



FREMONT PLANNING BOARD

May 15, 2013

Meeting Minutes

Approved June 5, 2013

Present: Chairman Roger Barham, Vice-Chairman John (Jack) Karcz, Member John (Jack) Downing, Alternate Andrew Kohlhofer, Selectman Brett Hunter, Building Official Bob Meade RPC Circuit Rider Jenn Rowden, Phillip Coombs, and Land Use AA/Recording Secretary Meredith Bolduc.

Mr. Barham opened the meeting at 7:00 pm.

MINUTES

Mr. Hunter made the motion to approve the minutes of the May 1, 2013 meeting as written. Motion seconded by Mr. Karcz with unanimous favorable vote.

BEEDE SPAULDING, LLC,
(Formerly Stratham Acquisitions, LLC)
Map 3 Lot 56

The Board received and reviewed the construction surety estimate for approximately 1750' of roadway and drainage construction for the Spaulding Road residential open space development generated by Beals Associates on April 29, 2013 and revised (in red) by Stantec on May 2, 2013. Also received was a copy of the e-mail string between Christian Smith of Beals and Dan Tatem of Stantec relative to the surety estimate.

The surety estimate totaled the following:

General construction:	\$260,232.00
Underground utilities subtotal:	\$113,750.00
Drainage subtotal:	\$ 31,055.00
As-Built Plans (2 sheets)	\$ 2,500.00
Deeds, Easements & Agreements	\$ 1,500.00
Engineering & Contingency (15%)	<u>\$ 61,355.55</u>
Total	\$470,392.55

Mr. Karcz questioned if this included the cost of creating and maintaining the conservation easement. It was established that the easement in question for this is the road easement. Mr. Downing questioned if this surety estimate includes bonding of the through path to Beede Hill Road. Upon review of the document it was noted that the path through to Beede Hill Road was not mentioned and the Members agreed that the surety estimate should include the trail. It was agreed to not approve or recommend this estimate until Mr. Tatem has been contacted

for the question of whether the path to Beede Hill Road would be included in the bond estimate.

The Board received a copy of an e-mail message from Joe Nichols of Beals to Dan Tatem of Stantec requesting he provide a final Engineering review sign off. In a message to Mrs. Bolduc Mr. Tatem stated that he does not think it is appropriate for him to write a letter of complete compliance until the NHDES wetland permit is obtained and the permit number added to the plans. He said that he understands that the culverts are not part of the roadway, but considering they are needed for the required second point of access, they are definitely part of the project construction. If the permit is not granted, then the Board may choose to reconsider the approval. Mr. Tatem added that he could write a letter saying that they have addressed all but that remaining issue.

The Board agreed that Mr. Tatem should not sign off until the wetland permit is obtained.

EXCAVATION ANNUAL SITE VISITS

- GALLOWAY EXCAVATION
Map 5 Lot 035, Shirkin Road

At the last meeting Mr. Galloway met with the Board and related that nothing has been done at his gravel operation site since the October 2012 approved amendment to his permit and he asked that the Board visit the site for the annual inspection instead of the Town Engineer. The Board voted that they would visit the Galloway excavation site in lieu of the Town Engineer unless something is found that, in the opinion of those Members present, requires an Engineers review.

On May 10, 2013 Mr. Karcz, Mr. Downing and Mr. Meade conducted a site visit at the Galloway Excavation site on Shirkin Road. Also present were John and Andy Galloway.

Mr. Karcz and Mr. Downing submitted the following written comments for the site visit: "We observed that there was no activity noticeable at the site. Looking at the plan we noticed an error on the drawing in that 2 trailing piles were located on the plan that are not part of the excavation operation. The note should have read "existing trailing piles to be removed". We noticed that the Seacoast Farms operation appears to be encroaching on the Galloway gravel area. We have to check the Seacoast plan. Mr. Galloway was informed that the Engineer will be asked to come out next year."

Recommendations submitted by Mr. Karcz and Mr. Downing: "Little to no activity appeared to have taken place. John (Galloway) plans to bring some gravel in. No activity is anticipated on the left side. Recommend that the Town Engineer visit this site next year."

Pictures taken of the site by Mr. Meade were submitted. Mr. Meade pointed out that the asphalt had moved the asphalt as per requirement by the Board.

