

own of Acton  
Planning Board Meeting Minutes  
February 7, 2008

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

Members Absent: Randy Goodwin

Guests: Shelly Blaisdell (secretary), Ken Paul (CEO), Larissa Crockett, Ethan Current, Andrea Rose (Observer), Arthur Kelly, Pam McAlinden, Randy Tome (Woodard & Curran), Shawn Frank (Sebago Technics), Tom Rousseau, Debi Rix, Lois

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

1. Chip opens the meeting introducing Randy Tome from Woodard & Curran who was hired to consult on the Hannon application. Tom asks Randy whether or not they can rely on the State permitting process or should the board rely on their own process, and says that he understands it

won't hold up the application, but would like Randy to touch on the points of this.

Randy Tome shows the board a DEP application that his firm did on January 6, 2006 for the town of Ogunquit, as an example and a comparison of what something like this could cost.

Randy said that he reviewed the towns ordinances and said that he didn't find too many things that will be required and would like to discuss this further. He said he isn't a lawyer and can't interpret the legal side of things, and hopes the town has their own lawyer for those things.

Chip said he would like to know from Randy, now that he has gone over the application and also looked at the Towns ordinances, what parts of the application is the board going to need to go

back to the applicant and get additional materials on? Chip asks Randy to start with his list of things he feels will be necessary. Randy said he will start with what the DEP will require and then go from there to his own recommendations. Randy said he has worked in solid waste for twenty-five years and permitted a lot of transfer stations in the state of Maine and feels that the DEP does a good job at review and they will go through all the things he is about to mention plus a lot more. He feels Eric at the DEP does a good job and the board should rely on him.

Randy said the DEP application has on their list: noise, odor, storm water, leach aid that will be generated in this building and how is that collected and treated, traffic flow, natural resources, IF& W review, air quality, abutters list, public hearing, financial ability of the applicant to meet his requirements, technical ability, civil criminal disclosure statement will need to be submitted to check background of applicants, set backs, flood planes, site plan requirements, utilities, etc.

Tom asks Randy about what the percentage of waste is? Randy said that he read it was planned for 800 tons per day and Ken said he thought there was a resubmission that listed almost nothing for waste distribution. Randy said that he thought that was an excessive amount because that was more than the facility in Portland, which is 500 tons per day and services all of the greater Portland area and the waste contracts are already spoken for, so he

doesn't know where the waste would be coming from. Keith asks Randy if that is grounds for dismissal? Randy said that he isn't a lawyer and that would be a good question for an attorney, but he would think that 800 tons per day would be very difficult to work at this facility.

Tom said that in the little descriptive materials that were submitted, he counted ten different areas that the applicant delineated for what would have to go where and the side system, etc. and there are a number of areas that are not accounted for on the site. Randy said that he would

agree with that and explains that the applicant is talking about bringing in 100 yard (full sized 45 to 50 foot) box trailers, plus the tractor itself, and the area measures approximately 130 feet, so you could barely get that tractor and trailer inside the building and then to unload it and it is all at the same grade so you have to practically push out the waste almost as you were going

out the door and then you would have to get it out of the way before the next truck comes through, all while trying to sort it and get it into containers. Randy said he read that the applicant said he will try to keep it all in side for good reason, but to do that process will be difficult to do. Tom said that the fact that Randy finds it somewhat impossible or illogical and some of the board finds it incredible, would it be unreasonable to ask for an interior layout, as well as a site plan drawn by an engineer surveyor and also there is nothing on hand do date to allow you or a civil engineer to do any grade issues. Randy suggested that a detailed operations plan combined with a layout plan from the applicant would be helpful because he might just show you an open floor plan with some roll off containers that he may say will pick up waste with a front end loader and dump into containers, but after the waste that is on the floor that needs to get out of the way and then shifted to all these containers, how much space is really left

to do that. It may be evident that there won't be enough room in the building to turn a front end loader around.

Randy said that the information that he has reviewed from the Town's attorney says that it is best that you handle the application that has come before you as a planning board and then act on that before you send it to the DEP. Tom points out that the board has been cautioned that they can't hold up their process while waiting for the State's approval because the board is bound by a timeline, but the way the board can work with that situation and still attain the same goal is to basically ask for the same submission.

Randy said that he is going to keep referring to the legal opinion. If the applicant is astute, he will do it in such a way to coordinate with the Maine DEP so he is not duplicating those efforts. Jim asks if there is a way to verify what was submitted and what the board needs to request he submit. Randy said he is going to have to coordinated with DEP and tell them what his plans are and what engineers he has hired to do the work and they should meet with them so there are

no misunderstandings. Randy also said that that information should come back to the board simultaneously so the board is kept up to date on where in the process they are.

Tom asks Randy which items on the list of requirements is his firm unable to accommodate the board with? Randy said that they work with a few traffic engineers, for instance, or they could easily recommend someone to the board. If there are no conflicts then these people could subcontract through his firm. Chip said that they are not expecting Randy's firm to do all the work and Randy said he couldn't do it anyway because it is a conflict. It is up to the applicant to do that work himself and then Randy would review it. Randy said that if the applicant wants

to use a certain firm because it is less expensive, for instance, and it is a bad report, in his opinion, then he will report back to the board that he doesn't like it and it isn't right and suggest the applicant do it again.

Keith asks Randy if he has ever done something like this before? Randy asks Keith if he means a peer review and says that his firm has done them before for the city of Portland and the city of Auburn and they look at projects that other consultants have designed and give them the o.k. before they get built. Keith clarifies by saying that when you are talking about doing this in conjunction with DEP what is the process? Keith said he is looking for Randy's recommendation with this being a private entity with the town, how should they proceed. The board has said all along that they want to do the process because the board wants the information, and the applicant has said he would like to have town approval before he goes to DEP. Randy said that the town is talking about doing a lot of the same studies as DEP, so he doesn't necessarily agree that it may be cheaper for the applicant.

Keith questions if Randy Tome is recommending that the board ask the applicant to file with DEP and do this process with the town at the same time. