

Town of Acton  
Planning Board Meeting Minutes  
January 17, 2008

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

Members Absent: Randy Goodwin

Guests: Shelly Blaisdell (secretary), Ken Paul (CEO), Roger Roy, Jennifer Wiswell, Cheryl Donovan, Karl Hodgdon, David Turcotte (Turk's Sand & Gravel), Elizabeth Fields, Glenn Wildes, Jan Steffens, Mike James, Mary James, Harvey Winchell, Helen Turcotte, Leonce Turcotte, Jerry Turcotte, Richard Mark, Debi Rix, Tom Harmon, Joseph Ruma, Dick Neal, Pat Hannon, John Moore, Richard of Sebago Technics, John of Civil Consultants, Tom of Turk's Sand & Gravel (names missing due to illegible handwriting)

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Meeting called to order at 7:00 p.m. by Chairman Chip Venell

1. Chip opens the meeting with an update on Turk's Sand and Gravel. He reads from the application and opens the meeting up to Civil Consultants to do a presentation regarding the amendment to their current Conditional Use Permit. John, of Civil Consultants, said they are requesting five articles: to change limited truck traffic to unlimited traffic, to be allowed to use a crusher on the site periodically, to change the hours of operation from 7:00 a.m. to 6:00 a.m., to erect a 30' x 40' building on the existing concrete pad that is there now, and to put a truck scale on the property. John said that what David Turcotte has found out is that limited truck trips don't work for this operation because there are days with a tremendous amount of traffic and other days where there is very little traffic depending on the projects that people are working on. He said they propose to bring a crusher on site to take care of all materials on site. Nothing will be brought in from the outside to handle these materials. Right now they have a fueling site that has a catch basin in it. He said that when DEP inspected, some people weren't happy with their set up. He said the catch basin has a capacity of approximately 300 gallons in case of spills. The reason for the building over the catch basin, which DEP recommends, is because it will fill with water when it rains and then overflow and cause a possible spill if it doesn't get cleaned out. David has access to a scale, but he would like to install it on the site to make the operation easier. If the scale were in place, the trucks would drive in place, get weighed and then drive off. Civil Consultants shows the board maps that explain where these proposed items would be placed on the site.

Tom asks what would be the operating time of the crusher? John said he believes it would be 7:00 a.m. to 4:00 p.m. for approximately two weeks. Yoli asks how many trips do they have right now? They answer 24. Tom asks if they can estimate how many trips maximum would be made per day? David Turcotte says it depends on what business they get at any specific time of the year. Yoli asks them to estimate how many trips it would be if they were going full out all day long? David Turcotte says probably 7 loads.

Chip asks how the truck scale will be set up? Mr. Turcotte explains that it will be placed on a 2'x 6' foundation, and then put the scale right on that. There would be a 10' x 8' scale house with a computer in it, then a girl would weigh the truck going in, push the button and then weigh it going out. If the truck is overweight they would back it up and dump it.

Chip asks if there was a DOT traffic study done to see if this would put the road capacity over limit? Civil Consultants explains that he doesn't think the amount of traffic that is on that road will put it any where near capacity. Typically traffic studies are done to show weight, times, where accidents are, how long someone has to sit in their driveway before being able to get out, etc. He said he looked at the capacity counts a month ago and it was only 1,700 and that is way under capacity. Most two lane roads are 10,000 to 15,000 trips per day. Chip said

he would like see that information if he has it available. John said he pulled that information off the DOT web site and he could get that for the board.

Yoli said that there was also an issue with site distance, and said that Josh Mack was here from Southern Maine Regional. He was saying that there are different standards when daily trips fall below which is what you did at the time. Chip said he can get that information from them. Josh doesn't work for them anymore, but someone there should be able to get a copy of a recent traffic study, what they rate the road at, what traffic is on there now, what this increase would be and get their feel on it. Also, the board will need to see some type of design for the truck scale. A building permit type plan with the foundation and how it is going to be cut out, the cross section, etc.

