

# Planning Board

- [Meeting Schedule](#)
- [Select Board Agenda](#)
- [Select Board Pending](#)
- [Business Directory](#)
- [Elections and Town Meetings](#)
- [Public Hearings](#)
- [Ordinances](#)
- [Policies](#)
- [Forms](#)
- [Tax Information](#)
- [Town History](#)
- [Public Notices](#)
- [Mary Grant](#)
- [Cemetery](#)

## November 15, 2007

Town of Acton  
**Planning Board Meeting Minutes**  
November 15, 2007

Members Present: Chip Vennell, Yoli Gallagher, Jim Fiske, Tom Cashin, Keith Davis

Members Absent: Randy Goodwin, Brian Bellanger

Guests: Shelly Blaisdell (secretary), Durward Parkinson (Town Attorney), Ken Paul (CEO), Barbara Seckar, Sarah Yates, Phyllis Folsom, Floyd Folsom, Richard Germon, Ann Germon, Virginia Grover, Larissa Crockett, John Moore, Pam McAlinden, Percival Lowell, Warren Seavey, Dick Neal, Mark Rix, Debi Rix, Andrea Rose, Karen McManus, Bill Lotz, Jack Kelly, Roy Meyer, Jamie Saltmarsh, Susan Rockefeller, Willie Wentzell, Pam Wentzell, Pat Hannon

Meeting called to order at 7:08 p.m. by Chairman Chip Vennell

Yoli makes a motion to accept the minutes of 11/01/07 only; Jim seconds the motion.

Questions/Discussion: Tom Cashin questions top of page #3 of the 11/01/07 minutes, and asks Chip what he meant by his comment, "Chip explains that the applicant has agreed to pay for the peer review of his application." Tom asks if the board is going to decide as a whole regarding hiring Pete Maher. Tom also questions whether the board needs to vote on all decisions regarding hiring outside consultants instead of the chairman getting to make the decision himself. Chip explains that this is how it has been done in the past, and that the applicant understands that anytime an outside consultant is needed, he is going to pay for it himself. Chip also states that this information is in the application, and it is explained to the applicant at the beginning and says, "if you want to vote every time, fine, the board will vote every time." Tom agrees.

11/01/07 minutes approved as written. All in favor 5-0

### Agenda Items:

1. Town attorney Durward Parkinson meets with the board to discuss the background on the Hannon application for a Waste Processing Facility, and answers the boards questions. Mr. Parkinson first starts by introducing himself and explains that he is frequently asked to give written opinions, and answer questions in general regarding specific applications. Mr. Parkinson says that he is happy to come to these meetings, at the boards request, on occasion, to be of assistance. Chip asks Durward if the secretary called him last week to ask him to answer specifically two questions that residents seem to have regarding what constitutes a nuisance, and also about the process.

Durward explains what a public nuisance is because people question what that is often, and also because the State cannot license a facility that is considered a public nuisance. He said he doesn't want to get into a long explanation, but there are two types of public nuisances. One is statutory and the other is common, and is any activity that interferes with public health, public safety, public peace or anything that interferes with common public comfort. For instance, something with a lot of odor, runoff, etc. could constitute a public nuisance. Chip asks if our ordinances cover these kind of things. Durward explains that the Board is to do your best with the standards and ordinances in front of you. It is the boards job to take the three or four pages of ordinances that they have and try to do the best for the public that they can.



















Yoli asks about what our ordinances say regarding a public nuisance, and shows Mr. Parkinson the summary of Article 4 in the ordinance code book. Durward points out 6.6.3.7 A-N, and says that you should apply those standards because they are more specific and say more than just "a nuisance."

Chip asks about the process. Durward says his understanding is: an application has been submitted; a site walk has been completed and the application has been found complete. A public hearing has been held and now there is a question as to whether this application was erroneously found complete because there is not enough information to decide if it meets all of the standards as stated above. Chip confirms that this is the basic question they have for Durward. Tom interjects and says he would like to clarify by saying his understanding is that this was more of a procedural question. Durward explains that the current ordinances of the planning board are not very thorough, and require very minimal requirements as they read right now. He continues to explain his understanding of the process, as required by

the planning board at the present, and says that currently the process, as he just explained, may be acceptable for smaller projects, but for larger projects such as this one, he feels more information needs to be required. He assumes there will be workshop sessions with the applicant to tell the applicant what the problems are with the application, and whether additional information is required. Durward said he doesn't feel that the board is stuck with the basic information that they were given in the beginning to complete their review. He also feels it is a more interactive process with the developer, and that the board has the right to make a reasonable request for additional information.

Tom explains that the question he has specifically is regarding the submission issue with regards to procedural omissions, and wants to know if chairman Chip Vennell has a timeline on this issue. Chip answers that his idea of having Durward come to

### Meetings

 2023- 7
 2022- 29
 2021- 22
 2020- 22
 2019- 22
 2018- 20
 2017- 23
 2016- 23
 2015- 24
 2014- 23
 2013- 18
 2012- 24
 2011- 25
 2010- 20
 2009- 21
 2008- 24
 2007- 21
 2006- 13

### Direct Links

- [Elementary School](#)
- [Library](#)
- [Channel 26 APAT](#)

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the meeting tonight was to bounce questions off of a lawyer. A vote was taken to accept the application and there are some people that think the board shouldn't have accepted it, and are not following the process.

Jim says the problem from the last meeting was section 6.6.3.7 and the way the application was approved previously. Yoli asks whether the application fits under 6.6.3.7? Durward says he has not read the entire application and therefore is not completely sure if it fits or not. He will review it in its entirety, per the boards request, and respond in a brief summary within the next few weeks.

Tom makes lengthy comments, with several points that he considers reasons for the Hannon application to be denied, quoting from past meeting minutes.

Durward makes a suggestion to the board that on complicated applications, due to the amount of documents coming in, some ground rules should be set that say applicants must have all forms in to the board a week to ten days before the meeting so that they are not looking at documents on the fly during a meeting.

Chip explains that this is an amended use to a conditional use permit. The board had, at one point, the original boundary survey when the applicant applied the first time in 2001. It was part of an ongoing file for this applicant because the use has been amended a couple of times. The original boundary survey disappeared from the files, so the applicant provided another one for the board from the surveyor. That is why it came in late, and therefore a majority of the board did not have an issue with it, and it did not become a reason to deny this application.

Tom asks Durward if he is willing to make a finding on the validity of the boards

procedures to date, and if a motion to revisit the current vote is valid. Durward explains that the board is beyond the initial phase of the application and now should be considering a workshop with the applicant to make sure all criteria has been met, and to let the applicant know exactly what is required of him to proceed.

Durward says it is not a common, normal procedure to turn the clock back and readdress an application after you have come this far. He quotes MRSA 302 which says that an application that is pending cannot be affected by a change in the law due to substantive review. Durward says a determination needs to be made if the project is set for a review, and his recommendation is that the board proceed as if the moratorium vote in January is not even there because you don't know what the outcome will be. Durward has real concern because if the moratorium is to stop this one project, and the board is readdressing things because of this one application, that opens the town up to liability.

Durward said that if the board wants to get him a copy of all the minutes, maps, applications, and related materials and send them to him, he would be willing to review everything and give the board a 1-2 page finding on whether the board made a mistake previously or not, and a recommendation on how to proceed.

Pat Hannon requests a copy of all findings, as well as any documents that will be provided to Durward Parkinson's office. Durward said that a list of what is provided to him can be sent to Mr. Hannon. Pat requests an actual copy of the documents, and not just a list. The board agrees to give Pat Hannon a copy of everything that Durward Parkinson's office receives.

Tom requests the findings from Durward in fifteen days or less, and Durward says he thinks his office can provide the findings in that amount of time with no problems.

2. Mr. Warren Seavey has his initial meeting with the Board regarding moving his current business to a new location. Discussion from Ken Paul (CEO), Chip Vennell and Mr. Seavey results in Mr. Seavey needing to get a boundary survey and then come back to the board with the results.

3. Comp. Plan Implementation Committee meets regarding the site plan review process. New proposed ordinances for 2008 were presented.

Jamie Saltmarsh hands out an updated draft copy of the site plan review ordinance that is different from the one that Tom had previously handed out to the board, and explains the process that they went through to get to the point it is at currently. Comp. Plan Implementation Committee member John Moore comments on the draft given to the board by Jamie regarding missing parts. i.e. the good neighbor clause, and says that it is not a complete copy, but very close and very good.

4. Tom requests that Bryan Bellanger be reconsidered as an alternate member of the planning board. Chip asks Tom if he will speak to Bryan about whether he still desires to be an alternate on the Planning Board, and will readdress it at a later time.

5. Tom Cashin requests a budget line of \$1,000.00 - \$2,000.00 be brought up at the special town meeting so the planning board can make photo copies. Tom makes a motion that the board asks for \$2,000.00 at the special town meeting for office supplies and/or copies. Yoli seconds.

Comments/Discussion: Chip thinks the board should know what we have in the budget before we ask for more money, and also thinks it is a waste of money to copy large documents for each board member. Chip feels that large documents can be read in the office.

Vote taken on Tom's motion: 2 For (Tom & Jim) & 3 Against (Chip, Yoli, Keith) Motion is Denied

Larissa Crockett asks Chip if someone that is formally connected to the Planning Board would be willing to invite planning board members from surrounding communities, including New Hampshire, to take part in the meetings regarding the Land Fill/Hannon project. Larissa will get a list to the Planning Board Secretary of the towns she wants a letter mailed to, and she also offered to provide stamps. Questions arose regarding whether a citizen can provide items such as stamps. The secretary will check on this before any such donation is made.

6. Best Possible Location Permits (presented by Ken Paul) for John Burleigh, Map 132, Lot 2 at 4 Martha Home Road. He wants to replace existing shed with a

new 10' x 15' shed in shore land zone, no closer to water than existing shed.

Motion made by Keith Davis to accept Ken Paul's recommendation to approve the Burleigh permit. Second by Tom Cashin. All in favor

Tom makes a motion to adjourn. Keith seconds. All in favor  
Meeting adjourned at 9:51 p.m.

*Tteddo Designs*