The Board was happy with the Galloway excavation site.

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After some conversation Mr. Karcz made the motion that due to inactivity at the Galloway Excavation site (Map 5 Lot 035, Shirkin Road) the Board would not require the Town Engineer to conduct the annual site visit for this year (2013) only. Further, to require that the 2014 annual site visit shall be conducted by the Town Engineer.
Motion seconded by Mr. Downing with unanimous favorable vote.

The Members agreed that because all excavation permits in Fremont do not expire until July 1, 2013, they will vote on renewing them next month.

SEACOAST FARMS

Pictures show encroachment on the Galloway excavation portion of the property. There were many piles of material. There was a discussion relative to this approval having a bonding condition if the quantity of tailings on site exceeds two thousand (2,000) cu yds. Mr. Barham said the Board will discuss this at a subsequent meeting.

- GOVERNOR'S FOREST/MARTIN FERWERDA
Map 3 Lot 002, Rt 107

At the last meeting Governor's Forest owner Martin Ferwerda met with the Board and told the Members that there has been no excavation activity at the Governor's Forest excavation site in the past year. He said in the past year he has only moved about 100 cu yds of material so he wants to request that the Board visit the site for the annual inspection instead of the Town Engineer. The Board voted that they would visit the Governor's Forest excavation site in lieu of the Town Engineer unless something is found that, in the opinion of those Members present, requires an Engineers review.

On May 10, 2013 Mr. Karcz, Mr. Downing and Mr. Meade conducted a site visit at the Governor's Forest excavation site. Mr. Ferwerda was not present.

Mr. Karcz and Mr. Downing submitted the following written comments for the site visit: "Mr. Meade took a number of pictures. We noticed that it appeared that a significant amount of activity had occurred on the left side just after the gate. It seemed that rock ledge had been removed and placed up higher on the left side near the trailer. There appeared to be no recent activity beyond the trailer. The silt fences were all broken and useless."

Recommendations submitted by Mr. Karcz and Mr. Downing: The Town Engineer visit this site next year. Old silt fence should be removed and either new ones put up or the grass buffer be extended along the edge of the hill before an operations commence.

Mr. Downing said he thought Mr. Ferwerda was not truthful when he said there had been no activity at the site noting that Mr. Ferwerda said he brought material in. The Members reviewed several pictures Mr. Meade had taken of the site, noting new piles of material. Mr. Meade questioned how they were to know the new piles of material were not brought in to the site and not material that was already onsite and processed. It was agreed that there has not been enough activity to warrant requiring the Town Engineer to conduct the annual site visit.

After some conversation Mr. Karcz made the motion due to inactivity at the Governor's Forest excavation site (Map 3 Lot 002, Rt 107) the Board would not require the Town

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Engineer to conduct the annual site visit for this year (2013) only. Further, to require that the 2014 annual site visit shall be conducted by the Town Engineer.

Motion seconded by Mr. Downing with unanimous favorable vote.

The Members agreed that because all excavation permits in Fremont do not expire until July 1, 2013, they will vote on renewing them all together next month. They also agreed that when they approve the application a condition of approval for Governor's Forest will be that the silt fence be replaced prior to the commencement of any activity.

- The Members agreed that the annual site visits will be scheduled with the Town Engineer for the PJP, Inc. excavation site on Rt 107 (Map 2 Lot 151.2) and the George Merrill excavation site on Beede Hill Road (Map 4 Lot 015).

SEACOAST UNITED SOCCER CLUB
Map 6 Lot 020-001

The following is a result of the Boards directions at the May 1, 2013 meeting.

1. A written request was sent from the Planning Board to the Selectmen to have the Town Attorney draft a correspondence to the Town of Epping, copied to SUSC, outlining violations and relating that we have complaints.
2. Eben Lewis of DES was contacted and he advised that the Brown Brook (Piscassic in the area of the SUSC) is not covered by the Shoreland Protection Act. That does not come into consideration for building a structure for sound abatement.
3. Janice O'Brien of the Fremont Conservation Commission was contacted and offered her professional opinion that the highlighted area in the document (attached to these minutes) is the area that is encumbered by the conservation restriction document. It is described as "that the portion of the SUSC property covered by the Deed Restriction is a portion of Lot 20-1, with an area of approximately 9.90 acres as depicted on Plan D-31731. Plan D-31731 does clearly indicate an area of 9.90 acres identified as CE Fremont. "

In her correspondence Mrs. O'Brien said it looks like when the easement was recorded, the Exhibit A was never attached, but the recorded document does indicate the conservation easement identified as CE Fremont so even given the missing exhibit referenced on the recorded document, one can reasonably argue that it was the intention of all of the parties to designate this parcel as the conservation easement area.

