



FREMONT PLANNING BOARD
October 19, 2011
Meeting Minutes
Approved November 2, 2011

Present: Chairman Roger Barham, Vice-Chair John (Jack) Karcz, Member John (Jack) Downing, Alt. Andrew Kohlhofer, Selectman Brett Hunter, RPC Circuit Rider Brian Groth, Building Official Bob Meade and Land Use AA/Recording Secretary Meredith Bolduc.
Also present: Selectman Greta St. Germain, Conservation Chairman Janice O'Brien and resident Chris Silk.

Mr. Barham opened the meeting at 7:05 pm.

MINUTES

Mr. Karcz made the motion to approve the minutes of the October 5, 2011 meeting as written. Motion seconded by Mr. Downing with unanimous favorable vote except for Mr. Hunter who abstained as he was not present at that meeting.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

Mr. Barham reported he met with RPC Assistant Director Glen Greenwood on October 7, 2011 relative to resuming the CIP process which is now moving forward. Mr. Greenwood is going to go back to the department heads to get a list of projects. Mr. Barham said that this year we will work out the process and next year implement the process into a full CIP.

SEACOAST UNITED SOCCER CLUB (SUSC)

Map 6 Lot 020-001

Note: The Seacoast United Soccer Club (SUSC) property straddles the Epping/Fremont Town lines.

Present: Selectmen Greta St. Germain and Conservation Commission Chairman Janice O'Brien.

Mrs. St. Germain said she is a Selectman, but she is also an abutter to the Seacoast United Soccer Club (SUSC) property. She reported that she has noticed tree cutting activity at the SUSC property and on Monday October 17, 2011 she talked with someone at the property who said he was logging off the land. There was no Intent-to-Cut filed with the Town prior to cutting, but an Intent-to-Cut was dropped off at the Town Hall on Tuesday after her visit. Tuesday afternoon she and Mrs. O'Brien visited the property with Jesse Bershaw and Neil Bilodeau of DRA who were concerned because it appeared there was cutting without a signed Intent-to-Cut filed and it appeared the activity was in a Prime Wetland. Mrs. St Germain said Epping has an Intent-to-Cut filed for the parking lot area which is in their Town.

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She related that the logger says they want the fields to get more sun to dry out for use it in the winter also. Mrs. St. Germain noted that the minutes say this is going to be a seasonal use. One concern was that it appears there is cutting within the entire Prime Wetland. It was noted that the logger has voluntarily stopped cutting at this time.

Mrs. O'Brian noted that these are mature trees that have been cut and the damage has been done. There was a question of whether the Town can refuse to sign the Intent-to-cut given the breach of condition of the Conservation Restriction on the property.

Mrs. St. Germain submitted three 2009 aerial photos done by NH DES and labeled "Fremont Town Park or Rec Field – Managed Turf Within the Coastal Basin. The town line runs diagonally across the large field complex so there are two maps for this complex (Maps 47 and 48). At the time they were generated Map 47 was sent to Epping and Map 48 was sent to Fremont. The other SUSC field (Map 224) is completely in Epping. Mrs. St. Germain also submitted a CD that contained 24 pictures taken on October 18, 2010 of the SUSC property as it is in its current state.

Mrs. Bolduc reported that she received an October 13, 2012 correspondence from Fred Lindahl, of 77 Brown Brook Circle reporting that he observed potential pollution of the Picassic River (Brown Brook) in the Fremont / Epping area and requesting that his concerns be forwarded to the proper personnel at NH DES. Issues Mr. Lindahl reported were:

- Runoff from the artificial turf that is immediately adjacent to the stream. The very small (rubber/synthetic) beads infused within the fabric turf, are washed out during heavy rains. They are visible around the perimeter of the fields after a rain.
- Not aware of any methods in place to effectively mitigate this run-off
- Ongoing action to clear cut the remaining trees between the fields and the stream.

Mrs. Bolduc stated that she forwarded Mr. Lindahl's message, as well as the SUSC contact person (Paul Willis) information, to Eben Lewis, NH DES Wetlands Compliance Specialist, Pease Field Office. Mr. Lewis responded that he will contact Mr. Willis to coordinate an inspection of the area(s) of concern.

It was agreed that there seem to be three main concerns with this property.

