



FREMONT PLANNING BOARD  
May 21, 2014  
Meeting Minutes

Present: Vice-Chairman John (Jack) Karcz, Members Jack Downing and Andy Kohlhofer, Alts. Phillip Coombs and Tom O'Brien, Building Official Bob Meade, RPC Circuit Rider Jenn Rowden and Land Use AA/Recording Secretary Meredith Bolduc.

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

At the August 7, 2013 meeting Mr. Barham designated Alt. Coombs to fill a vacancy on the Board until the Board of Selectmen fills the vacancy, as allowed by RSA 673:12, III. This designation remains in effect.

Mr. Karcz appointed Mr. O'Brien as a voting Member for tonight's meeting in Mr. Barham's stead.

#### MINUTES

Mr. Downing made the motion to approve the minutes of the May 7, 2014 meeting as written. Motion seconded by Mr. Kohlhofer with unanimous favorable.

#### BEEDE SPAULDING

Map 3 Lot 053

The Board received:

- A copy of a May 9, 2014 invoice #790630 from Stantec in the amount of \$623 for Spaulding Road construction monitoring and a correspondence from Town Administrator Heidi Carlson to Treasurer Kimberly Dunbar relative to withdrawal of \$623 from the Beede Spaulding escrow account to cover the invoice.

#### DAN PERRY/SCRIBNER ESTATES

Map 2 Lot 001

Correspondences have been sent to:

- Lou Caron of Caron Engineering requesting him to review the figures of his July 21, 2010 estimate of \$137,340 for 600' of roadway, a 1" pavement wear course over the entire road, loam & seed along some of the right-of-way, treatment swale and miscellaneous other items for Thunder Road.
- Developer Dan Perry advising him that the Board has requested Mr. Caron to review his 2010 Thunder Road bond estimate, that payment for this would come from his escrow and if the estimate is increased the Board will require the LOC to be increased also.

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#### BUILDING INSPECTOR

Mr. Meade reported:

North Road: A property owner on North Road wants to cut some trees on his property which he says are about 25' from the road. North Road is designated as a scenic road and the RSA would need to be consulted and complied with.

He has issued 3 permits which will be included in his end-of-month report.

#### CIP

There was no update at this time.

#### ALBERT WITHAM/COUNTRYSIDE ESTATES

Map 3 Lot 001

Mrs. Bolduc reported that on May 8, 2014 Mr. Witham left a phone message with Mr. Meade that he has someone working on the plans (new Site Plan Review for Countryside Estates), that he is looking for another night with the Planning Board and would like to make an appointment. As a result of that message Mrs. Bolduc returned Mr. Witham's call and he met with her on May 15, 2014 to discuss the procedure for moving forward with plans for Design Review for a new Site Plan Review for Countryside Estates.

There was a general conversation about the Design Review process.

There was a discussion relative to the progress Mr. Witham has made in cleaning up his properties.

#### GOVERNOR'S FOREST/MARTIN FERWERDA

Map 3 Lot 002

Members of the Planning Board will visit the Governors Forest excavation site on May 23, 2014 at 4:00 pm in lieu of the Town Engineer unless something is found that, in the opinion of those Members present, requires an Engineers review.

#### LARS EKENDAHL

Re: Map 2 Lot 70 (Magnusson Gravel Pit on Rt 107)

Present: Lars Ekendahl, David Ekendahl, owner C.L. Magnusson, Deb Mullen and Bill Bartlett, Stephen Bassett

At 7:30 pm Mr. Ekendahl met with the Board relative to a question of recent test pit results being less than 4' above the seasonal high water table. His question was would he, as a future owner, have responsibility to restore the ground to water table level of 48" or is it not important to meet this condition?

