

**TOWN OF NEWPORT**  
**Minutes of the Newport Planning Board**  
**Sugar River Valley Regional Technical Center**  
**243 North Main Street Newport, NH 03773**  
**August 18, 2015-6:00 PM**  
**SPECIAL Meeting**

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

**MEMBERS ABSENT:** Jeff North, Howard Dunn, Christina O'Brien

**INDIVIDUALS PRESENT:** Stuart Clifford Stone, Joanne Stone, Ronald R. Stone, Kyle Stone, Richard Kay, Warren Sherburne, Frank Pitkin, Beth Pitkin, Jeffrey Kessler, Michael Batista, Kristie Batista, Peter Franklin, Sherri Cummings, Thomas Cummings, Robert Evans, Tom Callum, Jean White, Kim White, Virginia Irwin, Cathryn Baird, Skip Rollins, Gertrude Blaine, Richard Kelley, Josh Archibald, David Hoyt, Bert Spaulding, Sr.; David Kibbey, Gloria Kibbey, Jerry Little, NH State Senator District 8

**NH DES REPRESENTATIVES:** Michael Rainey, Administrator, Residuals Management Section; Judith E. Sears Houston, PE; Residuals Management Section

**VIDEOGRAPHER:** NCTV; Louis Cassorla

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

**CALL TO ORDER:** Acting Chairman Burnham called the special meeting to order at 6:00 p.m. This was followed by a roll call of the sitting Board members.

**AGENDA REVIEW:** Acting Chairman Burnham addressed Ms. Magnuson and asked her to explain the proceedings. Ms. Magnuson stated that after discussion with Acting Chairman Burnham it was recommended that a revised draft of the proposed septage amendment be created and reviewed by the Planning Board after gathering information and comments from the presentation by Mr. Michael Rainey at the August 18, 2015 meeting. If it was the consensus of the Board then it was suggested that the Public Hearing to follow be opened and then a motion be made to immediately close it. The Public Meeting would then commence with the guest Michael Rainey from the Department of Environmental Services (DES). Questions by both the Planning Board members and the public might be asked as directed by the Acting Chairman. Ms. Magnuson addressed the Planning Board and asked if it was the consensus of the Board to hold a new Public Hearing on the proposed Zoning Amendment regarding the land application of septage on Tuesday, September 1, 2015 at 6 pm in the Sugar River Valley Regional Technical Center (SRVTC). On a motion by Mr. Nichols, seconded by Mr. Merrow; *the Planning Board voted to:*

- *Open and then immediately close the August 18, 2015 Public Hearing.*
- *Immediately open a Public Meeting to allow NH DES representative, Mr. Michael Rainey, to give a presentation on septage management rules and regulations in the state of NH and to answer all questions of the Planning Board members and public in attendance.*
- *The Planning Board will hold a new public hearing for September 1, 2015 at 6 pm in the Lou Thompson Room of the SRVRTC. The motion passed 5-0-0.*

**CONTINUED BUSINESS From June 23, 2015:**

**Public Hearing** Regarding a proposed Amendment to the Town of Newport Zoning Ordinance Article V (Special Provisions) Section 506-Land Application of Septage. To regulate the land application of septage in all zoning districts.

Acting Chairman Burnham opened the Public Hearing and read the Public Hearing notice into the record. He asked for a motion to close the Public Hearing. On a motion by Mr. Nichols, seconded by Mr. Merrow; *the Board voted to close the Public Hearing of August 18, 2015. The motion passed 5-0-0.*

Acting Chairman Burnham addressed the public in attendance and stated that the Public Hearing was closed. A new Public Hearing was scheduled for Tuesday, September 1, 2015 at 6 pm in the Lou Thompson Room of the Sugar River Valley Regional Technical Center (SRVRTC).

**ADMINISTRATION:** Ms. Magnuson addressed the Planning Board and stated as requested by Acting Chairman Burnham, she had invited Mr. Michael Rainey (Administrator, DES) to the August 18, 2015 meeting. Ms. Magnuson introduced Mr. Rainey and another DES representative in attendance, Ms. Judith Sears Houston, PE. Ms. Magnuson stated that Mr. Rainey had a presentation which would be followed by questions from the Planning Board members and then audience questions.

Mr. Michael Rainey introduced himself and stated he was the Administrator of the Residuals Management Section of NH DES. He reiterated that he had been asked by the Planning Board to give a short presentation. It focused on only some of the septage rules. A synopsis of the slide presentation was: terminology and definitions, a brief history of NH septage regulations, applicable statutes and regulations, site permit rules regarding land application and septage management plans and issues on a statewide basis. See complete presentation on NCTV or Vimeo posting: <https://vimeo.com/channels/nctvchannel8>.

Mr. Rainey stated that NH DES held a Public Hearing concerning a site when requested by ten (10) or more residents. There was a pre-permit evaluation of the site. It was not required in the (NH) regulations; but the Department did an evaluation (of the site) before they issued a permit. A permit had to be issued or denied within 120 days of the NH DES receiving an application.

Mr. Rainey listed what a potential site was evaluated on; the post-permit requirements and annual soil testing requirements. He stated that metals' testing was required at the beginning of the issued permit date and again ten (10) years later, at the end of the permit period. In addition, Mr. Rainey stated that the applicant was required to send out an annual notification (in the newspaper and at the site) prior to each year's application (of septage).

Mr. Rainey explained the mandatory documentation the site owner reported to the NH DES annually. He described the responsibilities that the NH DES had in reviewing the site information sent to them.

Additionally, Mr. Rainey told the Board and audience that an individual could obtain an Exceptional Quality Septage Certificate from the NH DES. It was certification for a material which had undergone extensive testing. If it met the DES requirements, the treated septage would not need a site permit for land application. To get the certification wouldn't require a permit, but was very difficult to obtain (due to the extensive testing). He explained the process further.

Addressing the Planning Board members, Mr. Rainey stated that the beginning of the NH RSA 485-A:5-b addressed municipal responsibility. A city or town could adopt restrictions or bans on the practice of septage spreading that would supersede the State requirements. Reiterating, he stated that the state legislature had given local towns and cities the authority to adopt ordinances under Planning and Health statutes. The municipalities could adopt additional regulations over and above the DES regulations to regulate septage or sludge. Mr. Rainey explained to the Planning Board that the regulations set by the Federal government could be made stricter by individual states and again more stringent by local

municipalities. States and municipalities could make regulations stricter than the Federal regulations; they could not make them less stringent.

Concluding, Mr. Rainey addressed the Planning Board and stated that the municipality had the responsibility to provide disposal options for their septage. The State of NH DES had a long standing program of allowing land application. It was DES policy that land application of septage was a viable option, was cost effective and safe for septage management.

Acting Chairman Burnham thanked Mr. Michael Rainey for his presentation. Addressing the Board members, he asked for questions.

Mr. Nichols asked Mr. Rainey how the DES monitored septage application to make sure that all septage was domestic and not commercial.

Mr. Rainey stated it was through tracking. The individual that operated the site might not be the hauler. The site individual had to find out from the hauler where the septage originated. Also, the NH DES inspected the sites. The site's annual data reported to the NH DES would indicate where the septage came from. Addressing Mr. Nichols underlying question, he stated that yes, documentation could be falsified. Any regulation could be circumvented; but the DES did have checks and balances.

Mr. Merrow asked if there was a fine structure related to the falsification of documentation. Mr. Rainey stated yes and explained that infractions of any DES rule had a fine.

Mr. Walsh addressed Mr. Rainey and asked how many permitted sites for land application existed. For clarification, Mr. Rainey asked if Mr. Walsh meant septage. He stated yes. Mr. Rainey stated he believed there were currently seven (7). In the 1990s there had been 12-15 sites. Increased and stringent regulations, documentation and testing requirements had reduced the number because it was cost prohibitive.

Mr. Nichols asked Mr. Rainey about (from slide presentation) DES evaluation of a site, specifically crop needs. He asked if a potential farm site (that was going to spread septage) had to inform DES what they would grow. Mr. Rainey stated yes. He explained that the crop determined how much septage the farm would be allowed to apply (corn required more than hay). Continuing, he stated that in farm application the only (Mr. Rainey stated suitable, but rephrased) real match was hay. It was too difficult to accumulate enough septage for a one time application to grow corn. He explained the process and reason for failure for anything except hay.

Mr. Nichols asked him if it (the failure) was because of the required "wait time". Mr. Rainey stated yes. Mr. Nichols asked what procedures were undertaken by NH DES to ensure that the hay did not get into the food chain. He cited RSA 503 which stated that hay, unless it waited a certain amount of time... Mr. Rainey interjected that the wait time was thirty (30) days. He explained the possible usage timeframe of the hay after septage was applied.

Mr. Nichols reiterated his question of NH DES monitoring the wait time. Mr. Rainey stated it generally factored into grazing. The Extension Services stated there was a palatability issue; animals avoided eating hay where septage was visible.

Mr. Walsh addressed Mr. Rainey and stated the slide presentation indicated that 20,000,000 gallons of septage were produced each year. Mr. Walsh expressed it was a lot. Mr. Rainey stated that a one acre site could accept 20,000 gallons of septage a year and asserted that amount formed a ground cover of 1/2" of septage.

Mr. Merrow stated that the Planning Board had heard a lot of testimony on farming and septage rules in prior meetings. Mr. Rainey interjected and stated that the NH DES rules had no reference to agriculture. The NH DES rules only stated that there was a need for nitrogen. A site had to grow something and have a need for nitrogen. Some individuals were farmers; others were haulers who were forced by NH DES to do something (to need nitrogen). Some haulers had a farmer grow and cut hay on their site. Mr. Rainey again emphasized that the NH DES rules did not reference agriculture, just the need for nitrogen (at a site).

Mr. Merrow referenced Mr. Rainey's earlier presentation and asked that if a septage hauler brought septage to a location to get rid of it (paying someone to get rid of it); would that constitute a septage site? Mr. Rainey stated that it would be a septage site only if it (septage) would be land applied. He then listed and described various ways in which septage had been disposed of.

