuesday January 16, 2024.

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L. Brown-Kucharski asked a follow-up question that may have been addressed in the interim since the last meeting she attended in August 2023, about what the Planning Board is going to do to help the Code Enforcement Officer get “more teeth”, to enable stronger enforcement.

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**b) Update on Enforcement/Penalty Fees:**

Chairman Santora distributed to the Planning Board members copies of the NH RSA 676:17 regarding penalties and remedies for administrative and enforcement procedures, specifically *“Fines and Penalties; Second Offense that details \$275 for the first offense, and \$550 for subsequent offenses, for each day that such violation is found to continue after the conviction date or after the date on which the violator received written notice from the municipality that the violator is in violation, whichever is earlier. Each day that a violation continues shall be a separate offense.”* There was a question about whether the Town or Planning Board needed to adopt that RSA specifically in order to enable it on the local level and the response was no, that as a State statute RSA, all communities can avail themselves of the state law without the need to adopt the regulation locally.

2) **Follow-up on 41 Lafayette Road, compliance with Site Plan:** Chairman Santora stated that Jones & Beach Engineers conducted a Final Inspection at 41 Lafayette Road, at the request of the Planning Board, and their report was distributed in the packet for this meeting. There were some issues identified by the Engineer as being incomplete, together with issues previously articulated by the Planning Board and the Code Enforcement Officer, so that M. Sikorski wrote a “Notice of Site Plan Violations” dated November 21, 2023 and sent the letter Certified Mail-Return Receipt Requested. The letter contained a list of eight (8) specific deviations from the approved Site Plan, and a list of ten (10) corrective actions to be taken to address the violations. Within ten (10) days of receipt of the Certified Letter the owner must submit their planned corrections to the violations *in writing* to M. Sikorski, and if no written response is received within twenty (20) days, then the RSA 676:17-b goes into effect with financial penalties. G.Coppelman stated that if the Certified Mail return postcard is not received, that the Town may want to consider having the Certified Letter hand-delivered to a physical address by a Sheriff or Police Chief.

Chairman Santora said that he wants to identify where the disconnect happened with Jones & Beach, to identify some additional language to add into Site Plan approvals to tighten-up the procedure in the future. He also said that it may be time to consider putting out an RFP for a new Town Engineer. A. Tonry asked a clarifying question of whether Chairman Santora thought that Jones & Beach did not do what they were supposed to do, or were they not asked to do it. M. Sikorski said that there may be a need to clarify the items that Jones & Beach needed to look for because some of the items that were of the Town’s concern were not addressed by the Town Engineer; so, is it a question of the Town Engineer deciding that some items are not within their purview to review. E. Beattie said that perhaps a form needs to be pulled together incorporating what was listed on the Site Plan, and the things that occurred after the Site Plan approval that may constitute the Planning Board’s follow-up, together with a procedure to hold-back monies, with M. Sikorski’s enforcement to follow-up with the form the punch-list. A. Tonry said to hold the Occupancy Permit until completion of the Punch List, to achieve compliance. E. Beattie said that if the Planning Board tightened-up adherence to, and completion of the Site Plan on the “front-end” prior to issuance of an Occupancy Permit, then perhaps there would not be so many enforcement issues on the back-end, after the fact. A. Tonry explained that the way it is done now, the Planning Board issues Conditional Approvals subject to the applicant completing a



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punch-list of items, so she hypothesized what if the Planning Board reversed the approach and said that the applicant needs to complete the punch-list and then come back to the Planning Board for approval when everything is done, and not go with Conditional Approvals.

G. Coppelman stated that the applicant is not supposed to start their business until all of the conditions are met, so the question is who is checking on the conditions. E. Beattie said what about conditions that occur after the Site Plan approval, that were not part of the Site Plan approval, and how are those addressed.

M. Sikorski described the challenge of meeting with a business owner, after they have obtained their Site Plan approval, but are not done yet with their list of Conditions, who wants to open their business without being done. E. Beattie said that there are three (3) circumstances upon which to focus, namely: 1) things that fall within the purview of the Engineer, that are probably on the Site Plan; 2) things that fall within the construct of the Planning Board's negotiations with the applicant; and 3) things that happen in between the Site Plan approval and the business opening, where they are in violation of a new thing (which no one could have predicted, and it was not part of the Site Plan). He continued that the third scenario would be handled by M. Sikorski, but the other two would be addressed by the Town Engineer and the Planning Board.

L. Brown-Kucharski asked some questions about the process, and M. Sikorski informed her that this enforcement letter is not the first type of this letter he has sent, and that he has a file full of them. He said that sometimes the letter goes to an individual and not a business, and he said that many times when this type of letter is sent, there is an immediate response, and the problem is done. He said that issuing this type of letter to a commercial business takes a lot longer and much more negotiating, etc. He said that the Town wants to cooperate with businesses, so it is a fine line to negotiate.

Chairman Santora said that he wants to look at one more Site Plan to identify how to make the process better and to improve the result in 2024.

G. Coppelman reminded the Planning Board of the two (2) recent approvals of a Lot Line Adjustment, and also of a Site Plan Modification that both need to submit mylars and new deeds for him to review prior to those being recorded at the Registry of Deeds. He continued that technically no changes should have been made on site until the new mylar was recorded. He reiterated that the Planning Board's process is not completed on those two applications.

3) Proposed zoning ordinance amendment re: signs for Public Hearing December 19, 2023. This was discussed earlier in the agenda.

4) 2024 Planning Board Meeting Dates and Deadlines: R. Webb stated that there is the amendment the Planning Board meeting date discussed earlier, that the January meeting date is going to be held on the 3<sup>rd</sup> Tuesday, January 16, 2023, with the Legal Notice Deadline for that meeting Friday December 22, 2023, and the Agenda Deadline Tuesday January 02, 2024.

**G. ADJOURNMENT:**

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**MOTION: To adjourn at 9:10 PM.**

**MOTION: L. BROWN-KUCHARSKI**

**SECOND: J. RINGEL**

**UNANIMOUS**

NEXT PLANNING BOARD MEETING scheduled Tuesday, December 19, 2023, at 7:00 PM.

These minutes prepared by Rachel D. Webb, Assistant Town Administrator.