

**FRANKLIN PLANNING BOARD  
PUBLIC HEARING MEETING  
July 28<sup>th</sup>, 2010**

**Call to Order:** 7:01 p.m.

- ❑ Pledge of Allegiance.
- ❑ Roll Call

Present: Mayor Merrifield, Brian Sullivan, Anthony Giunta, Powell Glenn, Ted Starkweather, Bob Sharon, David Veysey, Marty Russo and Tim Stangroom.

Absent: Michael Freeman, Anthony Daniel, and Brian Colburn.

- ❑ Seating of Alternates in place of absent regular voting members.

Vice Chair Veysey sat himself in place of absent voting member Colburn; sat Member Sharon in place of absent voting member Freeman; and, sat Member Stangroom in place of absent voting member Daniel.

- ❑ Approval of Minutes
  - ❖ June 23<sup>rd</sup>, 2010 Meeting Minutes

**MOTION: Member Starkweather moved and Mayor Merrifield seconds to approve the minutes of the June 23<sup>rd</sup>, 2010 meeting as submitted. Member Russo indicated that the minutes should reflect that he was present and not absent. All were in favor of approving the minutes as amended.**

- ❑ Old Business: None.
- ❑ New Business

- ❑ **P10-04:** F&N Convenience, LLC, Owner; Franklin Area Towing (Joe Saucier), Applicant; Ginamarie Saucier, Agent, request a Special Use Permit to install a 20' x 30' fenced in enclosure for towing based vehicle storage on property located at 221 South Main Street, identified as Tax Map/Lot # 099-006-00, B-1 Zone (Low- Density Business and Commercial District).

**MOTION: Mayor Merrifield moved and Member Sullivan seconded that the Franklin Planning Board accept the application for the proposed storage area for Franklin Area towing at 221 South Main Street. All were in favor.**

Joe Saucier, owner of Franklin Area Towing, was present to speak. He stated that he used to have storage at 601 South Main Street, prior to the City taking over ownership of the property. He stated he then spoke with the owner of 221 South Main Street, which is his proposal.

He stated the issue that has been discussed is the area turning into a junk yard. He stated this would not happen, as the area he would be allowed to use is going to be small, and he won't be able to hold the vehicles for very many days. He stated that he tows vehicles for the Police Department in Franklin and Boscawen. He stated in the case of an accident the vehicles may be there a little bit longer, but the insurance companies are not going to want them there that long as they will be paying storage fees.

**Board Questions**

Member Starkweather asked what would happen if a vehicle was involved in an accident, towed to the location and the owner didn't have insurance. Mr. Saucier stated that if it was worth saving he would work something out with the vehicle owner and if it was not worth saving that he would have them sign over the vehicle for the price of the towing.

Member Starkweather asked if the plow vehicle that has been there for a long time would be removed. Mr. Saucier stated the vehicle is the manager's, and the owner wants it off the premises as well.

Member Sullivan asked if vehicles would be towed to this premise that were being held on a criminal case as evidence. Mr. Saucier stated they would not be and would be towed to the police impound lot on Punch Brook Road.

Member Sharon asked where his business is currently at and Mr. Saucier stated it is at 30 West High Street and he wants it removed from his property.

Member Sharon asked if the trucks would be stored at this location as well and Mr. Saucier stated they would be, and the only vehicle he would have at his residence is a possible towing vehicle when he was on a police rotation.

Member Giunta asked how leakages would be handled for vehicles that were involved in accidents. Mr. Saucier stated usually a pan would be placed underneath the vehicle and disposed of with the vehicle. He stated he has not had problems with leakage; however, he stated he does carry speedy dry and shovels with him for transporting and drop off.

Public Comment: None.

Board Discussion:

**MOTION: Member Sullivan moved and Mayor Merrifield seconded to approve the Special Use Permit, reference as P10-04, from Franklin Area Towing to create a vehicle storage area on property located at 221 South Main Street, tax map 099-006-00. This approval is granted subject to the findings and conditions outlined in the draft document reviewed and approved by the Board.**

Mr. Lewis asked Member Giunta if he thought a condition should be added to cover leakage from vehicles. Mr. Giunta indicated he doesn't believe this is necessary and this should be addressed with the property owner.

