

**December 8, 2009
Planning and Economic Development Board
Sanford Hall, 155 Village Street**

BOARD MEMBERS PRESENT: Andy Rodenhiser, Bob Tucker, Karyl Spiller-Walsh, and Chan Rogers

ABSENT WITH NOTICE: Tom Gay

ABSENT WITHOUT NOTICE: John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning Board and Economic Development Coordinator
Gino Carlucci, PGC Associates
Dave Pellegri, Tetra Tech Rizzo
Amy Sutherland, Meeting Recording Secretary

BOARD BUSINESS

Charles River Pollution Control District – Sewage Treatment Plant Capacity:

Paul DeSimone asked to be on the Planning and Economic Development Board agenda to discuss the capacity issues at the sewage treatment plant. Mr. DeSimone is concerned about the plant's ability to treat the wastewater products resulting from future development activity in Medway.

The Chairman noted that a draft National Pollutant Discharge Elimination System (NPDES) re-issuance permit is dated 2008. The Towns of Franklin, Millis, Bellingham and Medway are referenced in the report. Each Town must submit an Inflow and Infiltration (I & I) report. A copy of the Charles River Pollution Control District 2010 and 15 year Capital Improvement Plan was provided. This was dated January 2009. The report showed the contributing flow. The purpose of the 15-year Capital Improvement Plan is to make the improvements which are necessary to keep the plant operating at current capacity. There is also a requirement to maintain compliance with Federal and State permits.

The Chairman suggested that Mr. DeSimone specify and put in writing exactly what is needed from the Planning and Economic Development Board. Gino Carlucci indicated that the MAPC did a full build out for Medway and it is still relevant and accurate. It was felt that the Sewer Department could provide the accurate numbers. Member Rogers wanted to know the status of the remaining areas of Medway that are on individual septic. Another question he wanted addressed was what is the driving force to make the unsewered portions of Town change to sewer? Member Rogers would like to see this mechanism put in place.

The Board further discussed the I/I study, which was done in 2001 and again in 2005. The most recent I/I study for 2008 has not been done. Mr. DeSimone informed the Board that the manholes and cracks were addressed in the most recent 2005 I/I study. Mr. DeSimone will be sending a letter to Water and Sewer.

Chairman Rodenhiser communicated that if sewer is available, then an applicant can hook on to it. He encourages Mr. DeSimone to go to the Water and Sewer Board to discuss this. The Chairman wants to make sure that Medway reserves our capacity and is concerned that Franklin's sewage is unmetered and this should be fixed. The Medway Town residents are paying for this unmetered sewage. In 2008 there was a refund assessment. The Board is concerned with the sewer capacity for east Medway.

Member Rogers wanted to know what Mr. Desimone is looking for in the near future.

Mr. DeSimone noted that there is another meeting this Thursday. He feels that there will be a need for future expansion. This would ideally be done in the next 15 years.

The Board was also in receipt of a document from Camp Dresser & McKee Inc. dated November 13, 1998. This letter referenced the present value and plant modified capacity for Medway (.895 mgd). Table two shows the allocation of increase in capacity based on plant ownership ratio of, 80 percent Franklin and 20 percent Medway.

Consultant Pellegri suggested that the various boards which issue permits would be able to track and keep accurate numbers of who is connecting to Town sewer. Mr. Pellegri was wondering if the Town has an I/I permit fee? When a project gets approved you are authorized to take out exactly what you are putting it.

Member Tucker expressed that he felt that the numbers initially provided to Water and Sewer were conservative.

The Board discussed providing recent numbers of houses in subdivisions that are in the process or have been approved for construction so that the Town can project the future capacity. The number should be noted on the build out plan.

The Chairman thanked Mr. DeSimone for coming to the Board meeting.

Country View Estates/Drainage Easement:

37 Broad Acres Farm Road.

Attorney Saint Andre was present to provide an update of Country View Estates. The main issue with accepting the streets has to do with the easements. The Town cannot get clear titles on all the properties. The Board feels that the title searches should be done by the property owners.

Member Spiller-Walsh thought that when Attorney Cannon gave the presentation, all the other easements (with the exception of three) were gathered.

Attorney Andre agreed that this was true, but there were no sign offs from the mortgages companies.

Member Rogers would like to have the homeowners be informed about the process and the problems. Two of the members do not want this accepted. The alternative is to take by eminent domain. He feels houses are more valuable with accepted streets.