The issues brought about by the tree cutting and clearing on the property include:

1. Wetlands and Prime Wetlands encroachment and/or pollution. Brown Brook area is Prime Wetland area #10. This is NH DES jurisdiction.
2. Conservation Restriction Deed violations which is a Conservation Commission/Town issue.
3. Site Plan Review compliance which is a Planning Board issue.
A condition of the February 11, 2004 Planning Board approved Site Plan Review was that there would be a buffer planting of hardwood and softwood trees for noise and visual barrier, which has not been done. (this is shown on sheet #6 of the plan)

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DES has approved a request for an extension of the May 1, 2013 deadline as read in condition 1 as stated in the October 4, 2012 DES Restoration Plan to “the restoration must be completed no later than May 31, 2013. The remaining deadlines established in the RPA are still in force.”

Conditions of the SUSC February 11, 2004 Site Plan Approval by the Planning Board:

1. Receipt of Site Specific Approval from the State of New Hampshire,
2. Mr. Stephen G. Pernaw is to review the following intersections –
 - a. Leavitt Road & Shirkin Road
 - b. Rogers Road & Shirkin Road, and
 - c. Rogers Road and Beede Hill Road.

Mr. Frankiewicz shall arrange a meeting with Road Agent Holmes, Fremont Board of Selectmen and all other Safety Departments or interested parties to review and discuss Mr. Pernaw’s findings and come to an agreement of what needs to be done to ensure public safety.

3. Conservation Easement shall be completed a granted to the Fremont Conservation Commission, and
4. All notes with regards to abutter’s concerns be added to the final plan and recording plan which were but are not limited to the following: No PA system, no lights on field #3, no lighting after 10 pm, gated fence on entrance, buffer planting of hardwood and softwood trees be put in place for noise and visual barrier, and hours of operation.

The recorded site plan (D-31731) shows the Conservation Easement area and the proposed tree line on each of the 4 fields. The plans and mylar were signed by the Fremont and the Epping Planning Boards.

Notes on the recorded site plan include:

10. no public address system will be allowed.
11. Lights on Fields 1, 2, and 4 will be turned off by 10 pm.
12. Field #3 will have no lights.
13. see sheet 6 of 11 for buffer plantings along field #3.

Mr. Barham said that things told or promised privately by Mr. Willis to the residence is not a matter for the Planning Board because there is nothing in writing or in official minutes. Minutes of the Planning Board do not indicate that the operation of the facility was to be seasonal.

It was found that the February 4, 2004 Planning Board minutes did say that Mr. Willis said *“the 11:00 pm games were for the men’s league at the indoor soccer arena and that there will be no late games on the outside fields. These fields are for the U-11 – U19 teams which games last not later than 8:00 pm.”*

Mr. Barham said the abutter’s main concerns are due to excessive noise, visual impairment due to lighting, and the use of the fields after 10 pm and the intent for buffer plantings to be put in place was for visual and noise abatement.

Mr. Karcz said that if the idea of a sound wall were to be pursued it would need DES permission because of the proximity of a prime wetland even though it is not compliant with

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the Shoreland Protection Act. It was noted that additional conditions cannot be imposed after a site plan approval is final.

Mr. Barham said that as a Planning Board we can decide if SUSC is in noncompliance with the conditions of their site plan approval and need to file for amendment. Mrs. Rowden said that Epping would have to agree to require an amendment.

There was a discussion relative to whether the Board would want to exercise the option to require SUSC to file for an amendment to their site plan approval because of noncompliance of some conditions of approval and notes on the plan, order a cease and desist citing the non-compliance, or go another route.