**All were in favor and the motion passed.**

- **P10-05:** Elias Smirnioudis and Sofia Smirnioudis, Owners; Michael Elkins, Applicant, request Site Plan Review to establish an outdoor flea market and snack area on property located at 563 South Main Street, Tax Map/Lot # 119-026-00, B-1 Zone (Low- Density Business and Commercial District).

**MOTION: Mayor Merrifield moved and Member Starkweather seconded to accept the application and plan for the proposed outdoor flea market to be located at 563 South Main Street. All were in favor and the motion passed.**

Attorney Chris Seufert was present to speak on this application, along with the applicant Michael Elkins. Attorney Seufert stated the plan is somewhat rough, but accurate. He stated the property is in a non-use status now and the applicant wishes to run a flea market on the property and he hopes the board is

receptive to this. The flea market has been a slow process, and a lot of money and sweat equity has been put in. He is hoping to open in August; with this being a seasonal business running May to October. The business would run on Saturdays from 8:00 a.m. to 3:00 p.m. Vendors will arrive areal and the public wouldn't be allowed on the premise until 8:00 a.m.

Attorney Seufert stated they are hoping to do a tailgate auction on Friday evenings. The applicant wishes to have a snack area set up for the auction and for seasonal use weekly on the property. An area behind the building has been cleaned up, to place the snack shack area there. Vendors would be located on the back portion of the property.

Attorney Seufert indicated they have checked into licensing and are exempt based on the City ordinance. Hopefully, a series of flea markets will draw people in to use other businesses within the city.

Attorney Seufert stated that Mr. Elkins could not get on the list for publication of NH Flea markets this year and is hoping to get on the publication for next year.

Member Stangroom asked if Vendors would be allowed on the premise at 5:00 a.m. and it was indicated they would be allowed on the premise at daylight. Member Stangroom stated he is concerned about noise, as there is a residential neighborhood located behind this property. Attorney Seufert stated this is not a noisy operation and that the railroad tracks and vegetation to the rear of the property would act as a buffer.

Mayor Merrifield asked what the lighting would be for the Friday night tailgate auction. Attorney Seufert stated there is one pole, with lighting on the rear of the property that would be used. Mr. Elkins stated the pole already exists and will be activated. He stated transportable lighting could be used. Mr. Elkins added that he would like the vendors to be able to come in and set up at 6:00 a.m.

Member Stangroom asked if generators would be used and Mr. Elkins stated they would not be allowed. He stated there will be an outlet at the pole in case people wanted to try out items prior to purchasing them to make sure they worked.

Member Starkweather stated the operation plan shows the size of the vendors areas being 10', he asked if this width of depth. Attorney Seufert stated this was the frontage of the vendors tables. Member Starkweather asked about bathrooms and Attorney Seufert stated there would be porta-potties. Member Starkweather asked about the shelter for the food preparation. Mr. Elkins stated there would be an ice cream booth, hot dog cart/booth or vending truck, and would be self contained. He stated the areas would be licensed by the state.

Member Starkweather asked for some clarification on the area in back of the building. Attorney Seufert stated there will be a fenced in area, that has tools and equipment, and there is a triangular section on the right hand side that will be fenced off, with a trailer or flat bed in it.

Member Starkweather asked if the existing camper/RV would be used and Mr. Elkins stated that it would not be and that it is currently being used for storage.

Member Starkweather asked about dust control, and Mr. Elkins stated there will be hard pack, crushed stone put down, on the back of the property so that it can be driven on. Member Starkweather asked about the parking area in front of the building by the road and Mr. Elkins stated that this is hard packed on the north and south sides.

Member Sullivan asked if the parking lot was striped, as the plan shows striping. Mr. Elkins stated the striping is already there and will be using the existing stripes. Attorney Seufert indicated the lot will be restriped by next year. Member Sullivan asked about signage and asked if there would be pavement

arrows, as the plan shows. Mr. Elkins stated they are only on the plan for the boards use and stated there will not actually be any signage, put there will be a parking attendant.