Mr. Nichols asked how often DES checked for metal loading. Mr. Rainey said at the beginning of the permit and at the end of the ten year permit. For clarification, Mr. Nichols asked if it was (only) checked twice over ten years. Mr. Rainey agreed and stated that metal loading from septage was so minimal that it would not be detectable in the soil. Not in a year and not in ten years.

Mr. Nichols asked if the DES tested for pharmaceuticals. Mr. Rainey stated there was no testing of septage for anything other than for pH and for pathogen reduction. Mr. Rainey compared the sludge program in which they tested for more items. In the sludge program the DES had indicative variables for all items tested.

Continuing, Mr. Nichols asked if septage dewatered was still considered septage. Mr. Rainey concurred. He stated that RSA 503 stated it could be termed sludge, in NH it was still considered septage.

Acting Chairman Burnham asked if there were further questions from the Board members.

Mr. Walsh asked if inspections entailed more than self-reporting. Mr. Rainey stated the NH DES did on-site inspections. He reviewed, for the Planning Board what an on-site inspection entailed. Mr. Rainey stated it was to ensure that the permitted individuals were following all rules and regulations of the permit. Mr. Walsh asked if the on-site inspections were done periodically. Mr. Rainey stated it was similar to the other (DES) environmental programs. They did inspections. Mr. Walsh inquired about spot checks. Mr. Rainey asserted DES did spot checks.

Mr. Rainey stated that the Septage Land Application Program and Sludge Land Application Program were not popular with many municipalities. Therefore, at the request of Select Boards and municipal entities DES had occasionally gone and done inspections. There were only a few of them (treatment plants and septage sites). The small number generally enabled DES representatives to do an on-site inspection once a year.

Mr. Merrow asked who monitored the abutter's notice and annual postings. Mr. Rainey stated the site owner had to provide that as part of the documentation at the end of the year. For clarification, Mr. Merrow asked if Mr. Rainey meant in the annual report. He agreed.

Mr. Nichols asked if DES did random testing (of the septage) or if it was scheduled. Mr. Rainey clarified for Mr. Nichols that the DES did not do testing of septage. Mr. Rainey explained the informational testing done at WWTPs when haulers came to the facility. DES did not test land application sites. Mr. Nichols reiterated his question and stated DES did not test soils at land application sites. Mr. Rainey explained the testing of soil at land application sites:

- The soil was tested annually for agronomic purposes (pH, buffer pH, organic matter, texture, magnesium, calcium and phosphorous).

- He explained that with the results of the testing a cooperative extension service or agronomist would recommend how much septage could be applied to the land and the type of farming they could do.
- The soil was tested at the beginning of the ten (10) year term and at the end of the permit period.

Mr. Nichols asked if the soil was tested at any time (within the ten years) for hazardous materials. Mr. Rainey told him no.

Mr. Merrow addressed Mr. Rainey and stated that in previous meetings there had been discussions about haulers and treatment of septage in the tanks before it got spread. He asked if the treatment was under the site rules, the hauler rules or if it wasn't a rule. Mr. Rainey addressed Mr. Merrow and said it depended on what he meant by treatment. DES allowed sites to dewater septage, put the filtrate back into the tank and take away the solids. The hauler that used that process still needed a permit. The hauler had to follow DES regulations when removing the solids.

Mr. Merrow asked if there was a DES treatment protocol for a tank of septage before it was dumped. Mr. Rainey stated that if the hauler went to a land application site he had to do pathogen reduction. It was more difficult to do with solid material (dewatered) as opposed to septage. Mr. Merrow asked who determined the appropriate mixture for pathogen reduction. Mr. Merrow was told the hauler informed the DES of his intention and the DES told him if it was appropriate.

Mr. Merrow questioned further any oversight the DES had on monitoring the appropriate pathogen reduction mixture. Mr. Rainey stated that it was acceptable to land apply untreated septage directly to the ground. Requirements stated it had to be injected within one hour of when it was applied. If it was surface applied it needed to be turned under within six hours. Mr. Rainey stated that those applications were not conducive to having a hay crop. Reiterating, he stated that haulers had not availed themselves to either option. The option almost universally used was alkaline stabilization.

Board member Bill Walsh had one last question. He asked about statistical information on the current application sites. He referred to the presentation and asked if the seven sites were potentially receiving less than the eight percent (8%) stated in the presentation. Was some (septage) unregulated or unknown? Mr. Rainey stated it was always a possibility. It could and had happened. He gave examples. Mr. Walsh agreed that it could happen and stated that the DES would find huge disparities if there were any when they looked at reports and numbers. Mr. Rainey agreed and stated that at times they did find huge disparities (reasons listed were bad recordkeeping by the hauler or bad recordkeeping by the treatment plant). Mr. Walsh asked about the possibility of non-compliance. Mr. Rainey agreed it was sometimes non-compliance. Mr. Walsh thanked Mr. Rainey.

Chairman Burnham opened questions to the public in attendance. He asked that questions be addressed through the Chair and not directly to Mr. Rainey.