At the last meeting the Board agreed to request the Selectmen have the Town Attorney draft a correspondence to the Town of Epping, copied to SUSC, outlining violations and relating that we have complaints. Mr. Hunter said he would not know if that had been carried out until tomorrow evening's Selectmen's meeting. The Board again discussed requesting that the correspondence be sent and agreed that it include the fact that the portion of condition #4 of the approval of the SUSC site plan requiring the buffer planting of hardwood and softwood trees be put in place for noise and visual barrier was never completed, the portion of condition #4 that requires no lighting after 10:00 pm is also not being complied with, and Fremont is looking to remedy this situation and is looking for Epping's cooperation in this matter.

The Members agreed to have Mrs. Bolduc contact Eben Lewis of DES to find out what plantings would be permitted and what restrictions there would be for planting for the purposes of sound barrier.

BUDGET EXPENDITURE REPORT

The Board reviewed the P/Z budget expenditure report for January 1 – April 30, 2013.

BUILDING OFFICIAL/CODE ENFORCEMENT OFFICER

Mr. Meade submitted his end-of-month report for April which included permits for 1 addition, 1 barn, 1 garage, and 3 renovations. There were also 26 trade's permits issued. He noted that last April there were 5 renovations, 1 shed, 1 demolition and 9 trade's permits.

Mr. Meade reported the following:

- Jake Donigian is talking about finishing the Jacob's Cove road in the fall.
- He is working through the codes with the tenants at the multi-use building at Cooper's Village on Spaulding Road.
- There may be some code issues at the United Methodist Church due to some residential use of the building.

Mr. Downing asked Mr. Meade how he is handling the increased building activity and Mr. Meade answered that he is doing the best he can.

INCOMING CORRESPONDENCE : Received: Notice of the 2013 RPC Annual Meeting to be held on June 12, 2013 at the Granite Rose in Hampstead.

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CONFERENCE PHONE

The conference phone was ordered and has been received.

OEP

Mr. Karcz reported that he attended the Annual OEP Conference where surveying & compiling the opinions of all the participants was done in real time via individual portable hand held units and the cumulative results displayed instantaneously."

MS4 – (SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM) STORMWATER MANAGEMENT PLAN

The Board received a copy of an April 30, 2013 correspondence from Ken Moraff, Acting Director of Ecosystem Protection of the EPA relating that based on the information in Fremont's letter of waiver request from the requirements of the MS4 permit requirements, the Town of Fremont has been granted a waiver and at this time will not be required to obtain permit coverage for stormwater discharges from their small MS4.

LEGISLATIVE BILLS

The following bills are among those introduced for the 2013 Legislative Session. Mrs. Bolduc will follow these bills and report any results to the Board.

- Senate Bill 49: This bill provides for appeals of planning board decisions concerning a subdivision or site plan to the board of adjustment prior to appeal to the superior court.
- Senate Bill 50: relative to expiration of variances and special exceptions.

Mr. Downing made the motion to adjourn at 8:50 pm.

Motion seconded by Mr. Kohlhofer with unanimous favorable vote.

Next regular meeting: June 5, 2013.