Attorney Saint Andre explained that the big banks have different sets of requirements, and it can be a very complicated process with these national companies. The cost to the Town for appraisals, title work, and legal costs would be at least \$12,000.

Chairman Rodenhiser communicated that it is not the Board's desire to pursue. The Board of Selectmen made clear they do not want to pay and take by eminent domain.

Member Rogers felt they are wasting the Town's money on this subject. The builder has not completed the work as it was noted in the original plan. It is to the homeowner's disadvantage to not have their street accepted.

Chairman Rodenhiser wanted to know if member Rogers is suggesting that the Board hold an educational session with the residents of this development.

Affleck-Childs reminds the Board that the Board of Selectmen did ask the Board for specific recommendations on each subdivision. This situation has not improved at all. The Board of selectmen is not comfortable with eminent domain.

Member Spiller-Walsh was wondering if it is possible for a neighborhood to form their own Homeowners' Association and care for their own roads.

Chairman Rodenhiser suggested having a meeting with the residents to inform them of what their options are and then make a recommendation to the Board of Selectmen.

Attorney Saint Andre noted that this is a package deal. If the Town accepts the roads, then they need to accept the easements as a whole. If they do not want to accept the streets, then the Town should not accept the drainage easements. Attorney Saint Andre also noted that another big problem is the operation and maintenance plan that was not accepted by the Town.

Affleck-Childs reminded the Board that they also need to discuss the cost recovery on the culvert installation under Summer Street.

Mr. Pelligri intervened and explained that the State had a schedule to pave this road and did not want the runoff to continue to flood the road. The report by VHB noted that the original design had been changed and the inspections and drainage pipe size needed to be increased. The bigger pipe was never installed.

Chairman Rodenhiser communicated that the change on the plan was not noted and the builder got refunded although the work on the culvert was never done.

Member Spiller-Walsh agrees with Rogers and believes that the Town needs to decide what to do for the residents. They are the victims in this. The people will need some help and guidance.

Chairman Rodenhiser is hearing from members Rogers and Spiller-Walsh that a meeting with the residents should be held. The purpose is to inform them about what is going on with the easements. The steps could be scripted by the Board to assist the residents.

Affleck–Childs suggests that she could set up the meeting with neighbors. The Board would help to facilitate the meeting by giving the residents an explanation and the possible steps to take with their individual mortgage companies and provide them with the options. One point that Affleck-Childs wanted to bring up to the Board is that if it is not really the intent of the Board to recommend street acceptance, then should the Board be even holding a meeting with the neighborhood? If the Board jumps through all these hoops in helping the residents and then Board does not want to finally go to Town meeting to accept the streets, many people have done a lot of extra work.

Chairman Rodenhiser asked the Board members who would be comfortable accepting the streets as currently constructed.

Member Spiller-Walsh is ready to accept the streets in their present conditions.

Member Rogers is also ready to accept the streets as they are.

Member Tucker is not ready at this point to make any recommendation about road acceptance. He wants more clarification.

Chairman Rodenhiser is not comfortable with the extra expenses, which may be incurred by the Town.

Affleck –Childs informed that until the issues with the easements are resolved, the Board cannot move on. A recommendation must be made to the Board of Selectmen. There is currently \$5,400 dollars left in the construction budget for outside consultants (legal support). Mr. Pelligri noted that there is a punch list with about \$5,000 worth of work that still needs to be done. Affleck–Childs reminded the Board that the easements were never officially recorded.

Member Tucker feels that if the Board is going to put forth the energies and efforts to assist the homeowners in this subdivision, they must be ready to do so in future instances for other subdivisions.

Chairman Rodenhiser agrees and communicates that the Board has taken action with respect to other streets such as Cardinal and Goldenrod in a less direct way. The Chairman is agreeable to the meeting but is not prepared to spend a lot of money on legal to accept these streets. He wants to follow the recommendation from Attorney Saint Andre.

Member Spiller-Walsh wants to see the original plan of the Streifer property to see if the house was constructed closer to the detention pond than on the original plan.

Attorney Saint Andre lets the Board know that if the easement is challenged, this could go to court.

Affleck-Childs suggests responding formally to the Streifers attorney and present the revised easement with the language from our attorney to the DPW.

On a motion made by Bob Tucker and seconded by Karyl Spiller-Walsh during the regular meeting, the Planning and Economic Board had voted by roll call vote to go into Executive Session to discuss strategy in respect to litigation and to return to open session afterwards

Roll Call:

Karyl Spiller-Walsh aye
Bob Tucker aye
Chan Rogers aye
Andy Rodenhiser aye

The Board went into executive session at 8:45 pm and returned from executive session at 8:58 pm.