Mr. Ekendahl said the recent test pit on the Magnusson Sandpit land (in presence of the Fremont Building official Robert Meade) indicated that the test made in a favorable location had water standing 36", 3' below the ground level on the knoll where the pit was done. Mr. Ekendahl said when he saw that was not the 48" requirement that he was given he went back and set up an auto-level and checked the location of the pit as a zero reference. With his own equipment and

skills, he determined that this pit was located within 30 feet of the highest point of the usable area or the 30 acres. Higher towards the land boundary west and up towards the edge of the field. All the rest was lower and some of it much lower.

Mr. Ekendahl submitted a map that he generated with the levels samples he took.

Mr. Ekendahl said if they need to meet 4' above the water table they are looking at more than 2,000 truckloads to bring up to 8 to 10 acres. His question was is it possible to get a waiver to the 48" requirement. Mr. Ekendahl said Kevin Hatch, the surveyor was familiar with this parcel, told him that they would need to fill to 48" for the septic. He added that in discussions with Wayne Kinney, the land contractor for this project, he estimated that we would need \$10,000 worth of fill to satisfy the requirements for the septic system.

Mr. Meade asked what the rules were when the pit was originally permitted. Research of the files showed that the 1972 original Magnusson excavation permit was approved prior to the 1988 adoption of the Aquifer Protection ordinance and the 1985 Wetland/Watershed ordinance so it would be grandfathered from those requirements. However, a condition of the original excavation permit that says "*no excavation within 4 feet of water table measured in April of 1972.*"

As a result of research by Mrs. Bolduc the Board had the following:

- The original Earth Removal Permit dated April 13, 1972 with a condition "*no excavation within 4 feet of water table measured in April of 1972.*"
- The last Earth Removal Permit dated December 18, 2007 which states: *Item #14 – Elevation of the highest annual average ground water table within and next to the proposed excavation = 4'.*
- The June 23, 2008 report of Lou Caron, Engineer for the Town, stating that on June 20, 2008 he met with Mr. Magnusson at his gravel pit of NH route 107 to verify the status of the gravel pit closure and its compliance with the Town's (and State) closure requirements. He listed the conditions he found at the site and stated that he "*found that the gravel pit has been reclaimed in compliance with the spirit and intent of the Town and State regulations.*" (no mention of 4' elevation)
- July 9, 2008 Planning Board minutes in which the Board voted, based on the results of the report of the Town Engineer Lou Caron, to recommend to the Board of Selectmen that the C. L. Magnusson gravel operation located at Map 2 Lot 070 be considered reclaimed and finished.
- July 10, 2008 letter from Mrs. Bolduc to Mr. Magnusson advising of the Board's recommendation.

Mr. Ekendahl said he is looking for the Board to agree that the pit reclamation is allowed.

Mrs. Rowden said she thinks it would be wise to contact the Town Attorney to see how the Town may be liable if the Board allows for the site to not be reclaimed back to the conditions of the original permit. The Board agreed. Mr. Coombs said that moving forward the Board is trying to do the right thing.

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Mr. Coombs made the motion that this issue be sent to the Town Attorney to determine the Town's liability with regard to this issue.

Motion seconded the motion by Mr. Kohlhofer with unanimous favorable vote.

Mr. Kohlhofer said we should also find out what action, if any, the Town can, or needs to, take.

Mr. Bartlett said his client was told that he could not dig below the water table so as to leave standing water. It was reiterated that according to the original Excavation Permit there was to be no excavation below the 4' level of the water table.

Mr. Kohlhofer asked Mrs. Rowden if building outside of the septic there will be no issue and she agreed.

Mr. Ekendahl asked if the Board would have an answer from the Town Attorney and be discussing this situation at the next meeting. It was agreed to continue discussion of this issue at 7:30 pm at the June 4, 2014 meeting.

Lars Ekendahl, David Ekendahl, C.L. Magnusson, Deb Mullen and Bill Bartlett left the meeting at 8:20 pm.

#### EXCAVATION REGULATIONS

Mr. Karcz said he thinks the Board should have a rule that when a gravel pit is closed and reclaimed test pits should be required. The Board agreed to put that on the list for review of regulation changes.

