

Planning Board
June 5, 2007
Approved August 7, 2007

Members Present: Barbara Freeman, Chair; Bill Weiler, Vice-Chair; Travis Dezotell; Jim Powell, Ex-Officio; Ken McWilliams, Advisor

Mrs. Freeman called the meeting to order at 7:05 p.m. and the Board reviewed the minutes of May 1, 1007 and made corrections.

Mr. Weiler commented that case numbers need to be assigned to the cases discussed on May 1, 2007. Also, the indexing should be kept up to date.

Mr. Weiler made a motion to accept the minutes of May 1, 2007 as corrected. Mr. Dezotell seconded the motion. All in favor.

The Board reviewed the minutes of May 29, 2007 and made corrections.

Mr. Weiler made a motion to accept the minutes of May 29, 2007 as corrected. Mr. Dezotell seconded the motion. All in favor.

Mr. Powell requested of the Board that at a future Planning Board worksession, the Board discuss the extent and detail necessary for meeting minutes when there are tape recordings as backup.

Mrs. Freeman suggested that the Board discuss it this evening.

Mr. Powell commented that minutes are minutes; they do not need to capture every word. The Planning Board meeting minutes are in some cases are very detailed and elaborate which takes a lot of time to transcribe.

Mr. Weiler informed Mr. Powell that the Board does not keep the recorded tapes. They are recycled after the meeting minutes are reviewed and accepted. Also, the longevity of audiotape is very limited.

Mr. Powell commented that the minutes only need to be a synopsis of the meeting, not a verbatim transcription.

Mr. Weiler commented that Mr. Powell is right as far as the Selectmen's meeting minutes go, but the Planning Board is often subject to legal suit and very often someone has to go back and look at those details. The Planning Board meeting minutes are actually a summary and not word for word. He stated that he is surprised that the secretarial bill is so high that it is already over budget.

Mr. Powell stated that the secretarial bill is not going to ruin the Planning Board budget. The Selectmen think that it is overkill to spend taxpayer's money that way, but that is the Board's prerogative.

Mrs. Freeman commented that she can understand the Select Board's concern for the budget, but she does not think that the secretarial expense is the issue. She stated that she had a copy of the budget in front of her and it seems to be on track for half way through the year. Also, she commented that there are a few things that are higher and a few things that are lower, and that it will balance out in the end.

Mr. Weiler pointed out that the fees for the hearing paid by the applicant cover the secretarial services.

Mr. Powell commented that passing costs onto the developer is appropriate but doing it irresponsibly is another thing. For example, requiring the developer to produce so many copies of plans for each department head. He asked why the department heads couldn't share the plans, thereby keeping the fees to the applicant at a minimum.

Mrs. Freeman explained that it is standard procedure to have multiple copies prepared. There is a time constraint in the application process; and in the past, some department heads have not responded at all. Therefore, to ask the Department Heads to share a plan slows the process. The requirement for multiple copies actually streamlines the process to the benefit of the developer. It saves time and is more efficient and keeps the process moving. Making copies of the plans are a small percentage of the engineering costs. Some of the developers drive up their own costs by trying to revise plans to accommodate their own desire to find shortcuts. Mr. Pickman wanted to take the risk of redesigning and paying for redesigning in order to ask for waivers. That practice takes longer and makes the application process more expensive.

Mr. Powell commented that there have been similar complaints registered by other developers other than the Pickmans.

Mr. Weiler stated that the Planning Board requires one large set of plans for the file and the remaining copies for the Board members to review are on 11" by 17" paper.

Mrs. Freeman commented that sometimes it is the engineer that does overkill on their own by trying to make an impressive presentation to the Board with bound books and colored maps.

Mr. Powell stated that he is just the messenger and that the Town should look at taking steps to be fiscally conservative and make things simpler and easier for people.

Mrs. Freeman commented that she thinks it is good to bring it up so that the Board of Selectmen hears why the Planning Board has certain requirements. All these requirements are modeled to safeguard the Town. There are still issues of drainage and water problems. We have to have engineering studies and professional help, therefore

the Board has to have that process laid out. The Planning Board is trying to be responsible to the Town.

Mr. Weiler stated that he personally worked on the fee schedule and wrote the regulations that require copies for the Board. In both instances, Mr. Weiler stated that he was mindful of the costs and keeping the costs down. He commented that he believes charging citizens for copies of the regulations are counter productive because many people do not purchase the regulations and then they are not prepared when they come before the Board.

Mr. Powell commented that the ordinances can be downloaded from the website, and they are also available for review at the Town Offices.

Mr. Weiler specifically noted that at the Zoning Board of Adjustment hearing June 4, 2007, it was clear that nobody had read the regulations.

CASE: Code – 038: Storm Water Management Ordinance

Mrs. Freeman explained to the Board that a committee has formed and is endorsed by the Department of Environmental Strategies to create a model zoning ordinance to deal with storm water run-off and storm water stabilization as a result of the near-disasters at Chalk Pond. The Committee is staying in touch with the Planning Board because it is normally the Planning Board that prepares the ordinances. The Planning Board will need to step up and back these ordinances prepared by the Committee. The Committee members are Charlie Hirshberg, Engineer, Steve Russell, Richard Dietrich, and two Planning Board members: Dean Geddes and Bill Weiler.

Mr. Weiler made a motion that the Planning Board create a subcommittee on crafting a Storm Water Ordinance for the Town. Mr. Dezotell seconded the motion. Discussion followed.

Mr. Powell asked if this committee is addressing the storm water management issues for the whole Town or just the Chalk Pond area.

Mr. Weiler explained that the DES agreed to fund this project as long as it is for the whole Town, not just one area of Town.

Mr. Powell commented that he was under the impression for many months that this project would be only for the Chalk Pond area, and this is the first time that he was aware that this is planned to be for the whole Town.

Mrs. Freeman commented that the reason the Board thought that this type of ordinance would be good to look at if for the whole Town is that in the discover process of the problems around Chalk Pond, the Town has heard from many residents all around Town and these ordinance may help avoid similar problems in other areas.

Mr. Weiler commented that as a result of this project, the Lake Sunapee Protective Association thought that it is a good idea to put together a large group to look at the run-off around all of Lake Sunapee. He commented that he also sees problems around the Lake Todd dam. In the last three months, there have been three floods that have nearly taken out the dam. In the fall of 2005, Lake Todd was drawn down so that work could be done on the dam. As a result of a storm during that period, the 168-acre lake rose 4-½ ft. in less than 12 hours.

Mrs. Freeman read an email from a High Ridge Road resident, which was forwarded to the Planning Board from the Board of Selectmen in April of 2007. The 8½- year resident described the damage done to the roads and properties as a result, in her opinion, of clear cutting of the lots at the higher elevations.

Mr. Powell informed the Board that the Board of Selectmen feels that the cause of these problems is two-fold. First, the weather patterns have changed creating torrents of rain as opposed to the gentle rainstorms of the past. Secondly, all of the areas where there are problems are areas that have been cleared and there is now ground saturation. The Board of Selectmen does not know how to deal with it.

Mrs. Freeman commented that that is the reason in a nutshell for the **Storm Water Management Sub-Committee**. (Swims Committee, how appropriate)

Vote on Mr. Weiler's motion: Majority in Favor. Yes -3; No - 1.

Mr. Powell explained that the reason he did not vote in favor of the motion is that he does not understand the project enough to support it for the whole Town. He commented that he is comfortable with supporting the project for the Chalk Pond area, but not for the whole Town.

Mrs. Freeman explained that the Board is only appointing a committee, and that the project details are vague at this point because project is in the beginning stages. The recommendations may or may not apply to other areas, which will be decided at a later date.

Mr. Hirshberg explained that as this started out; it was clearly a Chalk Pond issue. When the original committee went for funding for this project, the DES made it clear that it is their opinion that the issues are not just at Chalk Pond. So they asked the committee to look at this as a Town-wide project. If there are a lot of conditions specific to Chalk Pond, it could be an overlay ordinance and could be applied to other steep areas town-wide. A lot of the run-off is from existing development. If you look back at the development of the existing ordinances, they talk about addressing run-off and road development, but not the details of the individual building lots. Also effecting drainage and run-off are the large and excessive development of house-sites at the higher elevations. They are not in the immediate area, but they affect the watershed. When you have a large home with 10,000 sq. ft. of hard surface, it exacerbates the problems down below. There are specific things at Chalk Pond that need to be addressed relative to Chalk

Pond, but in doing so, it becomes evident that there are other areas of the Town that could benefit by the same practices. The SWMSC is only looking at the big picture. While looking at the storm water issues, if the sub-committee finds that Chalk Pond area has a unique characteristic that is problematic to run-off, that will direct its approach in determining whether or not the ordinances should be a Town-wide overlay or just a Chalk Pond overlay. The sub-committee has been reviewing model ordinances. Right now, the Newbury Zoning Ordinance addresses 25% slope or greater. There are a lot of areas that are steep but do not fall under the definition of steep slope; areas of 15% and 20% that still impact run-off. The sub-committee has read through a lot of ordinances and picked out some good things from these models, including Newbury's shoreland regulations.

Mr. Hirshberg stated that the sub-committee wants to get feed back from the Planning Board about how detailed should the ordinance be, should the ordinance be Town-wide, what kind of things need to be done to kick it in to action and what parameters does the Board suggest i.e., 1,000 sq. ft. vs. 5,000 sq. ft. of development. Garages and driveways of 1,000 sq. ft. of hard surface and only *near* a steep slope will create issues downhill. The sub-committee's focus is erosion control and stabilizations, short term and long term.

Mr. Powell commented that if there was a lot of money available, the Town could pave all of the gravel roads and solve that aspect of the problem. Other issues to consider are how to handle the water velocity and the fact that it all ends up in Chalk Pond, how do you mitigate that.

Mr. Hirshberg commented that those are the kinds of things the sub-committee is trying to address.

Mrs. Freeman commented that another aspect of all ordinances that needs to be addressed is procedures for enforcement.

Mr. Hirshberg commented that the sub-committee has discussed enforcement to a degree and has determined that enforcement costs money. Therefore, when the individual lot owners apply for a building permit, if an erosion control plan is required at that means that the Code Enforcement Officer is involved, which means more money for his/her time. If the Town gets the grant from DES, it needs to sit down with the Code Enforcement Officer and explain the kinds of things that need to be looked at. The Town could use the Code Enforcement Office as a control to make sure every condition is addressed and enforced. If the Town decides to require a bond for development in certain areas, that will clearly require more time to monitor.

Mr. Powell commented that clearly defined requirements would facilitate the job of the Code Enforcement Officer.

Mr. Hirshberg agreed and stated that that is part of what the sub-committee is trying to accomplish. Some of the models are very complicated and not clear. The sub-committee is trying to create an ordinance that is simple and that will work. Newbury's existing erosion control requirements are good and the sub-committee may work off those.

Another issue that the sub-committee has been charged with is to develop a layman's guidance document so that people can understand what needs to be done.

Mrs. Freeman recognized that the first part of the sub-committee's work is to define the problem and identify the cause of the problem.

Mr. Weiler commented that Mr. Hirshberg has been a big help with his professional background as an engineer. In the 'Old Days', the thought was to get the water to the pond or lake as fast as possible. Now common practice is to keep the velocity slow and up high.

Mr. Hirshberg commented that the public needs to be educated about the importance of vegetation. If the public is not educated about what this ordinance is trying to accomplish and how, they will not vote for it.

Mrs. Freeman commented that when the cause of the problem is identified, then the Board would be able to determine if the proposed ordinance will be useful elsewhere in Town.

Mr. Hirshberg stated that this is not a problem unique to one town or to one area. We are in areas where there are flash conditions. Coming down from above in the upper areas are conditions that drain down and have a high velocity with a high volume of water and concentrated flow. The sub-committee is considering diverting the water to go around Chalk Pond. Currently, the run-off comes down and needs to make a 90-degree, and that doesn't work. Riprap will usually handle water on a 7 % slope. Anything above that will likely cause erosion. A 15 % slope is when problems arise. The Town should at least be looking at things that are in the 15 % slope or greater.

Mrs. Freeman suggested that Mr. Hirshberg and the sub-committee members use Newbury's existing zoning ordinances as a flavor for what kind of language Newbury can work with.

Mr. Hirshberg asked the Board if engineering documents are going to be required of the lot owners.

Mrs. Freeman stated that the Board does not want to put an un-do burden on the property owners while also protecting the Town.

Mr. Powell commented that Newbury's approach to erosion control is a one-size fits all and probably needs an erosion control ordinance a lot greater than that in some of the steeper areas. He also commented that especially in the Chalk Pond area, a lot of the house lots are taking a long time to develop. The lot may sit for a year at a time stripped of vegetation while the part-time homeowner works on building the home on the weekends. If the site is developed quickly with erosion control as an integral part of their plan, the area would be stabilized sooner.