John Emidy – Building Commissioner

Abandoned Residential Properties:

The Building Commissioner and the Board had a discussion about the wording of a possible bylaw in relation to abandoned residential properties. The Board was supplied with sample wording from Marlborough, MA, which references Chapter 66 entitled “Registration and Maintenance of abandoned and/or foreclosing residential properties.” Chapter 66 allows the Building Commissioner to enforce pursuant to MGL c. 143. Section 3. The Board felt that the registration portion of the foreclosed property is helpful since it provided valuable information about the owner. The order also references that the registration (which must be certified) and the property in question of abandonment has to be inspected. Any resident who fails to register with the Commissioner shall be enforced by non-criminal disposition pursuant to MGL c. 40 Section 21 D, resulting in a fine of \$300.00.

The Board members think this is a good idea. Chairman Rodenhiser felt that it would be helpful to view the tape from Town meeting and to invite in community residents in to discuss the various issues they may have. Member Tucker agreed that there is good contact information about the property. Another suggestion was made to notify the local institutions such as banks, mortgage companies and businesses to get their comments about abandoned properties. The draft document will be provided to the Board when ready.

Affleck-Childs suggested that the Board host the public meeting for the community along with the Building Commissioner.

Home Based Businesses:

While the Building Commissioner was still available, the discussion shifted into looking at possible amendments to the Zoning Bylaw. Mr. Emidy suggests adding and revising some definitions. The Board is also looking to work with Mr. Carlucci to create a document, which defines a “home based business”. Establishing criteria for by right and special permits in ARI and ARII will need to be completed. This is currently only allowed by special permit. The current building code does not address this. Chairman Rodenhiser would like to see some outside parameters in regards to limits on home based businesses under which they would NOT be permitted at all.

Affleck-Childs recommends that the Board members review the hand out entitled Ideas for Zoning Bylaw Amendment and other possible Town meeting warrant articles and prioritize the list for the next meeting.

Member Spiller-Walsh would like further discussion about the other zoning amendment ideas specifically the agricultural use.

Affleck-Childs noted that there were no definitions for rear lot line, side lot line, setback and others. It was suggested that if there are any priorities, let her know. Another idea is to revisit the OSRD formula. The building commissioner will propose draft definitions.

The Board discussed electrical generation and Massachusetts Green Communities. There is currently nothing in the zoning bylaw for the industrial I and III zones.

Member Tucker is currently working on the lighting bylaw.

Minutes: (October 27, 2009 & November 24, 2009)

The minutes from October 27, 2009 will be held over to the next meeting.

The minutes of November 24, 2009 were discussed. Member Rogers noted some revisions to page four. He also noted that he doesn't feel that the internal disputes between Board members should be noted in the minutes.

The Chairman wants all dialogue and disagreements among any Board members to be noted in the minutes.

Member Spiller-Walsh stated that she wanted more in depth discussion added to a portion of the minutes regarding Daniel Woods. This was addressed and included in the revised November 24, 2009 minutes.

Affleck-Childs will provide an edited copy of the minutes' revisions to the Board for review and acceptance.

Massachusetts Green Communities Program:

Mr. Carlucci explained that the Town had applied for technical assistance to help Medway become a designated Green Community. This would enable the Town to apply for energy grants. The Planning and Economic Board is responsible for two of the five criteria. Horsley and Whitten have been assigned as the consultant by the State to assist Medway. This does not cost the Town anything. The consultant is helping with the action plan. The Town must have the zoning for this. There are higher points for a grant if there is allocated zoning. There was a lengthy list of guidelines and criteria to help with the permitting process. The Board discussed expanding the 43D district beyond the Cybex and selected bottle cap lots area in the Industrial III zoning district. The third step is to create an energy use baseline for all municipal buildings and equipment. The schools will be invited to participate on a Town wide Energy committee. Mr. Carlucci will be drafting and making recommendations on the zoning matters.

Ms. Affleck-Childs communicated that the Town is at the inventory level. The goal is to have the proposal go to the Selectmen who will be accepting this program.

The Board further discussed the stretch code, which was adopted by the State in May 2009. The goal is to improve building energy efficiency. The stretch code needs to be adopted by the Board of Selectmen. Member Tucker would like the Stretch Code information sent to him electronically.