1. Wetlands and Prime Wetlands encroachment and/or pollution. Brown Brook area is a Prime Wetland.
2. Conservation Restriction violations.
3. Site Plan Review compliance.

Mrs. O'Brien said that a condition of the Site Plan Review (February 11, 2004) was a buffer planting of hardwood and softwood trees, which they did not do. She related she feels that SUSC has violated the following conditions of the Conservation Restriction:

- condition 1.1 of the Use Limitations of the Conservation Restriction which says "*forestry or recreational activities as may be consistent with the Conservation Purposes and which will not cause material pollution of surface or subsurface waters or soil erosion*".
- condition 1.4 of the Use Limitations which says *No changes in topography, surface or sub-surface water systems, wetlands, or natural habitats shall be allowed that would*

harm state of federally recognized rear or endangered species, except as necessary to the accomplishment of and consistent with the Conservation Purposes. Mrs. O'Brien said that topography changes have occurred by virtue of the machines on the property. She said she is concerned with erosion and she will take more pictures after the rain.

- Condition 2.2 of the Affirmative Rights of Grantee and Enforcement by Grantor which says in part; *The grantor shall post appropriate signs identifying the land as protected for open space conservation.* There are no signs posted.

Mr. Groth suggested that the owners may be required to restore the area, do erosion control, and/or replace or mitigate.

Mrs. O'Brien reported that Town Administrator Heidi Carlson has asked that there be one point person to be in contact with Town Counsel John Ryan and that we all try to communicate to avoid duplicate questions. Mr. Barham suggested that Mrs. O'Brien be the contact as she has already begun. Mrs. O'Brien said her questions to Mr. Ryan would be relative to violations to the terms of the Conservation Restriction and what the remedies could be. Mr. Groth suggested listing all violations and concerns including NH DES and DRA issues in the correspondence to the Town Counsel and copy to DES and DRA. All agreed. Mrs. O'Brien stated that she has already spoken with Mr. Ryan and will send him a package containing the issues tomorrow to find out what the Towns options are.

Mr. Karcz suggested writing to Epping advising of the problem. Mr. Barham suggested that the Planning Board call in the Seacoast Soccer Club in to discuss the existing Site Plan Review and get the State to keep Fremont in the loop so they know what action we as a Town can supplement to their requirements. It was agreed to discuss these issues further at the next meeting.

Mrs. O'Brien and Mrs. St. Germain left the meeting at 7:50 pm.

Mr. Meade suggested contacting Mike Kappler of Raymond who is a State rep whose forte is water protection. The Members agreed.

RPC COMMISSIONER
Present: Donald Marshall

Donald Marshall met with the Board relative to his desire to become a Fremont commissioner to the Rockingham Planning Commission. Mr. Marshall lives at 30 Ingalls Lane. As in his application, he stated that he has a B.S. in business from Boston College, he operates Home Watch Caregivers which is a home care firm throughout Rockingham County. He also holds a current NH Real Estate license. He noted that he is familiar with many of the general issues and wishes to serve as a Fremont Commissioner to RPC.

Mrs. Bolduc explained that this is an appointed four year position, where the candidate is recommended by the Planning Board and appointed by the Board of Selectmen. The role as a regional planning Commissioner is to attend monthly Commissioners meetings and; 1) to govern the Commission through decision-making and policy setting and; 2) to communicate regularly

between the Commission and the Town so that the Town is aware of Commission activities and the Commission is aware of local issues and concerns. It was noted that this would be done at a regular meeting of the Planning Board.

Mr. Karcz made the motion to recommend to the Board of Selectmen Mr. Marshall's appointment as the Fremont Commissioner to the Rockingham Planning Commission. Motion seconded by Mr. Downing with unanimous favorable vote.

The Board thanked Mr. Marshall for his willingness to serve as a Commissioner and he left the meeting at 8:00 pm.

SEACOAST FARMS (Shirkin Road, Map 5 Lot 035)

The Board reviewed correspondence relative to Seacoast Farms Composting Operation from Town Counsel John Ryan which was in response to questions asked of him by Mrs. Bolduc.

