

TOWN OF NEWPORT
Minutes of the Newport Planning Board
15 Sunapee Street, Newport, NH 03773
May 5, 2015 - 6:00 P.M.
Public Meeting

MEMBERS PRESENT: David Burnham, Vice Chairman; Ken Merrow, Christina O'Brien, Gary Nichols, BOS Representative Alternate; Erna McCormick, alternate

MEMBERS ABSENT: Jeff North, Bill Walsh, Todd Fratzel, Howard Dunn

INDIVIDUALS PRESENT: Stuart Clifford Stone, Joanne Stone, Ronald R. Stone, Kyle Stone, Mark Pitkin, Matthew Pitkin, Michael Pitkin, Frank Pitkin, Beverly Pitkin, Bob Evans, Peter Franklin, Henry Blaine, Gertrude Blaine, Sherri Cummings, Tom Cummings, Kyle Cummings, Jillian Hurd, Kimberly Henauld, Michael Henauld, Anthony Zullo, Tom Hubert, Richard Kelley, Jr.; Kristie Batista, Jamie Callum, Tom Callum, David Collise, Kellie Collise, James Burroughs, Jeff Cornish

VIDEOGRAPHER: NCTV; Louis Cassorla

STAFF PRESENT: Julie M. Magnuson, Planning and Zoning Administrator

CALL TO ORDER: Acting Chairman Burnham called the meeting to order at 6:01 p.m. He appointed Ms. McCormick to sit for Jeff North and Mr. Nichols to sit for Todd Fratzel. This was followed by a roll call.

MINUTES:

April 14, 2015. On a motion by Mr. Merrow, seconded by Mrs. O'Brien; *the Board approved the minutes of the April 14, 2015 meeting as presented. The motion passed 3-0-2 (McCormick and Nichols abstained).*

ADMINISTRATION: Discussion of possible zoning amendment regarding the land application of spreading human septage/sewage/sludge.

Chairman Burnham addressed those in attendance and stated that the public meeting was a fact finding meeting. The Board would listen to some individuals, but it was not about any specific case.

Ms. Magnuson addressed the public in attendance and explained further. The May 5, 2015 meeting was a *Public Meeting* not a *Public Hearing*. The process would be: the Planning Board would collect input from concerned Newport citizens. If, after hearing Ms. Magnuson's Administrative Review and public comments the Planning Board thought that further action should be taken, they would then instruct Ms. Magnuson to go forward with a possible zoning change regarding the spreading of septage in the Town of Newport. There could be two Public Hearings held prior to a potential Town Meeting vote. All town voters would vote on the zoning amendment. Explaining the process further, Ms. Magnuson stated that the Planning Board always proposed new zoning amendments and the Board of Selectmen (BOS) told the Planning Board when the day of voting would be. Concluding, she stated that that was the process and the reason the topic was under Administration (on the 05.05.15 agenda).

Ms. Magnuson addressed the Planning Board and audience and emphasized that the proposed zoning amendment was not about any specific case. It concerned many of Newport's zoning districts, mostly the Rural (R) Zoning District (she indicated a posted map of Newport), as well as Kellyville and the Rural Commercial (RC) Zoning Districts.

Ms. Magnuson read her Administrative Review into the record. She then read a draft zoning ordinance (below). She stated the draft could be changed in any way during Public Hearings if the Planning Board decided to proceed.

ARTICLE IV
SECTION 412 – LAND APPLICATION OF SEPTAGE/SLUDGE
Section 412

To protect public health and welfare, and surface and groundwater resources, the stockpiling, land spreading, lagooning, treatment, or other processing of septage and sludge as defined (and amended) in RSA 485-A (Water Pollution and Waste Disposal) which involves contact between these materials, whether treated or untreated, and the ground is not permitted in the Town of Newport, New Hampshire. This ordinance shall not prohibit or interfere with the pumping, maintenance or repair of septage systems in the Town of Newport.

1. Provisions of RSA 674:39 (5-Yr. Exemption) do not apply.
2. Residential or commercial septic systems are exempt from the stockpiling provision noted above for septage generated on the lot.
3. Previous sludge/septage activity, including, but not limited to sludge/septage sites and/or stockpiling, are not grandfathered from this ordinance and, therefore are not exempt.

Ms. Magnuson stated that she had contacted the Full Circle Farm in Newport. They had written a letter which stated that in their opinion the use of sewage or sludge farming was a hazard to human and animal safety.

Chairman Burnham addressed the Board and asked if they had any questions or comments on the idea of having this article brought forward or any questions on the information Ms. Magnuson had stated.

There were none.

Chairman Burnham stated that the towns mentioned (in the Administrative Review) had gone through a lot of work to get their zoning ordinances. Chairman Burnham addressed Ms. Magnuson and asked her to explain what *RSA 674:39 (5-Yr. Exemption) does not apply* meant in the proposed amendment. Ms. Magnuson stated it regarded substantial development. Explaining further, she said that if anyone had already started a project (there were none in Newport, since they would have to go before the Planning Board) they would not be exempt from curtailing their practice (once the ordinance was in effect). Continuing for the Board and public, she stated it was a safeguard. She explained other potential wording that could be added to a potential zoning amendment.

Ms. Magnuson stated that she had been in contact with Mrs. Caroline Snyder PhD., an environmental scientist and expert on the topic of sewage/septage/sludge. Dr. Snyder of North Sandwich, NH had offered to possibly come to Newport and give expert testimony if the zoning amendment process moved forward. Ms. Magnuson continued, stating that the State of NH defined septic and sludge differently. Mrs. O'Brien, for clarification, asked for a definition of each.

Ms. Magnuson defined each:

RSA 485-A:2 IX-a. Septage means material removed from septic tanks, cesspools, holding tanks and other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste and any other sludge.

XI-a “Sludge” means the solid or semi-solid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however sludge which is disposed of at solid waste facilities permitted by the department (DES) shall be considered solid waste and regulated under RSA 149-M.

If DES said yes to a land application, (Ms. Magnuson had copies of their guidelines and permits) then people could do it in many of the (Ms. Magnuson again indicated the posted map) zoning districts in Newport. Ms. Magnuson stated that many towns had lengthy ordinances and/or regulations regarding this use. In her opinion, she did not know how an ordinance could be enforced that way in Newport. Addressing the Board, she stated that she did not profess to be an environmental scientist and the terminology could be daunting. Continuing, she stated that Newport had many regulations. She stated that Newport could address the concerns that a use such as this might be adopted with fewer words. She gave one suggested modification to the Planning Board, expressing that the terminology would be their final decision.

Chairman Burnham addressed Ms. Magnuson and referred to the letter from the manager of Full Circle Farm. He asked about the indicated raw sewage on Edgell Road. Ms. Magnuson stated that she had had no knowledge of the sewage, she was now under the impression that it may have come from a nearby property several years ago. Both the Chair and Ms. Magnuson agreed they had not known of its existence.

Addressing the Planning Board, Ms. Magnuson stated that a major concern regarding this use had come to the attention of many citizens and town officials. She had been instructed by her boss (The Town Manager) to bring it to the Planning Board. That was why there were so many people in attendance at the meeting. They had questions and concerns.

Chairman Burnham stated he had some knowledge of septic tanks and what was placed in them. He stated that once septage was placed on a site there was no way to control its staying there. Wild animals and domestic animals walking through a dump site would track refuse off the property. Continuing, he stated that everything was in septage, which was why it was heavily regulated in hospitals. Residential properties did not have the same regulations (he gave examples of medication and heavy metals being disposed of into septic tanks). Continuing, he stated that he had thought DES required that waste had to be treated before it was applied to anything. An example was Claremont, NH. Individuals could go and get treated sludge. That material has been treated, screened, aerated and composted. It had to meet certain criteria. It looked like grey sand.

Chairman Burnham acknowledged Ms. Magnuson. Ms. Magnuson stated that Caroline Snyder, PhD (she had previously referenced her) is a member of a group, “Citizens for Sludge-Free Land”. Ms. Magnuson had gone to her website and spoke to her. An email from Dr. Snyder had interesting points. As a recognized expert, she had done research on septage management since sludge and septage are managed differently by the Department of Environmental Services (DES). She found a helpful document published by the Cornell Waste Management Institute. Dr. Snyder had pointed out the Moultonboro zoning amendment and thought theirs would be well supported in Newport.

Ms. Magnuson read from Dr. Snyder’s email, “...untreated septage should not be land applied, but shipped to a publicly owned treatment works facility (POTW). The assumptions that septage is so low in metals that there is no need to track the metals can be questioned. According to the Cornell document one

application alone in one case loaded the soil of copper high enough so that no repeated application would be allowed. Today's septage as well as 21st century weather events are different from what they were decades ago. Septage from a typical household contains a great deal more than human waste and the pathogens are robust. Septage contains personal care products, detergents, toxic cleaning products and the breakdown of detergents that are powerful hormone disrupting chemicals, pharmaceuticals, etc."

Addressing the Board, Ms. Magnuson gave a synopsis of her investigation. She gave information from representatives of towns and stated that there are only 12 DES approved dumping sites in the entire state. She told the Board that the contents of a septic tank would be dumped onto land and then treated with lime. One septage hauler told her that after septage was dumped on his land nothing grew due to the metals contained in the septage. She then relayed worries from citizens concerning the potential dumping sites in Newport.

Chairman Burnham acknowledged Mr. Nichols. Mr. Nichols stated he had two things: one he would like to hear from some of the public, but first he wanted to reiterate that there may be two Public Hearings. This was step one of the process. The public could encourage the Planning Board to move forward on making a recommendation to holding a Public Hearing. He requested that the public in attendance not repeat the same things, the same opinions. There will be Public Hearings, at which time they would have a chance to do so.

Secondly, Mr. Nichols stated that the sludge made in Newport at the WWTP was hauled away and put in a landfill. It was not repurposed because of the metals issue. He explained Newport's process. Ms. Magnuson added that Newport charged ten cents a gallon for 'tipping'. People with land applications do pumping at a reduced rate.

Chairman Burnham asked if there were further questions or comments from the Board. There were none.

Chairman Burnham opened the meeting to the public.

Mr. Jeff Cornish addressed the Board and stated he had funded a great deal of money for the WWTP. He questioned why Newport would allow anyone to spread waste on the ground when it had a multi-million dollar facility to treat it (septage)?

Chairman Burnham acknowledged Mr. Henry Blaine of Unity, NH. Mr. Blaine stated that any waste potentially dumped on the ground on the Newport line would flow onto his property and into the river. Chairman Burnham reminded Mr. Blaine that the meeting was not for any specific area in Newport, it was a general fact finding meeting for all zoning districts. There was a short discussion between the Board and Mr. Blaine.

Mr. Tom Cummings, Newport, NH stated that he had done extensive research on the subject. He said that the concept of dumping septage and farming was a big umbrella that was allowed by DES. Farming did not play a part in it (dumping); the monetary gain was in the storage of the human waste. He repeated his statement for the Board. Continuing, he explained the process by which an individual would perform this spreading of septage. Mr. Cummings told the Board that DES had informed him that property being used for this would only be required to post one sign and it would be located at the entrance to their property. The signage was vague. Visitors and abutters would be unaware of the contents on the land. The public in attendance knew what would be on the land.

Mr. Cummings stated there were only three ways that DES allowed removal of the septage.

1. Land fill (Make it into sludge and bury it as is done in Newport).
2. Incinerate it.
3. Run it through a treatment plant and then dispose of it.

To allow an individual to open a 3" valve, reverse a tank pump and spread it (raw sewage) was appalling.

Mr. James Burroughs stated he wanted to thank Ms. Julie Magnuson for all of her research, time and energy to bring the subject before the Town to protect all citizens of Newport, not just in one given location. It could affect the greater town and he looked forward to the process moving forward, and looked forward to voting on the zoning ordinance.

Mr. Mark Pitkin stated that as its President and CEO, he was attending the meeting to represent Sugar River Bank. Mr. Pitkin stated that the bank held millions of dollars worth of mortgages in town. The bank's concern was that if a septage dumping site was allowed in town, Newport would become known as a town that allowed this process. His assumption was that the value of property lots abutting and within smelling distance of any site would decrease in value.

Mr. Pitkin addressed the Planning Board members and stated he had asked individuals if given a choice of purchasing an identical home one next to a site the other away from a site spreading septage, which would they purchase? No one he asked would want to purchase a home next to or near a septage dumping site. Therefore, the property would unequivocally decrease in value. As a bank holding the millions of dollars of mortgages in town, they (the bank) would be subject to the depreciation in value (of homes all around town) as well as the home owner. Concluding, Mr. Pitkin asked the Planning Board to recognize that their decision had business ramifications as well as personal.

Mr. Tom Hubert encouraged the Board to move forward with regulations to prohibit this use.

Chairman Burnham acknowledged Mr. Nichols. Mr. Nichols made a motion that the Board move forward with a Public Hearing posted at the next regularly scheduled meeting. Ms. Magnuson stated, with all due respect, that there was extensive business at the next Planning Board meeting. She requested (if the Board agreed) a special Public Hearing for the proposed zoning amendment. There was a curt exchange by Mr. Nichols to Ms. Magnuson. There was a short discussion. On a motion by Mr. Nichols, seconded by Ms. McCormick; ***the Board voted to hold a Public Hearing on Tuesday, May 26, 2015 at 6 PM on the draft zoning ordinance amendment that Ms. Magnuson has presented. The motion passed 5-0-0.***

There was further discussion. Chairman Burnham addressed the public and requested that they have their questions, concerns and comments written, to save time (at the Public Hearing). He gave an example of a previous hearing which dragged on for hours because the public that spoke was not prepared in this way. Mr. Nichols addressed the public and gave further recommendations.

ADJOURNMENT

There being no further business, on a motion by Mr. Nichols, seconded by Ms. McCormick; ***the Board voted to adjourn at 6:37 pm. The motion passed 5-0-0.***

Respectfully submitted,

Maura Stetson
Scribe

A special meeting of the Planning Board is scheduled on May 26, 2015 at 6 pm.

Application materials must be received on/before May 12, 2015 for the next regular meeting of the Planning Board scheduled on June 9, 2015.