Mr. Kim White stated that Mr. Rainey had said that permits were issued and valid for ten years. Mr. Rainey agreed.

Mr. White asked what instances might cause the DES to revoke a permit, or couldn't they? Mr. Rainey stated that a permit could be revoked. There was a process to revoke a permit. As a follow up question, Mr. White stated that towns such as Newport had invested a lot of money in a WWTP to handle sewage and septage. Mr. White continued, stating that Mr. Rainey had stated land application was an acceptable way to dispose of septage. Why, therefore, wouldn't it be more advantageous for a municipality to buy a large acreage (a couple hundred) and instead of spending money and building a sewage treatment plant apply it to the land for crops? Mr. Rainey stated that Newport

could and cited one town that did do land application. He stated it could be a potential option (for the Town).

The Chairman acknowledged Mr. Bert Spaulding.

Mr. Spaulding stated that Newport was a community that was ready to ratify an ordinance. He asked if there could be an ordinance written that created a total ban on land application of septage. It had been stated in the presentation that the Town could be more stringent, but could it (Town) totally ban land application of septage (*Mr. Spaulding directed Mr. Rainey to say no*). Mr. Rainey stated that yes, the Town could.

Mr. Spaulding asked again if the Town could ban it, even on farms when RSA 21 stated spreading of septage was permissible.

Mr. Rainey addressed Mr. Spaulding and stated that bans had been upheld in Towns that had imposed them (bans).

Mr. Spaulding asked for known cases. Mr. Rainey listed a town that had had a ban questioned. It had not been litigated and the ordinance still existed. Mr. Spaulding again asked for applicable court cases. Mr. Rainey addressed Mr. Spaulding and emphasized there hadn't been a challenge in the State of NH. Bans had been challenged in other states.

Mr. Spaulding asked about exported septage from Newport. He asked Mr. Rainey for the statistics. Mr. Rainey did not have them. There was a short dialogue on NH septage disposal by Mr. Spaulding.

Mr. Rainey stated that NH DES had to look at the septage disposal statewide. They needed to look at management to protect public health. The DES had determined that land application was one option. A landfill only for septage was another acceptable option. Due to regulations, most haulers would go to a WWTP.

Mr. Spaulding then gave a short dialogue concerning a potential problem of excess septage from Newport. He asked Mr. Rainey if he asked communities to entertain a backup plan. Mr. Rainey stated that he recommended against bans. He recommended that the community look at the concerns that they had, addressed the concerns and establish their own permitting requirements. The Town would potentially agree to allow land application, but would impose additional requirements for their permits for safety reasons. Concluding, Mr. Rainey reiterated that he was against total bans.

Mr. Spaulding gave another discourse on the subject of excess septage. Mr. Rainey stated that there had been individuals that had stated to the NH DES that there currently were too many regulations.

Mr. Spaulding and Mr. Rainey had a discussion on odor, comparing the WWTP and land spreading. Mr. Spaulding thanked Mr. Rainey.

The Chair acknowledged Mr. Peter Franklin.

Mr. Franklin addressed Mr. Rainey and stated he (Mr. Rainey) had spoken about hay and the spreading of septage. Mr. Rainey had stated the agronomic rate was a little less than 20,000 gallons per acre. Mr. Franklin asked if that number (20,000) was per season or per crop, if there were two crops of hay. Mr. Rainey stated that if an individual was going to have two or three cuts of hay, the general recommended application of septage would be more than 20,000 gallons of septage.

Mr. Franklin then asked when the 20,000 gallons of septage would be applied. He asked if it would be applied throughout the growing season or at the beginning of the season (to allow the hay to grow without adding more). Mr. Rainey said it could be applied throughout the season.

Mr. Franklin asked if that application would be for injected septage. Mr. Rainey stated it would generally be surface applied. For clarification Mr. Franklin asked if trucks would have to drive through the hayfield. Mr. Rainey stated yes. Mr. Franklin asked if it would damage the crop. It may, Mr. Rainey answered.

Mr. Franklin asked how long the farmer had to wait after the last application before he could harvest the hay. Mr. Rainey stated there wasn't a wait period. Mr. Franklin reiterated his question and queried that there was no wait period at all. Mr. Rainey stated that theoretically that was true (there was no wait period). Mr. Franklin thanked Mr. Rainey.

Acting Chairman Burnham asked Mr. Rainey about the DES evaluation of site suitability. Mr. Rainey had stated there would be a thirty (30) day wait period to eat or graze. Mr. Rainey concurred. Chairman Burnham asked if it would be the same for cutting the hay. He was told no. Mr. Rainey stated that the process of cutting and baling shook off a lot of the septage material. Chairman Burnham asked if it (waiting period) was for standing hay. Mr. Rainey stated it was for grazing.

Acting Chairman Burnham acknowledged Mrs. Sherri Cummings.