- October 2010: The Town brought an injunction action against Seacoast Farms. The Court denied our request for a preliminary injunction putting the matter over for a full hearing on the merits. Subsequently;
- January 28, 2011: At the request of Seacoast's counsel Chris Boldt, a meeting was held at Mr. Ryan's office on that included Heidi, Greta, Mr. Brown, Mr. Kelly and his Counsel. The issues related to the odor problem.
- January 31, 2011: Mr. Ryan received correspondence from Mr. Boldt relative to 1) reorganizing of windrows and 2) motion to abate the matter until Fall.
- March 3, 2011: Mr. Ryan received a copy of the plan entitled "Site Plan Operations Update, February 2011".
- October 7, 2011: Mr. Ryan received correspondence from Mr. Boldt suggesting that the case be dismissed and that Kelly has conformed to the terms negotiated in February, 2011.

Mr. Ryan conveyed that it seems the operable plan is the one received with the correspondence of March 3, 2011 which was submitted by Kelly in the context of litigation. Presumably this is what he is operating under.

Mrs. Bolduc reported that she contacted NH DES Waste Management Specialist Douglas Kemp, relative to find out; 1) what has been agreed between DES and Seacoast Farms Compost Operation on Shirkin Road in Fremont prior to the October 2010 litigation; and 2) what the "best management practices" are as it pertains to this operation. Mr. Kemp's October 18, 2011 response was:

1) Based on several site visits since the summer of 2010, Mr. Kelly has reduced the overall size [height and width] of the windrows and the "pile" of horse manure. I haven't visited the site since roughly this past spring, hence my intention to inspect the site before winter conditions set in this year.

The issue of only operating during certain wind conditions is problematic. My inspection during June of last year caught the facility operating during wind conditions that should have caused them to stop - at least until conditions changed. But, I have also been at the facility when windrows were being actively managed and wind conditions were ok.

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A review of my files indicates Mr. Kelly has not informed me that he has solved his growing solid waste issue. All, or at least most of the earthen berms and piles of dirt also contain noticeable amounts of solid waste [plastic, metal, etc.]. Mr. Kelly has been informed on several occasions that this material needs to be either screened to have the solid waste removed or the entire pile removed. The last time I spoke with Mr. Kelly on this issue, he stated he was in discussions with Waste Management Inc., of NE to use the material as daily cover at their Rochester, NH landfill. I suspect during my next inspection in the coming weeks or month, that I'll know what progress, if any, has taken place.

2) We are in the process of preparing updated BMPs for compost facilities. It is our intention to have this and as many other BMPs prepared by our next solid waste training event, which is to occur during the first week of November 2011.

Mr. Kemp will send the BMP when it is available. He also said that he has not received any complaints for some time, but he was planning on inspecting the facility possibly later this month or during early November and to contact him if someone from the Town would like to join him.

An ongoing complaint log listed 16 complaints of off-site odor in 2009, 18 in 2010 and 1 so far in 2011 (September 14, 2011)

Barham suggested that the major concern has been trying to minimize odor complaints. He said that the lack of complaints denotes that there seems to be some change of practice. He added that the Board should understand the operating plan that Seacoast is following and to insure that Mr. Kelly continues to do so.

The Board further discussed the latest situation at Seacoast Farms and the documentation obtained from Town Council that refers to an agreement which involves changes in working practices and a revised site plan.

The Board agreed that Mr. Barham, as Chairman, should contact Town Council to obtain more information and to determine if this impacts the current approved site plan.

Mr. Meade said he spoke with Thom Roy who led him to the file he had kept on Seacoast Farms.

ZONING ORDINANCES PROPOSED FOR 2012

Discussion:

Revisited:

- Article IV Section IV-A “In Law Apartments”:
 - Delete the second sentence of Section G: “*Any new entrances shall be located on the side or rear of the building and shall be at ground level*”.
 - Delete Section H: *All in-law/accessory apartments shall have accessible entrances and shall conform to dwelling unit Type-B construction, as specified in the International Residential Code (IRC).*

Motion to change the amendment to Article IV Section IV-A – G to delete **and shall be at ground level.**

Motion seconded by Mr. Downing with unanimous favorable vote.

Section H was discussed and the Members agreed to stay with their decision of October 5, 2011.