#### ZONING ORDINANCE/SITE PLAN REVIEW REGULATIONS

Mrs. Rowden suggested looking into moving permission for a commercial use in the Aquifer Protection District from requiring a Special Exception from the Zoning Ordinance (Article IX – D, 6, 1) to a conditional use permit within the Site Plan Review Regulations.

The Board agreed to put that on the list for review of Zoning Ordinance changes.

It was agreed that there should be a fee for Conditional Use Permit. Mrs. Rowden will check to see what other town's fees are.

#### STEPHEN BASSETT/HERITAGE FARMS

Map 4 Lots 70, 72, 73, 74, 75

Present: Stephen Bassett

At 8:25 pm Mr. Bassett met with the Board relative to a possible future sale of the PJP, Inc. property, which abuts his property, and his interest in being allowed access to his landlocked property (Heritage Farms) through the PJP property. He complained that he was always allowed to use the gravel pit road access, but now it is gated.

Mr. Karcz told Mr. Bassett that this is not a Planning Board issue, but is a civil issue between him and the owner of the PJP property. Mr. Bassett was told that at the April 16, 2014 meeting with Mr. Garvey, who represents a prospective buyer, Mr. Coombs asked what kind of

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accommodations they would be willing to make with the 2 landlocked properties that abut the PJP property and Mr. Garvey said he would certainly like to talk with them.

Mr. Coombs said he talked to Mr. Garvey and he seemed amenable to granting access to Mr. Bassett.

Mrs. Rowden said while the Board can suggest that a landowner supply access they cannot require this.

#### MASTER PLAN

Energy Chapter

Growth Control Chapter.

The Board will review the Energy and Growth Control chapters of the Master Plan soon. Mrs. Rowden said she has started working on the Growth Control chapter and said she needs the Ellis School enrollment information. Mr. Kohlhofer agreed to get her the information on the school and she has already received the building permit information from Mr. Meade.

Mrs. Rowden offered to represent the Board at the June 19, 2014 joint informational session sponsored by the Raymond Planning Board. She said it would be billed as Planning Board time. It was decided not to take Mrs. Rowden up on her offer and that a Member would probably be going to that meeting.

#### INCOMING CORRESPONDENCE

Mr. Downing made the motion to adjourn at 8:40 pm.

Motion seconded by Mr. Kohlhofer with unanimous favorable vote.

Next regular meeting: June 4, 2014.

Respectfully submitted,

Meredith Bolduc, Land Use AA/Recording Secretary

#### ACTION ITEMS

From May 7: Bolduc:

- Contact Lou Caron for review of the Thunder Road bond estimate. Completed.
- Contact Dan Tatem relative to the annual Town Engineer's site visit for the Merrill excavation operation. Completed.

From May 21: Bolduc

- Send information relative to the Magnusson Excavation pit to the Town Attorney– and request opinion relative to elevation and closure and the Town's liability.

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**LEGISLATIVE BILLS**

The following bills are among those introduced for the 2014 Legislative Session. Mrs. Bolduc will follow these bills and report any results to the Board.

House Bill 114: This bill would allow Planning Boards to use their discretion in requiring a landowner subdividing their property grant a right of way to their neighbor if the neighbor's property is landlocked.

**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. Completed.
- Energy Chapter of MP – Funded through the Energy Technical Assistance Program (ETAP) (no Town cost-share). Completion date of April 30, 2012. Pending as of this date.
- Growth Control Chapter of MP – Funded through the 2013 Targeted Block Grant (TGB); Completion date of June 30, 2014.

Updated project timeline table below. **RPC**

Projects Non-CTAP	Status	2010 30 June	2012 April 30	2012 June 30	2014 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 Energy Chapter	Pending		Completion date		Contract Completion Date
MP Growth Control Chapter	Pending				Contract Completion Date