Member Sullivan stated that he is concerned with the pedestrian versus vehicular traffic. Attorney Seufert indicated that in phase two, for next year, the back left hand portion of the lot is being left vacant and that will be hard packed for overflow parking. Mr. Elkins stated the official grand opening will be next year. Attorney Seufert stated they anticipate coming back to the board in the fall for other development of the lot. Member Sullivan asked if they were proposing a second phase and would be coming back to the board for that and Attorney Seufert indicated that was correct. He stated only parking on the right hand portion of the lot will be used this year. Mr. Elkins stated there would be three phases. Member Sullivan indicated that when they come back to the board they will need the whole big picture, including all phases of the project, with a more detailed plan with signage, parking and public safety issues addressed. Member Sullivan asked if this was just phase 1 that the board was reviewing now and it was indicated that it was.

Richard Lewis indicated that the board may want to amend the motion to add a condition regarding phase 2 or 3 and needing better details. Richard Lewis stated that the board has no idea what the materials are that have been put in, what he soils are and stated that construction standards are needed. Attorney Seufert agreed. He stated they will have engineered plans when they come back to the board. Mr. Lewis indicated he is concern is the northern entrance, that if this is a driveway or a roadway it needs to be built to the standards set by the City. Attorney Seufert stated that is an item for phase 2 or 3 and that the Vendors will be using that entrance later on. Mr. Lewis stated if it is a driveway it may need to be rebuilt, as materials are running onto the State Property and could be blocking the culvert. He stated the Site plan process is to ensure Public Safety.

Member Starkweather asked if a licensed electrician was doing the work and Mr. Elkins stated one is and he can't remember the name right now. Richard Lewis stated he met with the electrician approximately four (4) months ago and haven't seen him since. Mr. Elkins stated the electrician will be doing the interior work. Richard Lewis stated that the electricity for the parking lot needs to be done by a licensed electrician, and stated that generators and electrical cords cannot be used or dragged across the lot. Attorney Seufert indicated that prior to opening, the electrician will have to meet with Chuck to make sure that the exterior wiring is okay. Member Starkweather indicated that as this is a commercial enterprise, there is a different set of standards that needs to be met and a licensed electrician has to do the work. Mr. Elkins stated his electrician is qualified. Member Starkweather asked if he was licensed with the state and Mr. Elkins stated that he is.

Member Starkweather indicated the building has been condemned and asked if there were any plans for the building. Attorney Seufert indicated this would be items for phase 2 or 3 and there are currently no plans for the building. He stated in the other phases they are looking at having the food and some vendors inside. They are hoping to be able to do this next year.

Member Starkweather asked if the building meets code. Attorney Seufert indicated no one is being allowed in the building currently.

Member Sharon asked what the power source was and Attorney Seufert indicated there is a meter outside. Mr. Elkins stated currently there is a generator, which runs all day and night, as the building was broken into and all wiring was stripped out.

Mayor Merrifield indicated that in the decisions and conditions drafted by Richard Lewis a lot of description has been placed in the document and asked if the applicant had received a copy of this. Attorney Seufert indicated that he has not; but stated they have spoken with Mr. Lewis and the information is probably per those conversations. Attorney Seufert took a moment to read the conditions and indicated that they had no problems with the conditions set forth in the approval document.

Member Stangroom asked how they would prevent parking on the roadway. Mr. Elkins stated that there is a flea market held on the property across the street and people parking in the lot and on the roadway and there have been no problems that he is aware of. He added however that people will be parking on the lot and will not be allowed to just walk onto the lot. Attorney Seufert indicated the parking attendant will make sure that anyone who attempts to park on the street is directed onto the lot.

Richard Lewis stated that he went to the property this morning and stated that there are areas that have been watered that appear to be sinking and eroding. He stated this is a safety concern that needs to be addressed. He stated this is an area where there will be public parking and walking and it all falls back on public safety issues and the lot needs to be safe and secure. Mr. Elkins stated that the board wants the area open and available for inspections on a regular basis and the insurance company is also going to be right on top of making sure that the lot is safe and secure.