ROCKINGHAM PLANNING COMMISSION

The Board received a copy of an October 7, 2011 correspondence from RPC to the Selectmen relative to Fremont's 2012 dues in the amount of \$3,983.00. According to the letter, the cost is calculated based on the 2010 Census population for Fremont of 4,283 and a per capita dues rate of .93 (the same as last year). The \$77.00 increase over last years' dues of \$3,868.00 is due to the estimated increase in population (83).

Mr. Kohlhofer asked how RPC determines a decrease in population. Mr. Groth answered that it was based on the 2010 Census.

Mr. Downing made the motion to recommend the payment of the requested amount of \$3,983.00 to RPC for Fremont's 2012 dues.

Motion seconded by Mr. Karcz with unanimous favorable vote.

Mr. Barham said the Budget Committee asked what benefits Fremont gets as a result of the RPC dues. Mr. Groth submitted the following list:

Major Services:

- GIS Support – Map creation and maintenance. Software license maintenance.
- Targeted Block Grant funds – Matching grant funding. Vision Chapter of Master Plan
- Development of Regional Impact committee
- Training & Education for Land Use Boards
- Conservation Commission Circuit Rider
- Exeter River Management Plan; Assistance to ERLAC
- EPA Brownfields Site Assessment Program
- Broadband Mapping Program
- Circuit Rider Services: Review, analysis and drafting of zoning ordinances, subdivision and site plan regulations; assistance at Planning Board meetings; other general support.
- Safe Routes to School
- 604-B Water Quality Planning Support via the Exeter-Squamscott River Local Advisory Committee

Other Services:

- Informational mailings explaining the impacts of significant court decisions, amendments to state statutes; newly developed model ordinances, etc.
- Telephone support providing advice and assistance on a myriad of planning questions.
- Research and preparation of grant applications
- Organizational assistance to local land use boards
- Assistance with the National Flood Insurance Program
- RSA books

FIVE-YEAR EXEMPTION

The five-year exemption was discussed in relation to the Jake Donigian subdivision on Sandown Road.

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MEMBER

Mr. Barham noted that Chris Silk has now attended several meetings and asked him if he is interested in becoming a Member of the Planning Board. Mr. Silk said that he would like to serve on the Board. There was a brief discussion relative to the fact that there are both full Board and Alternate positions that need to be filled.

Mr. Downing made the motion to recommend to the Board of Selectmen to appoint Mr. Silk as an alternate Planning Board Member.

Motion seconded by Mr. Karcz with unanimous favorable vote.

INCOMING CORRESPONDENCES

There was no incoming correspondence.

Mr. Downing made the motion to adjourn at 9:00 pm.

Motion seconded by Mr. Karcz with unanimous favorable vote.

Respectfully submitted,

Meredith Bolduc, Land Use AA/Recording Secretary

Next regular meeting: November 2, 2011.

ACTION ITEMS

From the October 5, 2011 meeting.

Groth: create a draft adult use ordinance for the Members to review and consider.

From the August 10, 2011 meeting.

Groth: Speak with RPC Senior Planner Julie LaBranche relative to available funding for an Energy Chapter to the Master Plan.

Barham: Discuss resuming the CIP process with RPC Assistant Director Glen Greenwood. Completed.

From the March 16, 2011 Meeting.

Groth:

- Work with Mrs. Bolduc on restructuring the regulations and present a draft to the Members at a future meeting.
- Take a look at the new NHDES Alteration of Terrain Program's criteria and report back to the Board.

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PROJECTS PENDING/COMPLETED WITH RPC

- Master Plan Audit - Funded with CTAP Phase II funds = **\$3,500**; completion date of August 1, 2010. Completed February 16, 2011.
- CIP Annual Process - Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of October 5, 2011.
- Provide one (1) final paper copy and one (1) electronic version of the updated MP. Provide one (1) final copy of all elements of the CIP annual update process- Funded with the 2010 Targeted Block Grant (TGB); completion date of June 30, 2010. Paid Towns share of **\$1,000** in December 2009. Pending as of October 5, 2011.

Updated project timeline table below.

RPC

Projects Non-CTAP	Status	2009 30 June	2010 30 June	2010 22 Sept	2010 27 Oct
CIP Process Submittal Materials (2010 TBG)	Pending		Contracted Completion Date		
1 final copy of updated MP, CIP elements (2010 TBG)	Pending		Contracted Completion Date		