Construction Observation

Applegate Farm Subdivision

The developer has agreed to have a pre-construction meeting. Both Ms. Affleck-Childs and Mr. Pellegrini will work together to set up a procedure for the pre-construction meeting. It was the consensus of the Board that all gravel needs to be removed from the site since he has not followed the rules. Member Spiller-Walsh was wondering if a few core samples could be taken instead of removing it all. Member Rogers communicated that contractors need to know that they must do it our way or not at all. Some of the members did see the site and found that the contractor had roughed out the road. Gravel is continually being brought into the site. The Board was also concerned that the construction sign is bigger than allowed and recommends that a complaint be filed with the Building Commissioner. Affleck-Childs will send a formal complaint on behalf of the board. Mr. Pelligri was directed by the Board to order the contractor to take the gravel out.

Committee/Task Force Reports:

Medway School Building Committee (Bob Tucker)

Member Tucker informed that the Medway School Building Committee has selected an Owners Project Manager (OPM) and a presentation will need to be made to the Massachusetts School Building Authority. This is a long and arduous process. The candidate will need to be ratified by the full Medway School Building Committee.

Water and Sewer Committee (Chan Rogers)

No Update

Chairman Rodenhiser shared a newspaper, which showed how a community in Canada provided information about their community. Affleck-Childs noted that Franklin does a nice job of sending out information about the Town on a quarterly basis.

OTHER BUSINESS:

Revisions to Medway Land Subdivision Rules and Regulations:

Section 6 – Administration of Approved Subdivision

Member Spiller-Walsh informed the Board that based on the opinion of Town Counsel Barbara Saint Andrew of Petrini & Associates, she has decided to recuse herself from any further discussions regarding revisions to the Subdivision Rules and Regulations. This is because of Member Spiller-Walsh's status as an applicant before the Board for a small subdivision (Wingate Farm). Member Spiller-Walsh left the meeting at 10:36 pm.

Member Rogers feels the letter is quite far reaching.

6.6 Adjustment of Performance Guarantee:

As noted in the paperwork provided, Town Counsel recommends that a reference to “bond” should be revised to say “surety or performance guarantee”. The Board is in agreement with this. The language currently includes three performance guarantee reductions. The Chairman would like to see the three changed to none. He wants to use surety (insurance bonds) instead of cash. If the bond is released, the Town is subject to problems.

Affleck-Childs will check the state subdivision control laws website about the language if it “allows or requires” a municipality to provide for bond reductions. Town Counsel has advised that we cannot retain a minimum bond until street acceptance occurs. Instead, we can establish a minimum until the project is complete. The difficulty is figuring out how to manage the money collection. The Board needs to create a checklist for the applicant to work from.

6.6.2 – The Board discussed adding the amount of the performance guarantee by including anything shown of the plan that hasn’t been completed. The amount can include maintenance expenses, preparation of as-built/street acceptance plans and legal services needed for project completion. The Board was in agreement with this and felt that the installation of water, sewer and all other utilities should be completed prior to any lot releases. The Board is comfortable with the 25% contingency. The Chairman recommends setting up a meeting with the Attorney to add joint language to include Conservation Commission concerns, which may include Certificate of Compliance. Specific criteria for project completion will need to be created and developed. The Board wants to be in unison with the other boards. The bond estimates are to be adjusted based on the current per unit construction pricing.

6.6.3 – The Board would like to see that the infrastructure construction language changed from “should” to “shall”. Dave D’Amico and Dave Pellegrini will look at this section further.

6.6.4 – Affleck-Childs suggests adding a section re: how bond reductions are processed. It is her feeling that there needs to be an explanation about how reductions are processed. For example; first approved by the Board, then notify treasurer, and lastly processed through the Town’s bi-weekly warrant system.

6.6.5 – It is the thought that some language needs to be added addressing that performance guarantee accounts are not intended to serve as construction financing.

Member Rogers spoke up informing the Board that he was going to leave the meeting. Affleck-Childs explained that if Roger leaves, the meeting would have to be adjourned, since a quorum would not be present.

On a motion made by Chan Rogers and seconded by Bob Tucker, the Board voted unanimously to adjourn

The meeting was adjourned at 11:20 pm.

The Board will continue working on the Subdivision Rules and Regs at the next meeting on December 15, 2009. There will be no meeting on December 22, 2009. January meetings are **January 12 & 26, 2010.**

*Minutes of December 8, 2009 Meeting
Medway Planning & Economic Development Board
Approved – December 15, 2009*

Respectfully Submitted,

Amy Sutherland
Meeting Recording Secretary

Edited by Susy Affleck-Childs
Planning and Economic Development Coordinator