Richard Lewis asked if the snack area would be open on Fridays and Saturdays and during the week as well, based on the early comments that were made. Mr. Elkins stated that this is what he is looking for and based on the weather they would like to have the snack area open during the week. He stated he is going to need inspections and approvals from the state to run these snack areas.

There were a few items cleared up for the board, which included:

1. The tables would be left up all the time and only taken down during the winter.
2. No one will be allowed to come in the night before and set up. The people involved in the tailgate auctions are not vendors.
3. Everyone will be off the lot by 9 p.m. on Fridays.
4. Mr. Elkins stated there would be an ice cream machine, soda machine and two commercial hot dog steamers, and that the food would be completely run by Mr. Elkins.
5. The food court is going to be by the building.
6. People would check in at the office in the storage shed.
7. Attorney Seufert stated there would be picnic tables by the food court.

#### Public Comment

Floyd Sargent, of Doucette Drive, indicated that industrial and commercial businesses in Franklin cannot begin at 5:00 a.m. and stated it is standard practice for this type of business to start earlier. The potential here is that if it goes well, there could be 50-70 vehicles at any given time and stated that parking on the street or across the street should not be allowed. He stated the S Turns are being taken out by the state and traffic on the roadway is going to be nightmare. He stated that patrons crossing the street would not be a good situation.

There was no further public comment.

#### Board Discussion

Member Sullivan moved to add another conditions to the draft decision, as follows: indicated that he would like to add a #7, indicating that the applicant will provide a more detailed plan for phase 2 and 3 prior to any future expansion, with the plan being done by an engineer. Included in the plan will be a more refined site plan than what the board received for this submission. Concerns about parking, traffic flow and public safety will need to be addressed. Mayor Merrifield seconded this motion.

The mayor asked that another motion be added regarding parking on the roadway, and that no off site parking be allowed. Richard Lewis stated that condition # 8 could read that all parking be kept on site and no parking will be allowed across the street or on the street.

Member Giunta moved and Mayor Merrifield seconded to add the condition number 8 as Richard Lewis sees fit. All were in favor.

There were concerns about noise that were brought up and hours of operation of the business; however, the board determined that no other conditions were necessary as the draft decision already covered this.

**MOTION: Member Sullivan moved and Member Giunta seconded to approve the Site Plan, referenced as P10-05 for Michael Elkins, applicant for the establishment of an outdoor flea market on property at 563 South Main Street, and identified as Tax Map and Lot 117-026-00, in the B-1 Low Density Business and Commercial Zoning District, with the conditions listed in the draft approval document reviewed and amended by the board. Member Sharon was opposed; all other members were in favor and the motion passed.**

□ Public Comment

Kathy Rago indicated that she was present to speak on behalf of Mrs. Tobey. She stated that she has limited knowledge of bio-solids; however, she stated that as far as the State and City Regulations, it is whichever is more restrictive. She stated that the City could set restriction that are more restrictive then the state to govern bio-solids and if and where they are allowed to be dumped. She stated she hopes that everyone will look at all sides of the issues to make sure that the city is protected.

Jack Tobey was present to speak on both the asphalt plant and the biosolids. He stated regarding bio-solids a farm on Smith Hill Road wants to spread them. There are three streams that feed into the river or aquifers that run in the area of this farm. He stated that runoff would end up in the river.

Mr. Tobey stated that the asphalt plant would be quite an operation. He stated he is against it for the reasons of traffic, noise and odor.

Mr. Tobey added that allowing either an asphalt plant or the spreading of bio-solids could affect surrounding property values.

Nina Tomaszewski, of South Main Street, was present to speak. She stated that she has the same issues as those that have spoken before her. She stated there was a hearing last month with DES regarding Bio-sludge. She stated the only discussion that was allowed was on the application and the rules and regulations. She stated that her neighbor puts down bio-sludge, and there are setbacks to the river that are not followed by the neighbor and this is not regulated as it should be. She stated this is a different era, and now there is nuclear medicines that people received as out patients. She stated they flush out their systems into the public waste, which is in the bio-sludge and the lifespan of the nuclear medicines is forever. She stated that someone who has prostate cancer and is treated by nuclear medicines are told that they need to burn all items that are used, that no one can sit on their laps or come in close contact with them. They then pass out the nuclear medicine that goes into the sludge. She stated there is not enough regulating of the biosludge and we need to be sure of what is being spread on to the land. She stated that there are communities that have regulations to ensure that bio-sludge not be spread in their towns. Bio-sludge is too dangerous for wildlife, water, people and other aspects of daily life.