Chip asks Ken if he knows what the earliest hours of operation are for other pits? Ken didn't know off hand, but Turk's said that most start operating at 6:00 a.m.

Chip recommends that they have a public hearing on this issue and says that would be the time for public comments and questions because tonight is not a public hearing. Tonight's meeting is just for the board to get the information from them, ask them a few questions and request any additional information that may be needed to proceed.

A public hearing is set for Turk's Sand & Gravel on Thursday, March 6, 2008 at 7:00 p.m.

Civil Consultants asks the board if they were planning on getting the reports from DOT's traffic study or do they want them to get it? Chip says for them to give the board whatever it is they have access to, and says again that they will need to know what the road is rated for, what the level is now and give the board a rough idea of what the increase truck traffic will be and how does that affect it. Also, the size of the trucks that are going to be on that road regularly. Chip also asks them for details on what decibel levels would be and says he will need to also get information on where they plan to put it. John explains that the crusher will be placed between so that it cuts down on noise. Chip says they need a rough idea of how far away it will be and also the distance from any existing homes and a decibel level at that point.

Tom asks Civil Consultants with the existing equipment that you have on site now for loading, what is your maximum ability in terms of loading tractors, realistically, with coming and going? If you can either tonight or when you come back, give the board a number because that what we

need to use when inquiring with DOT or Southern Maine Regional. Tom also asks Chip if the board is going to retain Southern Maine Regional to help the board with this? Chip says yes, he doesn't see why not, just to go over the revised changes. Tom also said that somebody has to do a peer review of their traffic study. Civil Consultants said they have about twenty-five people in their office, so his peer review would be from one of his other engineers. Tom asks if they have a traffic engineer in house? John from Civil Consultants said that if they do anything very complicated they go with someone from the outside, but they can do traffic counts, site distances, peer meeting with DOT, etc. but once it gets to site distance and things like that they would go with someone from outside.

Chip asks if anyone has anything else? Ken said just some correspondence from DOT saying that they don't have an issue with it. Tom says that he feels the board needs the number of trucks from Tom. Ken said that they used the word unlimited. Chip asks if they are proposing that the trucks come in empty and weigh themselves and then weigh themselves on the way out, or are you just concerned with the weight going out? Civil Consultants said they are basically concerned with the weight on the way out. Ken and Chip both say that they need to be weighed on the way in and on the way out. Chip also asks how many trucks conceivably could line up on the property waiting either in or out before we get to the issue of blocking Route 109? Is there enough room where you propose to put the scale now? Civil Consultants said that he can get that information to the board regarding stacking the scale.

2. Presentation from Sebago Technics representative. He stated Eagles Trace originally came in with a 13 lot subdivision, that was approximately 300 acres. They came back with a first

amendment to break out of lot 11 that was sold. They came in and developed a 14 lot subdivision. What Acton, LLC is proposing is to break lot 13, which is a large lot in the rear of the lot, from Hopper Road off what is now lot 14 which is 41.31 acres. Chip clarifies that they want to take 14 off of 13? Richard said that they are here for a second amendment to do that subdivision. Chip asked him if he is aware that the board now has new subdivision regulations that were enacted last summer and Richard said he is now. Chip reads from the regulations as to what Acton, LLC needs to follow pertaining to this application, and says that it is pretty much the same as it was. Chip asks Sebago Technics if they are creating a new lot and they confirm that they are. Tom asks if there is one dwelling proposed for this lot. Richard says that yes, right now he is strictly dividing the lot for one owner. Chip says that they need to go back to the preliminary plan process where they have the submissions. Sebago Technics was given a copy of the new ordinance book. Chip says that all the board is concerned about is lot #13 and breaking off lot #14 for a single family dwelling. Richard asks if it will be considered minor or major? Chip said he thinks it should be considered a minor because they are just creating one lot and it is an amendment. Richard said he is happy to provide that information, but says it seems a little excessive for a subdivision break off. Yoli said that it seems sketchy to her because once you get over 15, and even though lot 11 was considered one lot, with this it puts it over. Richard disagrees and explains that he has a subdivision for 13 lots and is allowed 14 lots before it triggers a site location, which is for anything over 14 lots. Richard said that is separate and DEP made a ruling that when they sold lot 11, it was not in the common scheme of development. The owner of lot 11 developed that 14 lot subdivision. Chip asked who owns lot 11 now? Ken said Blue Sky Development, which is David Bartholomew, and it is a separate

development. Ken confirms that they have separate permits and it is a separate person. Ken questions if it is over 40 acres, it is a lot for subdivision review, but is it a lot for counting at the State level? His concern is when they come back in for doing something else. Chip reads from page 9 of the ordinance regarding lots 40 acres in size and determines that a redivision of a subdivision needs to come through the board, but it is a lot for assessing purposes and apparently won't go against current zoning ordinances.

Richard asks if it is possible to do a preliminary find at the same time? Chip said that he could probably do up the information at the same time but he does need to have a public hearing.

Richard asks if a public hearing can be set now? Chip said no because they don't have a completed application from them yet. Chip's recommendation is that they get all their information together and to the board ahead of time to speed up the process. A meeting can be scheduled to go over his information if requested.

3. Woodard & Curran contract to be discussed. Pat Hannon questions why Randy Thome wasn't present at the meeting? He said he received an e mail from Michelle that said he would be coming to answers questions from the board, discuss the contract, etc. Chip said that he agreed, it would be easier to set up a workshop date, and thought he would be coming tonight as well. Pat said he really wants to know what the peer review is and feels that Randy Thome should stick to solid waste issues, not what he thinks of the zoning and so forth. Chip explains that what he thought they were going to ask him to do is the same thing that SMRP does for us. Go over the project relating it to how it affects the Town ordinances. Pat explains that he is not a planner, he is a solid waste engineer and he is coming to give his solid waste expertise. Pat wants clarity if that will be on solid waste issues only? Chip says yes, and they have other people, so if the board has other issues such as with traffic, they will have to have other people take care of that. Pat points out that they are not traffic engineers. Chip says that they have professional engineer-traffic listed on the contract at \$150.00 per hour. Chip said that they will ask him what specifically he can do for the board and what he will need to have somebody else in the office do. Pat said that he doesn't want to spend a night at \$150.00 per hour for someone who wants to get your work to explain what he does. Pat also points out that Pete Maher came

several times, free of charge. Chip said that what the board is going to do tonight is see if this is a proposal they like and do they want to send it to the Selectmen and what does that board want to tell the Selectmen. Chip asks, "do we want to meet with Randy Thome, or does the Selectmen want to meet with him before signing anything, and what kind of an escrow account do we want to set up because there is no more money left to pay consultant fees". Tom asks to look at Randy Thomes letter of January 4, 2008 that he sent to Michelle because he thinks that would answer some of these questions. Chip explains that the contract has not gone to the Selectmen's office yet because the board needs to go over it and see if it makes sense, and they need to decide if they want it to even go to the Selectmen. Keith said he thought the board was going to meet Randy Thome and Chip agrees, and also points out that his letter even says so. Pat said that he feels the board should have sent an e mail stating that he needs to be here tonight because you are going to consider his contract before sending it to the Selectmen. Pat said that the board had all kinds of issues with Pete Maher after several discussions, and said he thinks it would be irresponsible to hire a guy that you haven't even talked to. Chip said he agrees. Tom refers to correspondence between the board and Randy Thome and said he doesn't

see where it is stated anywhere that Randy was to be here. Pat expresses his desire to have the first meeting with the consultant to not be a three hour update on his expertise, but to focus in on this project and his application specifically. He said that in the past the town has taken a \$2,500.00 deposit for the escrow, and when that gets down to \$500.00 then more money would be added to that. Chip said that sounds fine with him, but said Pat needed to talk with the town treasurer for the details. Pat said he already spoke with the town's treasurer and that is where he got the \$2,500.00 figure from. He said he is willing to set that up with the town and give the deposit to get started. Pat also recommended that the board send Randy Thome a packet of what has been accomplished so far and have him come to a meeting so the board can meet him, and decide if he is the consultant they want to go with. Chip asks the board if they want to send an invitation to Randy Thome to come to the February 7, 2008 meeting? Tom also asks that he is sent a copy of the minutes from the meeting with Durward Parkinson so he can be made aware of all that is going on? Chip and Pat both comment that it isn't relevant and not necessary. Chip reiterates that Randy Thome is invited to come February 7th and then the board can send his contract to the selectmen after that meeting if they feel that is the way they want to go.

The board reviews the letter from Durward Parkinson dated January 16, 2008 that addresses the moratorium and chooses not to give them out to the public after Debi Rix requests a copy. Chip tells her to see Michelle tomorrow for a copy after he has a chance to see how lawyers letters are dealt with. The board decides that the moratorium includes commercial timber harvesting, and possibly Warren Seavey's application, but not Pat Hannon's application because that was applied for before the October 27, 2007 date. Chip asks for Warren Seavey's entire packet to be sent to Durward for review, as well as Warren's previous business information so the lawyer knows that this is an update. Discussion took place regarding canceling the site walks previously scheduled for Steve Bodkin and Warren Seavey on February 7, 2008 and the board decided to keep the site walk for Warren Seavey as scheduled, but to cancel the site walk for Steve Bodkin due to the moratorium affect on his application. Tom asks whether the board can change the wording on the petition and appeal the moratorium? Keith comments that it can not be overturned by the board and can only be changed by another public petition. Chip recommends that the board of selectmen be notified about how this moratorium is affecting timber harvesting. Debi Rix asks why does the waste transfer station not fall within the moratorium? Tom answers because the date of the proposal of this ordinance is October 26th and the date of acceptance of Mr. Hannon's application is September 6th. Debi says that she believes that the acceptance of the project was only if it was under substantive review and said she feels that the board needs to make a decision regarding this. Tom tells her that she is

incorrect and tells her that the moratorium is not hinged upon substantive review, but on the date in which it was received by the planning board. Debi said that Durward's findings stated that according to the board's requirements, the application was not complete and that you could not go back and change your acceptance because you realized that it was not complete and that is where substantive review would come in. Keith corrects Debi and says that Durward did not tell the board that the application was incomplete. He said that Durward's letter said that as he viewed it, the board followed procedure and if errors were made the board had no recourse to go back. Debi says that we know errors have been made, and Keith disagrees. Chip said to answer Debi's question, the board is comfortable with where we stand now, and that Pat

Hannon's project does not fall under the moratorium therefore the board is not changing their minds unless they get a different board opinion, an injunction or until someone tells them to stop, so right now the board is proceeding with the project. Chip explains, with regards to timber harvesting, that managing is exempt, but harvesting does fall under the moratorium and even though no one planned on this happening, the moratorium does affect commercial timber harvesting. Tom asks if Shelly or Michelle could at least investigate the possibility of overturning the moratorium so the timber harvesters can proceed and Chip said yes.

Tom makes a motion that the planning board ask the selectmen to readdress the moratorium under ordinance C5 to see if there is a way to make timber harvesting exempt. Keith seconds. Chip asks if there is any more comments or questions? Keith says that the only way to overturn a citizen's petition is with another citizen's petition. Tom disagrees. All in favor. Motion passes 4 to 0.

The board discusses the process of removing a planning board member and decides to readdress that at another time when there are candidates interested in the position.

Motion made by Keith to adjourn meeting. Jim seconds. All in favor.

Meeting adjourned at 9:40 p.m.