Respectfully submitted,

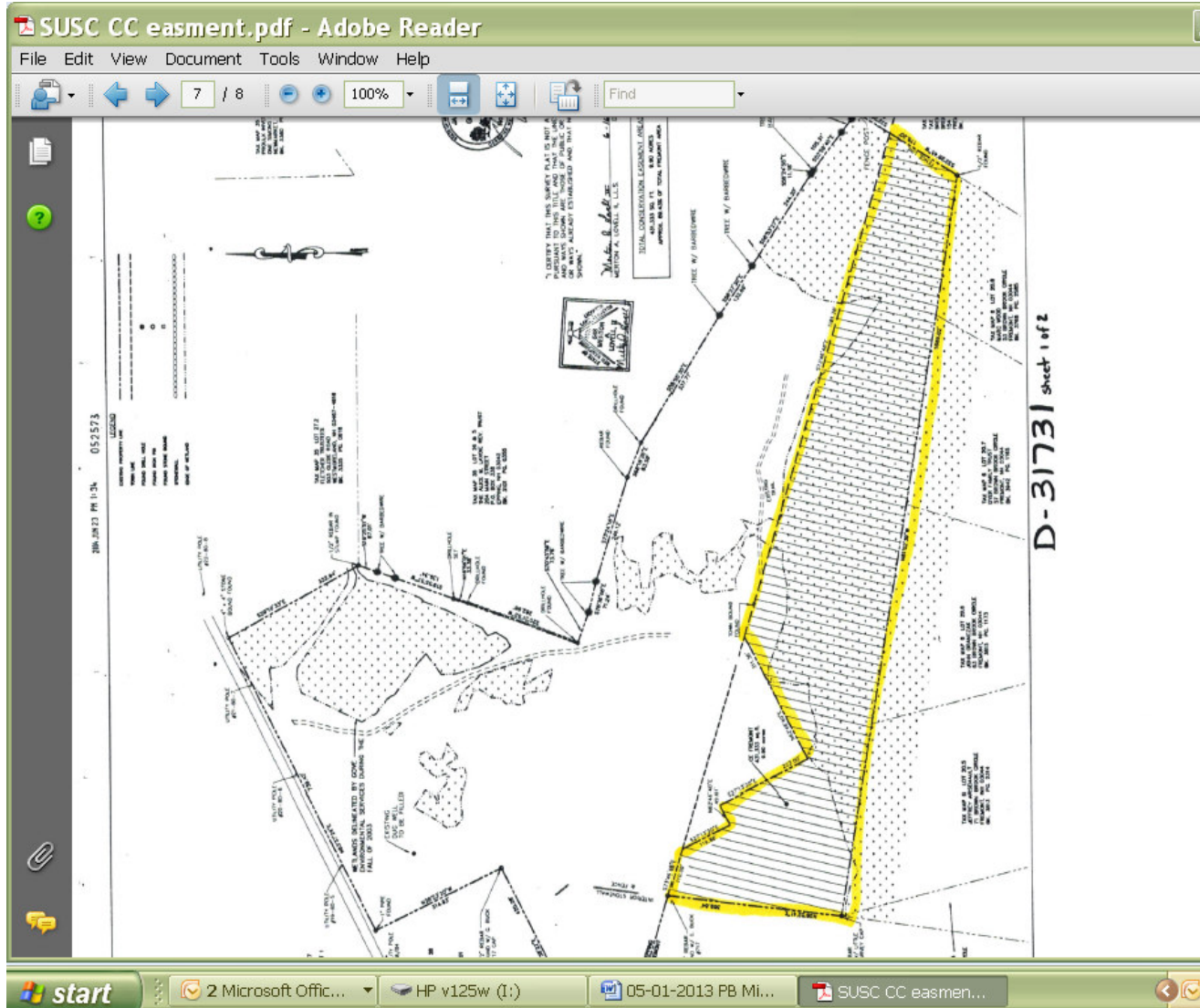
Meredith Bolduc, Land Use AA/Recording Secretary

ACTION ITEMS

Bolduc:

- Contact Dan Tatem about the surety for the Spaulding subdivision road. Completed.
- Contact Dan Tatem about PJP & Merrill excavation annual site visits. Completed.
- Contact PJP & Merrill excavations about annual site visits. Completed.
- Request the Selectmen have the Town Attorney draft a correspondence to the Town of Epping, copied to SUSC, outlining violations and complaints received. Completed.
- Contact Eben Lewis of DES to find out what plantings would be permitted and what restrictions there would be for planting for the purposes of sound barrier. Completed.

SUSC Restriction Deed Easement area; Map 6 Lot 020-001



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PROJECTS PENDING/COMPLETED WITH RPC

- 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 this date.
- 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 this date.
- Vision Chapter of MP - Funded with the 2012 Targeted Block Grant (TGB); completion date of June 30, 2012.
 Paid Towns share of **2,500** in November 2011. Pending as of this date.
- Energy Chapter of MP – Funded through the Energy Technical Assistance Program (ETAP) (no Town cost-share). Completion date of April 30, 2012.

Updated project timeline table below.

RPC

Projects Non-CTAP	Status	2009 30 June	2010 30 June	2010 22 Sept	2010 27 Oct	2012	2012 April 30	2012 June 30
CIP Process Submittal Materials (2010 TBG)	Pending		Contracted Completion Date					
1 final copy of updated MP, CIP elements (2010 TBG)	Pending		Contracted Completion Date					
MP Vision Chapter update	Pending							Contract Completion date
MP Energy Chapter	Pending					Completion date		