Mr. Hirshberg suggested that the sub-committee could work a requirement into the proposed ordinance that a developer/property owner could only leave an area open for a certain amount of time. Raw dirt runs off. There does have to be some time limits. However, different conditions should have different requirements.

Mr. Weiler stated that obviously, the ordinance should not be written to require erosion control plans on level surfaces.

Mr. Russell commented that one benefit for the Town is that a lot of destabilization in the roads will be mitigated if erosion control requirements are required on the lots.

Mr. Powell commented that some of the roads in that area were built 30 years ago, and now the cost to upgrade those roads is phenomenal. So, the only thing left to do is to protect them in the state that they are in as much as we can.

Mrs. Freeman commented that the last storm we had undermined some of the stable roads as well. She stated that she thinks the Town can better protect all roads controlling the run-off.

Mr. Hirshberg commented that a major factor in run-off is vegetation. The Town needs to educate people regarding the importance of vegetation in all areas.

Mr. Deitrich commented that in the conversation with DES, the DES indicated that they are going to do everything they can to create this as a town-wide overlay.

Mr. Weiler commented that DES is investing \$14,000 in this project; therefore they would like to see it benefit the whole town.

Mr. Hirshberg gave the Planning Board two sheets that summarize the things that the sub-committee has been doing and a document with a sequence of components of the ordinance. These summary sheets are attached to the minutes as an addendum.

Mrs. Freeman stated that she would like to see the formal document which identifies the scope of work to be done. She commented that she will obtain that from the Town Administrator.

Mr. Hirshberg stated that the sub-committee's goal is to present the Planning Board with the initial draft in time to get a written ordinance that has a consensus by September 2007 in order to satisfy the public hearing requirements for a March 2008 vote by the Town.

Mr. Weiler commented that what the sub-committee is doing is applicable to the whole watershed everywhere. It is cutting edge.

CODE: Adm1-044: Fees and Penalties – Land Use Application

Mrs. Freeman commented that one of the things the Planning Board needs to do when reviewing a subdivision and/or annexation is to make a site review. The Board members like to sometimes go on their own. The draft application shows a statement giving permission for the Board members to make a site visit. Also, there is a place on the application for the land use coordinator to insert a receipt date so that the Board knows when the application had been submitted.

'By signing this application you are granting to the Planning Board, its members and representatives permission to walk on and inspect your land.'

Mr. Dezotell made a motion to approve the subdivision/annexation application as revised June 5, 2007. Mr. Powell seconded the motion. All in favor.

CASE: Adm1 – 061: MASTERPLAN

The Board reviewed page 80 through page 113 of CHAPTER IV: COMMUNITY FACILITIES & SERVICES AND RECREATION and made corrections.

The Board recognized the need for more efficient use of its space by scheduling meetings so that there are no conflicts and records should be organized and stored in a fire safe manner. Some of that work has already begun, and it should continue.

Mr. Weiler agreed to provide Mr. McWilliams with a map for page 89: Conserved and Public Lands and Trails.

The Board also agreed that Newbury is not lacking a sense of community as indicated in the text. What it is lacking is a well-defined Town center.

Mr. Powell informed the Board that Mr. Wright will be attending the June public hearing as the alternate ex-officio.

Mrs. Freeman explained to Mr. Powell that the desire with alternates is that they have to attend all meetings in order to be able to vote.

Mr. McWilliams suggested that if there are public hearings to be voted on that the ex-officio and the alternate ex-officio should look at the file and the minutes to familiarize themselves with the case.

Mr. Weiler suggested that if either the ex-officio or the alternate ex-officio hears a case in front of the Planning Board, that member should be the member to continue to come to the Planning Board hearings until that case is finished. He also suggested to Mr. Powell that the Board of Selectmen organize another recruitment day. Many of the Boards are lacking alternates.

Mrs. Freeman suggested getting recruitment off the ground on Newbury Old Home Day.

Mr. Powell commented that last year there was a long period of time during the day that there were no activities. The Old Home Day Committee is trying to close the activities up a little so that there is not a lot of empty time in the middle of the Day. He agreed to send Mrs. Freeman the tentative schedule so that shifts at an information table can be agreed upon.

Mr. Weiler made a motion to adjourn. Mr. Dezotell seconded the motion. All in favor.
Meeting adjourned at 9:25 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary