

TOWN OF NEWPORT
Minutes of the Newport Planning Board
Sugar River Valley Regional Technical Center
243 North Main Street Newport, NH 03773
May 26, 2015 - 6:00 P.M.
Special Meeting and Public Hearing

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

MEMBERS ABSENT: Jeff North, Howard Dunn

INDIVIDUALS PRESENT: Stuart Clifford Stone, Joanne Stone, Ronald R. Stone, Kyle Stone, Mark Pitkin, Matthew Pitkin, Michael Pitkin, Frank Pitkin, Beth Pitkin, Bob Evans, Beth Evans, Peter Franklin, Sherri Cummings, Thomas Cummings, Anthony Zullo, Richard Kelley, Michael Batista, Kristie Batista, Jamie Callum, Tom Callum, Floyd Cornish, Sandra Cornish, Michael Saindon, Kim White, Jean White, Josh Archibauld, Norman Dion, Harold Roberts, Roberta Roberts, Ken Dennis

VIDEOGRAPHER: NCTV; Louis Cassorla

STAFF PRESENT: Julie M. Magnuson, Planning and Zoning Administrator; Shawn M. Tanguay, Esq. (Town legal counsel)

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. This was followed by a roll call.

MINUTES: None

ADMINISTRATION: None

CONTINUED BUSINESS: none

NEW BUSINESS: Public Hearing. Proposed zoning amendment regarding the land application of spreading human septage/sewage/sludge in Newport, NH.

Chairman Burnham addressed those in attendance and stated that the purpose of the Public Hearing was to look at a proposed zoning amendment. It was not about any specific case, rather, it was to create a zoning ordinance to prohibit land application of septage throughout all zoning districts in Newport, NH.

Chairman Burnham acknowledged Ms. Magnuson. Ms. Magnuson addressed the Planning Board and public. She stated that the purpose of the 05.26.15 meeting was to look at a proposed amendment to the zoning ordinance. Continuing, she explained that at the last Planning Board meeting she had been instructed (by the Planning Board) to write a draft ordinance. The Board members had copies of the proposed draft. Ms. Magnuson emphasized that the proposed zoning amendment was not about any specific area. It concerned all of the zoning districts in the Town of Newport.

Chairman Burnham read the Public Notice into the record (thus, opening the public hearing). He then addressed Ms. Magnuson and asked for her testimony for the Hearing. Ms. Magnuson addressed the Planning Board and introduced Mr. Shawn M. Tanguay, Esq. from the firm Garner, Fulton and Waugh, PLLC. She stated Mr. Tanguay was at the hearing as the Town's legal counsel and would be available to the Planning Board members. The Planning Board could recess to a different room at any time during the Public Hearing to consult with him.

Ms. Magnuson read into the record the proposed zoning amendment, Article V Section 506-Land Application of Septage. Ms. Magnuson then read into the record letters from the following individuals: Mr. Jolyon Johnson, DVM (Wendell Veterinary Clinic Sunapee, NH), received on May 26, 2015 and Mr. James Grenier (Highland Farm, Lempster, NH), received May 22, 2015. She also read a letter from Ms. Caroline Snyder, PhD (North Sandwich, NH), received May 26, 2015 in the TOPAZ office. All three individuals stated that they were not in support of the use of using septage as a fertilizer citing loss of quality of life (of humans) and health hazards (See full context of the proposed amendment and letters in the files at the Office of Planning & Zoning).

Before she read Dr. Caroline Snyder's letter, Ms. Magnuson stated that Dr. Caroline Snyder was an expert in sludge and septage. She provided the Planning Board and audience Dr. Snyder's bio. Ms. Magnuson read her (Dr. Snyder's) biographical information into the record (below is a synopsis. For full context see information in the files at the Office of Planning and Zoning).

Dr. Caroline Snyder is Professor Emeritus of the College of Liberal Arts at the Rochester Institute of Technology where she was one of the first faculty members nationwide to design and teach Interdisciplinary Environmental Studies and Environmental Science courses. Before retiring, she chaired the Department of Science, Technology and Society. Important to note:

1. For the last 20 years Snyder has researched and published articles about the politics and science of using municipal sewage sludge.
2. Dr. Snyder served as co-chair of the New Hampshire Sludge Management Advisory Committee (after which she founded Citizens for Sludge-Free Land [www.Sludgefacts.org]).
3. Dr. Snyder consults and has testified locally, regionally and nation-wide on the inadequacy of the current land application policies.
4. Dr. Snyder has served as an unpaid expert witness in sludge-related litigation.
5. She has appeared in documentaries as well as TV and radio programs as an expert on sludge and septage.
6. Dr. Snyder earned her PhD from Harvard University. She is a charter member of the Union of Concerned Scientists.

While reading Dr. Caroline Snyder's letter, Ms. Magnuson stressed several items. Dr. Snyder stated that fourteen years ago internationally renowned Cornell soil scientists –who have researched sludge since the 1980s–concluded that the current US regulations do not protect human health, agriculture or the environment. Ms. Magnuson read further that, “Almost a hundred health, environmental and farm organizations oppose using sludge as fertilizer, including the Sierra Club, the Natural Resource Defense Council, the National Farmers Union, the Rodale Institute, the Center for Food Safety and the National Institute for Agriculture and Trade Policy. Major food processing companies including Heinz, Del Monte and Western Growers do not accept produce grown on land treated with sludge.”

Continuing to read from Dr. Snyder's letter, Ms. Magnuson stated for the Planning Board that NH law CFR 40, Part 503 states that counties and towns had the right to put in place stricter and more protective ordinances than the federal and state standards (in place). She affirmed that the NH Septage rules confirm that towns have this right.

Dr. Snyder's letter (available in full at the TOPAZ office), explained types of public health issues that occur from septage. Danger from high levels of arsenic copper, manganese, iron, and corrosive material occur. Metals do not disappear, but accumulate in the soil. The odor from septage and sludge is not only

a nuisance but had been linked to life threatening respiratory symptoms experienced by sludge-exposed neighbors. The proposed timetable for spreading septage and the use of the fields is not adequate for this area and climate. Contamination of water can occur. Rules currently in affect do not protect surface and well water since water tables fluctuate and weather (wind and rain) can move septage that was spread on fields.

Chairman Burnham thanked Ms. Magnuson. He then addressed the Board and asked if they had any questions. There being none, Chairman Burnham addressed the audience in attendance. He asked that they check their cell phones to see that they were off, and asked anyone who wished to speak to come forward to the podium and identify themselves (for the record). He explained further. Chairman Burnham reiterated that the Public Hearing was for a general proposed amendment to the zoning ordinance. Continuing, he reemphasized that it was not specific to any one area in Town; the hearing would be kept that way. He gave additional guidelines to individuals planning to speak.

Mr. Kim White, Unity, addressed the Planning Board. Mr. White gave historical accounts of the disposal of human waste from medieval times to the present. He stated the public health and safety factors that had changed man's way of disposing waste from open gutters which caused rampant illness (including the plague) to pipelines and sewage treatment systems (which then disposed of the waste in lakes, streams, rivers and the ocean which reacted health problem for both humans and animals) to improvements of sewage treatment plants such as the WWTP in Newport. Urban areas had WWTP. Other areas did not. Mr. White explained the workings and process of a septic system. After he explained the potential contents pumped out of a septic tank, he explained that Environmental regulations state that all septage haulers had to treat the septage they collect. Mr. White explained. He then explained the reasons why these potentially 'treated' contents should not be spread openly on the ground. Referring to NH state regulations on the spreading of septage he told the Planning Board that the allowable amount was one acre/20,000 gallons of septage. Continuing, Mr. White addressed the Planning Board and asked the question of what was in septage that we should be worried about. He gave a litany of items from human excrement to paint to pharmaceuticals; all which produce a terrible smell and health hazards. Concluding, he told the Planning Board that by allowing this (application of septage) we were digressing back to the times of an open gutter. He wanted the Board to remember that what went into us (humans) and out of us could hurt us. He thanked the Chair and Board.

Mr. Thomas Cummings, Newport, addressed the Chair and asked for clarification of generic information. He asked if the request of no specific case for the Public Hearing included a case in Sullivan County (not in Newport). Chairman Burnham stated that if it had no bearing on Newport, he could proceed. The 05.26.15 hearing was for generic feedback only.

Mr. Cummings thanked the Chair. Mr. Cummings then told of a case in Springfield, NH. Litigation was held over a six year period (1996-2002). Reading from the court record Mr. Cummings quoted that abutters described the smell as "putrid, like dead animal carcasses, worse than a public latrine, overflowed toilet facilities, open toilet, and a failed septic system". They described themselves (the abutters) as, "Gagging, having sore throats, vomiting, and feeling sick when the person was spreading the human waste." To avoid the smell some people, "retreated to their basements". The abutter's quality of life was interfered with; they could not enjoy their backyards or swimming pools. They could not have cookouts or play outside.

Concluding, Mr. Cummings read from the Judge's final order: "It (spreading septage) was diminishing the property values (by 10-25%) of those surrounding the applicant's (person who had septage spread) property. Mr. Cummings quoted the DES worker who testified (who asked if he took into consideration the abutters quality of life), "I only have to follow guidelines". When the DES worker was questions concerning inspections of the property he stated that when there were announced inspections there were no violations. When he went unannounced, there were violations. Concluding, Mr. Cummings addressed the Planning Board members and asked if they would like to be one of the (Springfield, NH) abutters.

Mr. Nichols asked Mr. Cummings for information on the court case and where to find the documents. Mr. Cummings gave it to him.

Mr. Frank Pitkin, Newport, told the Planning Board that much of what he had planned to say had been said. He added to the concerns of the public present; weather related events: rain and wind that could blow pathogens and viruses; diseases that could be spread (after contact with septage) through rodents, animals (domestic and wild) and birds. The contamination of the land and potential sale to an unsuspecting/unknowing buyer who might grow crops that were then unsuitable for human consumption. He continued, stating that the state regulations do not adequately protect the health and welfare of the people. He stated that the use of a safe disposal site (WWTP) such as the one in Newport which is taxpayer funded, should be used so there would be no risk to the public.

Mrs. Beth Evans, Newport, addressed the Planning Board. She referred to the court case cited earlier and stated for the Board that the loss of valuation could potentially be a loss to the town of up to \$30,000. The Chair thanked Mrs. Evans.

Mr. Mark Pitkin, Newport, addressed the Planning Board. Mr. Pitkin stated that as its President and CEO, he was attending the meeting to represent Sugar River Bank. Mr. Pitkin stated that the Sugar River Bank held property mortgages in Newport worth millions of dollars. Addressing the Board he stated that valuation of property is considered by two things; location and the comparable of a similar property in a different location. Mr. Pitkin stated that although he did not have specific information, he had asked individuals if given a choice of purchasing an identical home, one next to a dumping 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. He stated that the 25% decrease in property valuation to him (as a banker) was a very reasonable estimation. 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. Concluding, Mr. Pitkin asked the Planning Board to recognize that their decision had business ramifications as well as personal.

Mr. Nichols addressed Chairman Burnham and asked if the Planning Board could recess under *NHRSA 91-A:2 consultation with legal counsel*. Chairman Burnham addressed the audience present and stated the Planning Board would be recessing to confer with legal counsel. The time was 6:40.

Chairman Burnham reconvened the Planning Board at 7:25 pm. He addressed the Board members and asked for the pleasure of the Board. On a motion by Ken Merrow, seconded by Ms. McCormick; ***the Board voted to continue the public hearing to a later date, until such time as we (the Board) can put together some (additional) information for the health and welfare of the citizens.***

Ms. Magnuson addressed the Chair and asked that he get a consensus of the Board before deciding on a date and voting.

Chairman Burnham addressed the Board members and discussed dates. He stated that the next date available was June 23, 2015. ***Board members unanimously agreed to the date.***

Chairman Burnham addressed the Board and those in attendance. He stated that the Public Hearing would be continued to Tuesday, June 23, 2015 at 6 pm in the Lou Thompson Room. He thanked everyone for attending the Public Hearing.

There being no further business, on a motion by Mr. Nichols, seconded by Mr. Merrow; ***the Board unanimously voted to adjourn at 7:27 pm.***

Respectfully submitted,

Maura Stetson
Scribe

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