

## PLANNING BOARD

Monday, January 11, 2010  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman Peter Harris; Ward Peterson, Claude Patten, Christine Long and Jon Pike.  
Members Absent: Gary Flack and Russ Davis.  
Alternates Present: William Rollins.  
Alternates Absent: Reginald Caldwell.  
Staff: Candace Daigle, Rick Ball and Elaine Murphy.

The chairman opened the meeting at 7 p.m. and appointed W. Rollins as a voting member. He explained that at tonight's worksession the Board will be discussing the proposed amendments and will decide what will be put on the ballot. This is not a public hearing but the public is welcome. There will be no public input as this is a deliberation session for the Board only.

### **BELMONT ZONING AMENDMENTS 2010:**

J. Pike stated that after the Conservation Commission's power point presentation he is steadfast in his opinion that no biosolids be allowed in Belmont until someone is responsible for them. He understands that with the petition to allow them and the proposed amendment to ban them it could divide the town and leave Belmont with no ordinance or in DES hands.

P. Harris stated that in Virginia there is a legal challenge due to the total banning of biosolids in their state. The court has ruled against the ban because there was not enough information to support the ban.

J. Pike stated that there has been public input outlining the challenges other towns have had. He is concerned about the concentration of metal being spread too close to wetlands. If there is an error in judgment then he would rather err on the side of safety so that biosolids are not misused. There is enough information and articles from people of other towns involving biosolids to prevent Belmont from making mistakes in the future.

P. Harris stated that if we leave the ordinance as it is now then the town keeps control of the process. J. Pike stated that if Belmont is going to allow biosolids then they should allow them without having to go through an indepth process. If you control it too much with too many restraints then it is not feasible to use them. He had agreed with the petition based on the process before he heard the Conservation Commission presentation and their recommendation as well as the additional research material submitted. P. Harris stated that the EPA and DES have spent money on biosolids and Belmont would

need schooling on handling biosolids. J. Pike stated that he is concerned about leaving the regulations up to DES based on other issues they have handled.

J. Pike stated that his fear is stockpiling biosolids before they are spread. There may be no problem in the first year but in the second and third year problems can develop. He wants to know who is going to be responsible for any contamination. He does not want to deprive the farmers but what happens if there is a problem. Who is going to be responsible for it? He referred to an editorial in the newspaper that states that the spreading of biosolids in King's gravel pit in Hooksett had to be suspended when pollutants contaminated nearby residential wells. When the pit was sold the sludge company was required by the buyer to connect the affected residents to the City of Manchester municipal water so no risks or liability would be passed on to the new owner. No one is taking responsibility if there is pollution from biosolids. He is looking for someone to come forward to take responsibility. He would rather be safe than sorry.

P. Harris stated that the vote can go either way depending on how the public gets educated on the subject. J. Pike stated the people are educated but there is no way to protect them. He has talked to customers that have been approached by the company wanting to spread biosolids but they didn't allow spreading on their land because they did not know enough about it. Any contamination problems fall on the individual land owners. J. Pike stated that the information in today's newspaper article is current. The February 2009 Franklin County Alabama lawsuit, the October 2009 article on halting of biosolids in Dalton Georgia and the 2007 article about in Milwaukee, Wisconsin where sludge had to be removed from 35 public parks and playgrounds costing over 4 million dollars. He stands behind the Conservation Commission recommendation to ban biosolids. The people who want to use it on their land have studied it and don't think it will hurt their land but he doesn't agree with that.

P. Harris stated that the current ordinance seems to be working, why should we change it. If we leave it the way it is then we have some control over the use. W. Peterson stated there is a chance that the vote can go either way. If the Board goes forward and the petition doesn't pass then we go back to what we have now. If neither passes then existing ordinance still stands. W. Peterson suggested that the Board back away from the ban and let the petition go on the warrant. He did not read one positive thing in the paper about spreading biosolids. He did a lot of reading and there are a lot of articles about the product being contaminated and that is where the issue comes from. The existing ordinance has been in place a long time.

J. Pike stated that the providers of biosolids are seeking customers to spread it because they have to do something with it. He has nothing against the company it is just part of doing business. He noted that there have been problems with the spreading of biosolids right here in New Hampshire. He referred to the editorial outlining some of the issues that have happened in New Hampshire. A few years ago a sludge company reported industrial solvents acetone and 2-butanone were found in groundwater in Loudon, Tamworth and Pelham which had leached from paper mill sludge stockpiles in the gravel pit. In Sandown a few years after sludge was spread in a gravel pit toluene, acetone, 2 butanone and 4 isopropyltoluene were found in abutter's well water. Research by UNH Professor William McDowell on sludge spreading in a Hooksett gravel pit found "results suggest this level of nitrogen application, even

with the carbon to nitrogen adjustment, has negative impacts on groundwater quality”. P. Harris stated that this information comes from one individual who wrote a letter to editor. How much research has she done? C. Patten stated that these incidents happened in 2009 they are not old articles. J. Pike stated that he doesn’t want to loose control of the spreading of biosolids. P. Harris stated that they have to be able to legally justify the banning of biosolids it can’t be based on an editorial. J. Pike stated that he is basing his decision on the recommendation of the Conservation Commission and their research on biosolids. P. Harris stated that there is a lot of the information on the internet that is anti-sludge. The State of Virginia Court upheld the injunction on the wide spread use of biosolids because it did not have enough information. The Federal Court upheld the rights of farmers to continue farming using biosolids. He is concerned about the legal challenges of banning biosolids.