Mrs. Cummings addressed Mr. Rainey and stated a hypothetical scenario. If an individual had ten acres of land and stated they would grow hay on it, but only grew hay on one acre, could septage be spread on all ten acres? She was told no. An individual could only spray on acreage where a crop was grown. Continuing, Mr. Rainey stated that if an individual had ten acres and only grew hay on one, he could not spray septage on the other nine acres.

Mrs. Cummings asked who would be monitoring it (the application). She asked if it was the owner and farmer. Mr. Rainey agreed that it would be the owner and/or farmer.

Acting Chairman Burnham acknowledged Mr. David Kibbey.

Mr. Kibbey asked Mr. Rainey to explain lime stabilization again, in more detail. Mr. Rainey stated that with septage lime stabilization, hydrated lime was used. Enough lime was added to the septage to raise the pH to pH 12. Then an individual waited one half hour (additional lime could not be added in those thirty minutes).

Mrs. Cummings asked if the procedure was on the honor system. She was told no. The individuals had to document the information. Mr. Rainey asked the underlying question, could the information be falsified. He continued and stated falsified information would be obvious when the DES visited the site and the owner was asked to produce the pH measurements and how the information was recorded. It would become very obvious very quickly if the operator knew what he was doing.

The Chairman acknowledged Mrs. Beth Pitkin.

Mrs. Pitkin asked Mr. Rainey when the last update to the statistics of the DES Residual Management Section was. Mr. Rainey said that some of it had been done in 2013. Mrs. Pitkin then asked how long the response time was when a complaint was made. She also wanted to know how the DES responded.

Mr. Rainey stated they did two types of response. If he was called directly, the first thing he would do would be to contact the site owner. Usually the (same) day of the complaint or the day after someone from NH DES would go to the site.

Mrs. Pitkin then asked Mr. Rainey to explain the different types of spreading. Mr. Rainey stated that one way was to open the gate or valve at the back of the truck. There was a splash plate to spread the septage out. There were rules against dumping it in one area (he explained). The truck would move through the acreage and spread it that way. The second way was to open the valve and have a raking system behind the truck.

Mrs. Pitkin asked Mr. Rainey to give an example of how the owner did vector retractor on the land application site. Mr. Rainey stated that lime stabilization was a method of vector retraction.

Chairman Burnham acknowledged Mr. Michael Batista.

Mr. Batista stated Mr. Rainey's department oversaw permits for septage land application. He asked Mr. Rainey for his position in the NH DES. Mr. Rainey stated that he was the Supervisor of the Residuals Management Section of the NH DES. He stated that he was the lead person for regulation of septage.

Mr. Batista gave a scenario of having property. He wanted to start harvesting hay. What regulations were in place to restrict falsification of documents; stating various test pits were used when they weren't. Mr. Batista asked Mr. Rainey if there were checks and balances in place to stop that (falsifying). Mr. Batista also asked if before the DES signed off on a permit, did the DES go to the applicant's site and do their own soil testing. Mr. Rainey stated no and explained the procedure that DES had to ensure that the soil was what the applicant said it was. He continued and stated that the items of most importance to them were: the depth of ground water, depth of bedrock, whether the land was poorly drained or very poorly drained. The type of soil was important for yield potential.

Mr. Batista reviewed the steps involved to obtain a permit, including the use of an independent individual to check the site. Mr. Rainey stated that generally he would go check the site and the ground water. Soil work was done by a certified soil scientist.

Chairman Burnham acknowledged Mr. Tom Cummings.

Mr. Cummings addressed Mr. Rainey and asked if he agreed or disagreed that the assessment value of property near a site location would be affected. Mr. Rainey stated he did not know. Mr. Cummings gave a lengthy discourse on court cases involving septage application sites. He then asked Mr. Rainey why there were only seven sites.

Mr. Rainey stated he had alluded to the reason for the low number of sites: there were so many requirements it was easier for a hauler to take the septage to a treatment plant.

Mr. Cummings heatedly addressed Mr. Rainey and spoke of Newport and assessment values. Mr. Rainey and Mr. Cummings had a lengthy heated exchange.

Mrs. Virginia Irwin called for a Point of Order. She stated that the meeting was not a public debate.

Acting Chairman Burnham told those in attendance that it was a question and answer period, not a debate or discussion. It was for questions regarding the permit process, the application site, etc. He stated if there were any further questions the Board would entertain the questions.

Acting Chairman Burnham acknowledged Mr. Warren Sherburne.

Mr. Sherburne asked how much a hauler was paid by household owners to fill a truck (empty their septic tank) and how much the hauler had to pay a treatment facility to empty the truck. The general consensus of the Board was that the hauler set his own price. Mr. Spaulding volunteered two hundred (200) dollars



for 1,000 gallons pumped (by his hauler). He stated that he believed the hauler paid one hundred dollars to the Newport treatment plant. Board members said that Mr. Arnie Greenleaf had stated the Town charged ten cents a gallon (at the treatment plant).

Chairman Burnham acknowledged Mr. Spaulding.

Mr. Spaulding addressed Mr. Rainey and asked if loading septage into tanks was preferable to emptying from a truck. He was told yes, but that it was more difficult.

Mr. Spaulding asked if injection was more preferable to spraying. He was told yes, but that the injection would disturb the hay crop.

Mr. Spaulding then asked if there was a better way to spread than spraying.

There was a short discourse by Mr. Rainey. He stated that it was important to prevent ponding of septage; the truck had to keep moving. Mr. Rainey agreed that ponding occurred. He agreed that illegal dumping occurred. He gave a long discourse on management of septage in NH.

Mr. Spaulding and Mr. Rainey discussed the merits of having a treatment plant vs having a WWTP with lagoons.

Mr. Clifford Stone addressed Mr. Rainey and brought up the use of the honor system in his presentation. Mr. Stone explained the notification letter he had received and the subsequent meeting he had had with the permit applicant. Mr. Stone had been told he would never smell anything; the wind didn't blow toward his property. He then asked if that was part of the honor system.

Acting Chairman Burnham addressed Mr. Stone and the public in attendance and stated that the Board was only accepting questions. He then acknowledged Mr. Frank Pitkin.

Mr. Pitkin asked Mr. Rainey about the fines he had mentioned. He asked if he (DES) had personally fined anyone, or was it just a 'slap on the wrist' with a ten year license.

Mr. Rainey stated he could not recall fining any permit holders with sites. They (DES) had fined septage haulers and the fines had been substantial (in excess of \$100,000.00). Continuing, he explained that the haulers couldn't pay the fine, but DES had to fine them that amount. DES did have fines specifically for site permits.

Mr. Pitkin asked what the DES did if the individual could not pay the fine. Mr. Rainey stated that if they had violated the rules of their permit, they would have their permit suspended or revoked. Mr. Rainey reiterated that there was a process in the rules. He briefly discussed suspensions, revoked permits and correcting violations to obtain a revoked permit.

Chairman Burnham acknowledged Mrs. Sherri Cummings.

Mrs. Cummings addressed Mr. Rainey concerning the DES fines. She asked if the DES fined people and they were not able to pay them...she asked if there were warnings before actual fines were imposed on people. She asked if there were regulations on the fines. Mr. Rainey stated there were a different set of regulations for administrative fines. He gave an example of the severity of an administrative fine.

Mrs. Cummings stated she had checked the DES website and could not find fines. Mr. Rainey stated that she would not find them listed. There was a lengthy exchange between Mrs. Cummings and Mr. Rainey concerning DES fines and violations at application sites.

Chairman Burnham interjected and asked if there were further questions. He acknowledged Mrs. Cathryn Baird.

Mrs. Baird addressed Mr. Rainey and asked if an individual sold hay fertilized with septage, were there regulations that required disclosure as to how the hay was fertilized. Mr. Rainey told her no.

Chairman Burnham acknowledged Mr. Kibbey.

Mr. Kibbey asked Mr. Rainey about rules concerning screening septage before it was land applied. Mr. Rainey explained the rules. An individual had to treat the septage to ensure there were no non-biodegradable materials. Theoretically septage could be applied and the material handpicked. Most individuals moved the septage from their truck to another tank. In the process they would screen the septage.

Mr. Kibbey asked if the process was in the rules. Mr. Rainey said no; it (screening) was not a requirement. Ensuring there were non-biodegradable materials spread was. Mr. Kibbey stated it seemed to be the biggest complaint. Mr. Rainey reiterated that there was a requirement, but that individuals did not have to screen.

Mr. Frank Pitkin asked what the DES guidelines were for spreading septage when it rained. Mr. Rainey stated the ground was not supposed to be saturated. The purpose for that was to prevent runoff.

Mr. Cummings asked if a septic tank truck was stuck in a field if it would be a violation. He was told no.

Mr. Franklin addressed Mr. Rainey and stated that part of the permit application called for a site plan. He asked if that was a requirement (site plan) and if so what made up a plan. Mr. Rainey said it was a requirement and the rules were lengthy on what constituted a site plan. An example could be seen in the TOPAZ office.

Mr. Spaulding addressed Chairman Burnham with a question. Referring to a past meeting and expert testimony, Mr. Spaulding asked if he could read a letter from an experienced individual with a different viewpoint. He explained. Chairman Burnham addressed Mr. Spaulding and stated that if it was a question he could pose a question, if it was a letter, he couldn't and explained.

Mr. Spaulding described why it should be allowed. Acting Chairman Burnham gave Mr. Spaulding the floor. Mr. Spaulding began reading the letter on sludge.

Planning Board member Mr. Nichols and Acting Chair Burnham called out a Point of Order. They stated he was talking about sludge, the topic of the August 18, 2015 Special Meeting was on septage. There was an argument between Board member Mr. Nichols and Mr. Spaulding to not continue reading the letter.

Mr. Rainey stated he would give information on the content of the letter. He stated that additional nitrogen from sludge, septage or chemicals was beneficial as fertilizer.

There was a lengthy discourse between Mr. Spaulding and Mr. Nichols. Mr. Spaulding continued his discourse to the Planning Board members. Acting Chairman Burnham addressed Mr. Spaulding and stated that the meeting was about septage. He asked Mr. Spaulding to stay on the topic. Mr. Spaulding refused and continued arguing. There was a heated dialogue between the Planning Board members, Mr. Spaulding and Mr. Rainey.

Mr. Nichols recommended that all other questions be put in writing and would be mailed to Mr. Rainey to be answered. Chairman Burnham queried the Board and audience.

Mrs. Sherri Cummings stated that it was not acceptable. She stated that she had waited to talk to someone about land application of septage. She stated that the public in attendance had a right to have their questions answered. They had had delays, postponements and continuances.

Planning Board member Mr. Walsh addressed the Chair and suggested that the Board and Mr. Rainey hear questions from the individuals who had attended the meeting. He stated that neither the Board nor public wanted to overburden Mr. Rainey with written questions. He felt it wise to allow brief questions on the subject. Mr. Rainey agreed to stay for further questions.

The Chair acknowledged Mrs. Jean White.

Mrs. White addressed the Chair. She said that Mr. Rainey had stated that there would not be septage application in the winter. Mr. Rainey stated there were regulations against it. Mrs. White asked Mr. Rainey what the hauler did. Mr. Rainey stated there were places that they could go, but not on the land. Mrs. White thanked him.

The Chair acknowledged Mrs. Beth Pitkin.

Mrs. Pitkin asked Mr. Rainey and asked when the DES rules had been updated and when they would be subject to review. Mr. Rainey stated they were readopted in 2013 and in ten years (2023) they had to be reviewed.

Mrs. Pitkin then asked Mr. Rainey about new pharmaceuticals and hazardous chemicals in septage. Mr. Rainey asked what the exposure would be. There was an interchange by Mr. Rainey to Mrs. Pitkin and Mrs. Cummings concerning miniscule exposure, septic tanks and the adverse use of them (septic tanks). Mr. Rainey and Mrs. Cummings continued the debate.

The Chairman acknowledged Mr. Richard Kay.

Mr. Kay addressed Mr. Rainey and (referencing his presentation) asked about the contingency plan at the site. Mr. Rainey stated that a site owner could tell DES pro-active plans they had: times of spraying use of odor suppressant chemicals. Continuing, he stated that nothing in the rules stated that odor had to be nonexistent.

The Chair acknowledged Mr. Bert Spaulding.

Mr. Spaulding approached the podium and began reading a letter that was written in support of hay fertilized with septage. Mr. Burnham asked Mr. Spaulding if there was a question. Mr. Spaulding said he wanted to get over the predisposed paranoia (of the subject). He stated that there had been people in attendance with good questions that needed to be answered. It was important. He then addressed the Chairman and held a lengthy discourse on reasons to be heard and the constitution.

Chairman Burnham addressed Mr. Spaulding and stated if he had a question on septage for Mr. Rainey to proceed. Mr. Spaulding reiterated his reasoning and again asked if he would be allowed to read the letter. Chairman Burnham allowed it.

Mr. Spaulding went off on a tangent. He was asked by a Board member to read the letter. He refused. The Board member addressed the Chair with a Point of Order. He asked that the letter be read. The Chair instructed Mr. Spaulding to read the letter. Mr. Spaulding complied.

Addressing Mr. Rainey, Mr. Spaulding asked if the information was negative. Mr. Rainey stated he did not know, he was not an expert on nutrition and animal husbandry. He could give general facts concerning the amount needed (pH) for nitrogen and also land application fertilizer vs chemical fertilizer.

Mr. Spaulding continued and finished reading the letter.

The Chair acknowledged Mr. Warren Sherburne.

Mr. Sherburne asked the Chair to repeat the date, time and place of the next meeting of the Planning Board. Chairman Burnham addressed Mr. Sherburne and those in attendance and stated that a new public hearing of the Planning Board would be posted. It would be on September 1, 2015 at 6 pm in the Lou Thompson room of the Sugar River Valley Regional Technical Center (SRVRTC).

The Chair acknowledged Mrs. Cummings.

She stated that the letter was irrelevant and listed reasons why. The Chair addressed Mrs. Cummings and stated she could only direct questions to the DES representative. There was a short discussion between Board members, the audience and Mr. Rainey.

The Chair acknowledged Mrs. Joanne Stone.

Mrs. Stone addressed Mr. Rainey and stated that he had told her that the residents had a valid complaint (Mr. Rainey remembered she had recorded their conversation). He told her that an odor complaint was the most difficult and valid concerns to deal with. He gave a lengthy explanation and stated he was backed by factual data. They continued a discussion on the subject.

Mr. Rainey addressed Mrs. Stone and stated he had attended many meetings such as the one in Newport. No one (either side) changed their minds on the topic.

There was further explanation and discussion of the subject, including research findings presented in earlier meetings by an expert witness.

Chairman Burnham asked that the meeting get back to the subject of septage.

Mr. Rainey stated that NH DES had done risk analysis testing.

Chairman Burnham acknowledged Mr. Bob Evans.

Mr. Evans asked Mr. Rainey what the University of New Hampshire (UNH) did with all of its septage. He asked if they had their own treatment plant. Mr. Rainey agreed and explained the process that UNH used to remove their septage. Mr. Evans asked if the treated septage was returned and spread on the UNH property. Mr. Rainey said no. Mr. Evans asked for an explanation. Mr. Rainey stated it was because of the permitting necessary. Mr. Evans continued to question why. Mr. Rainey reiterated the reasons why.

The Chair acknowledged Mr. Spaulding.

Mr. Spaulding addressed Mr. Rainey and asked if there was a new apple orchard, could the orchard fertilize with septage and then eat the apples. Mr. Rainey stated yes, because the apples did not touch the ground. Mr. Spaulding continued and asked if the septage (fertilizer) went up through the tree to the apples. Mr. Rainey stated that testing had shown that the crops most susceptible were root crops. The septage would have to be in extremely high concentrations. DES would not allow those concentrations.

The Chair acknowledged Mrs. Cummings.

Mrs. Cummings read information from papers from individuals with a different viewpoint than Mr. Rainey and asked for his comment. He stated that DES had data negating the information she had read. The DES had restrictions to prevent what were presented in the paper.

Chairman Burnham acknowledged Mr. Skip Rollins.

Mr. Rollins addressed Mr. Rainey. He stated Mr. Rainey had told the Planning Board and public that the permits were very difficult to obtain. He asked for quantity (ballpark figure) of how many who applied for a permit that got a permit and the percentage of how many were denied a permit. Mr. Rainey stated that generally everyone who applied for a permit would get a part of the permit requested. He explained the pre-application process.

Chairman Burnham acknowledged Mrs. Cummings and asked if she had a question.

Mrs. Cummings addressed Mr. Rainey and asked if he knew the qualifications of individuals that ran the Town's sewer treatment plant. Mr. Rainey stated yes. He explained the licensure of individuals in charge of sewage treatment plants in NH.

Mrs. Cummings asked what DES required for a layperson to apply septage to the land. Mr. Rainey stated they had to follow the regulations.

Mr. Kibbey asked if Mr. Rainey knew where the break point was in dollars for this (land application) proposal. Mr. Rainey did not have a number.

Board member Erna McCormick asked Mr. Rainey where the seven NH sites were. Mr. Rainey did not know.

Board member Gary Nichols asked what the staffing (inspectors) in his DES department was. Mr. Rainey stated there were four people in his section. One was primarily for inspections.

Board member Bill Walsh asked Mr. Rainey if since there were only seven permitted sites in NH that it did not seem a viable solution to assist WWTPs. Mr. Rainey stated it would not be a significant contribution to the management of septage in NH. Treatment plants would continue to be the primarily acceptable way to manage septage. He gave a short discourse on management in NH.

Chairman Burnham acknowledged Mr. Spaulding.

Mr. Spaulding asked Mr. Rainey if septage was a concentration compared to what is sent to the WWTP in a connected sewer pipe. He stated that it was an offset to the WWTP. He stated that having an area that could take 20,000 gallons would be a tremendous asset. He asked if he was correct. Mr. Rainey stated that the DES believed that it was cost effective and a safe process. The DES offered it as an option for management in NH. He gave a short speech on the subject.

Mrs. Cummings stated that the land application site could spread more than what the WWTP could apply. Mr. Rainey negated that and explained in detail.

Mrs. Pitkin asked if there were rules against accepting septage from other states. She asked if a hauler had a license for both NH and VT if it would be against the rules for him to spread. Mr. Rainey stated that the NH hauler was required to show (DES) a list of acceptable sites that he would bring septage.

Mr. Spaulding asked about restrictions on septage being accepted by other states. Mr. Rainey did not know.

Mr. Rainey stated that Newport had covered its municipal responsibility by accepting septage at its WWTP (at some level). There was further discussion on municipal responsibility.

Ms. Magnuson addressed Mr. Rainey and stated for clarification that it was her understanding (from Arnold Greenleaf) that the septage brought by haulers to Newport's WWTP had to contain septage from the Town of Newport. Board member Ken Merrow concurred that Mr. Greenleaf had given that information in a previous meeting.

For clarification, Ms. Magnuson asked if septage was land applied, could it come from anywhere, not just the town that the land was in. Mr. Rainey stated (according to DES regulations) she was correct.

Mrs. Cummings gave a scenario of septage leaving a land site. Mr. Rainey stated the hauler could not do that. There were multiple DOT statutes against it.

Mr. Frank Pitkin addressed Mr. Rainey. He asked if he was the police for septage application infractions. He asked about DES allowing and approving septage land application. Mr. Rainey clarified and stated it was the decision of legislature that had allowed it. The NH legislature had authorized the DES to implement a permit system for management of septage. They authorized DES to write rules. The rules were reviewed by the legislature when they were done. He gave a discourse on his opinions.

Chairman Burnham asked if there was a question on land application.

Chairman Burnham returned to the Board for questions. There were none.

On a motion by Mr. Nichols, seconded by Mr. Merrow; *the Board voted to adjourn at 8:26 pm.*

Respectfully submitted,

Maura Stetson  
Recording Secretary