Ms. Tomaszewski added that she has nothing against an asphalt plant, but stated that the roadway is too dangerous and someplace safer should be found.

Mr. Sargent indicated that he has concerns about bio-sludge. He stated that bio-sludge is spread on Clinton Street in Concord and if you go out there, there are flags in the field that indicated that if you walk here you should go home, change clothes and shower.

Mr. Sargent indicated that he does not want an asphalt plant messing up his sleep, as it would be running all day and night. He stated that by the asphalt plant running all day and night, then the gravel put will run all night and day. Mr. Sargent indicated the board should go over and see Pikes, there are traffic issues, there are 60-70' towers with pistons that release into the truck and a foghorn goes off when the truck is filled, per OSHA requirements. This horn is very loud to let the truck driver know the truck is filled. There is a truck every five minutes and over 200 trucks a day. Edmunds will be selling the asphalt to other contractors and the neighbors do not want it on this location.

There was no further public comment.

□ Other Business

▪ Municipal Project Review- Water Treatment Facility

Brian Sullivan was present to give a review of the Water Treatment Facility project. He stated the following:

1. As part of the procedure City Council passed a policy that the departments brief the planning board on upcoming projects within the city.
2. The project is being done under a USDA grant, with an equal match by the City, with each group putting in 3.5 million dollars.
3. There is going to be an underwater reservoir crossing at the dam, from Franklin Falls to Acme Wells.
4. There is a two acre Acme that is being used as well as part of the Army Corp of Engineers land.
5. Water will be drawn from the Franklin Falls Reservoir and the left over water will be returned.
6. Component one: There will be a 2,000 linear foot director boar under the Pemigewasset River.
7. Component two: is to replace the water line at north main street to Hill Road and down the service road to the well fields behind Acme Staple.
8. Component three: Treatment plant. The plan is not a final plan and will be updated. Met with DES, and they wanted to see treatment plant where the storage building is so that the location of the plant is outside of the 400' setback for the well radius.
9. Shoreland Protection act also has to be met.
10. They will stay away from the ground water remediation zone.
11. Water will be recycled, holding tanks will have the bottom pumped out twice each year.
12. There is a limited site area, with DES preliminary approval.
13. In conjunction with the treatment plant, the PSNH building that was removed from the lot where CVS building is now at is going to be relocated on the acme staple lot.
14. They are looking at starting the project on August 7<sup>th</sup>.
15. Parking will be minimized and storm water controls will be put in place.

Mr. Sullivan stated he would keep the board informed of the progress. They are going to break ground on the building in October and then they will have the winter to build.

- Request for a Consideration of Zoning Amendments
  - Asphalt Plants
  - Bio-sludge to farm fields

Richard Lewis asked the board if they wanted to dedicate staff time on the Asphalt Plant and Bio-sludge issues. Mayor Merrifield indicated that regarding the asphalt plant legally he does not believe that the board can do anything now to regulate these types of plants as there is already a proposed plant. He stated if the board discusses this issue at this time, they could be getting themselves into a legal predicament.

Richard Lewis stated the application is due in the office in a few days. He stated he raised the concerns that to resist or prohibit a use while one is being discussed at the board level is a strictly legal situation. Mayor Merrifield stated the board needs to hold a jury standard while voting on an application, and needs to be fair, objective and impartial. He stated if a public hearing was held and the board had discussions then the board members would not be able to vote on the matter.

Member Sullivan stated the concerns that the resident's have addressed should be brought forward at the time of the hearing during the public hearing portion of the meeting. If the board looked at changes to the ordinance now, they could be setting themselves up for legal ramifications. He stated this issue should be done after the process is complete.

At this time, the board indicated that all discussions about changes to the ordinance regarding asphalt plants would be suspended until the applications has completed the process.

## BIO SLUDGE

Member Starkweather stated that he would like to see Mr. Lewis get some information on the towns that were mentioned that regulate or do not allow bio-sludge in their towns so that the board has a better handle on the issue. Richard Lewis stated that he will check on them and will conduct some internal searches as well on the matter.

Member Starkweather asked if bio-sludge was only being spread on one property in Franklin. Richard Lewis stated the only one he is aware of is the current application before DES for the Fifield property on Smith Hill Road. He added that Fife spreads manure, but he is not sure if they are spreading bio-solids. Member Sharon stated they use to spread bio-solids, but mercury was found in the soil so they stopped. He stated the river has been checked and it is not in the river.

Member Sullivan stated that bio-solids are spread on the City property behind the treatment plant. He stated that Cadmium is a problem. He stated the person to speak with on this matter is Sharon McMillian, and the board may want to contact her and get her to come and speak with the board regarding the latest updates and regulations.

It was the consensus of the board, after a lengthy discussion, to have someone from DES come in and speak with the board and educate them on bio-solids and bio-sludge.

Member Sullivan stated that if bio-solids are not spread then they need to be landfilled. It was indicated that a community that if a community does not allow bio-solids to be spread in their community, that when the homeowner's have their septic pumped they pay more for disposing of the waste at the treatment plant.

- Seasonal Camping

The board indicated to not discuss this issue tonight.

- Planner's Update

Richard Lewis indicated that when the board discussed the North Main Street Restaurant, they board issued conditions and spoke about stormwater plans. Member Colburn indicated that he was willing to look at those plans. There are still some outstanding issues. However, the issue is that Brian Colburn has some figures that are different from Jim Bolduc, the PE for the applicant.

There was a lengthy discussion on this matter. After the discussion it was indicated to let Brian Colburn know how thankful we are for his help, but to have him step aside. That his efforts to date are appreciated but to

have him play the dual role of chairman and reviewer of drainage creates an awkward situation for both himself and the board.

It was discussed to have Richard Lewis and Brian Sullivan work with the applicant and his consultants on this matter in order to resolve the issue as efficiently as possible.

### **ATTWS Flag Pole on South Main Street**

Member Giunta indicated that he would like to see the City take a proactive step in making AT&T replace the flag at the South Main Street telecommunications flag pole with a flag whose size meets the recommendations based on the size of the pole as set by the Federal Government. It was indicated that the Federal Government has calculations on the size the flag should be based on the size of the pole and this should be followed. The board indicated they would like to see a letter sent, indicating that the board is enforcing the decision of the Site Plan, and that they are in violation of that approval.

There was a question as to whether the City could institute fines for each day that the proper size flag is not flown. Richard Lewis stated that the City would need to go to the Superior Court and get an injunction for fines and penalties.

Member Sullivan stated the letter needs to state that they are in violation of the Site Plan and that they have so many days to replace the flag with one of proportional size.

There was discussion about the previous large flag being damaged when brought to half mast. Angie Carey stated that the board made the decision, and upheld the decision when a request was submitted to remove the light, to have the pole lighted so that the flag did not have to be removed at night and did not have to be brought to half mast.

**MOTION:** Member Sharon moved and Mayor Merrifield seconded that the board recommend that Paul Fitzgerald draft a letter to AT&T regarding the need to replace the existing flag with a proportional flag that meets the federal recommendations, that a time frame for the replacement of the flag should be set and that a written plan for maintenance of the flag needs to be submitted to the board. All were in favor and the motion passed.

□ Adjournment

**MOTION:** Member Sharon moved and Member Sullivan seconded to adjourn the July 28<sup>th</sup>, 2010 Regular Meeting of the Franklin Planning Board at 9:35 p.m. All were in favor and the motion passed. The meeting was adjourned at 9:35 p.m.

**Respectfully Submitted,**

**Angela M. Carey  
Planning and Zoning  
Assistant to the Administrator**