P. Harris closed the deliberation portion of the meeting and read the proposed ballot questions.

Are you in favor of the adoption of Amendment # as Proposed by Petition for the town Zoning Ordinance as follows? The Planning Board Does Not support this Petitioned Amendment.

To repeal all current Belmont Zoning Ordinance provisions that regulate applying sludge and/or biosolids within Belmont. To permit the Land Application of Biosolids/ Short Paper Fiber throughout the Rural Zone. To adopt definitions for “Land Application of Biosolids/Short Paper Fiber”. “Biosolids” and “Short Paper Fiber”.

**MOTION:** C. Patten moved to Not support the petition and accept amendment summary as written.

The motion was seconded by J. Pike and carried. (6-0)

Are you in favor of the adoption of Amendment # as Proposed by the Planning Board for the town Zoning Ordinance as follows?

To prohibit the Land Application of all Sludge and Biosolids in all zones and to define biosolids.

**MOTION:** C. Patten moved to put the amendment as summarized on the ballot.

The motion was seconded by C. Long and carried. (4-0-2) P. Harris and W. Peterson opposed.

Are you in favor of the adoption of Amendment # as Proposed by the Planning Board for the town Zoning Ordinance as follows?

To amend existing Aquifer Ordinance and Map to include municipal well-head protection areas in the newly titled Aquifer and Groundwater Protection Ordinance. To amend and update definitions and references. To require Best Management Practices for mobile fueling and when storing more than five gallons of regulated substances out of doors. To appoint the Code Enforcement Officer to review Spill plans.

**MOTION:** C. Patten moved to put the amendment as summarized on the ballot.

J. Pike stated that he thought they were using the common sense approach to regulating the storage of five gallons of regulated substance. He is concerned about the storage of fuel for recreational vehicles. Should they regulate both residential and businesses because multiple recreational vehicles on a single lot can have more than five gallons of fuel on site? C. Daigle stated that the Board chose to only regulate businesses because they traditionally have larger quantities of regulated substances. This amendment allows businesses to have more than five gallons on site they just have to have a secondary containment if it is "stored" outdoors. During the inspection process there have been no problems with business owners. They are very responsible.

The motion was seconded by C. Long and carried. (6-0)

The Board discussed the position of the proposed amendments and the petition article on the ballot. It was the consensus of the Board to put the banning of biosolids first on the ballot. The petition article second and the aquifer amendment third.

#### **BOARD'S ACTION-MINUTES:**

**MOTION:** On a motion by C. Patten, seconded by W. Peterson, it was voted to approve the minutes of the December 28, 2009, meeting as submitted. (5-0-1) W. Rollins abstained.

#### **STAFF REPORT:**

#### **ELECTION:**

C. Daigle reminded W. Peterson and C. Long that sign up for election is January 20<sup>th</sup>-29<sup>th</sup>.

#### **ANNUAL REPORT:**

C. Daigle stated that the Board will receive a draft copy of the annual report for review at the January 25<sup>th</sup> meeting. The final version is due January 26<sup>th</sup>.

#### **MEETINGS:**

C. Daigle stated that at the January 25<sup>th</sup> meeting the Board will decide if they need to hold the February worksession.

She also stated that she has talked to the Town Administrator and the Board of Selectmen (BOS) may be adjusting their meeting schedule which may at times conflict with the Planning Board meetings. If there are any conflicts then she and the Town Administrator will work out the details. The Board of Selectmen usually meets earlier than the Planning Board. If the Planning Board is having a small meeting then they can meet downstairs. She does not anticipate any problems with the scheduling change. The Board agreed.

**TIMELY REMINDERS:**

The Board received copies of the winter Timely Reminders.

**GILBERT SPRINGS TAX LOT 244-015:**

C. Daigle explained that Mr. Laurent Gilbert has submitted an application to withdraw water from a well on his property at a maximum rate of 56,160 gallons a day and truck the water to an offsite bottling location.

In a letter of response to DES she has explained to them that the Board has talked to Mr. Gilbert and informed him that he needs site plan approval from the Planning Board as well as all applicable State permits. Mr. Gilbert has apparently constructed a pump house which he has not gotten a building permit for.

She explained that the correspondence is to meet a NH DES permit requirement to adhere to water conservation Rules/Best Management Practices. Staff is recommending for adoption BMP's in their list of Site Plan Regulations amendments to be considered by the Planning Board.

She also stated that the Board also wants to encourage DES to reevaluate their policy that exempts some new community water systems serving 15 or more connections from meeting the spirit and intent of RSA 485:1-a(I) through the requirements of ENV-Wq 2100. The Board was discouraged when a proposed 19 unit manufactured home park was exempted by DES because it installed two wells and built a wall across the middle of the pump house separating the system into 9 or fewer units each. The Board feels that community water systems should be regulated by State law because the Board has neither the experience nor the regulatory network in place to produce quality and conservation results equal to the implementation of Env-Wq 2100 by DES.

It was the consensus of the Board to send the letter to NHDES Drinking Water and Groundwater Bureau.

**ADJOURNMENT:**

**MOTION:** On a motion by C. Patten, seconded by W. Rollins, it was voted unanimously to adjourn at 7:50p.m. (6-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant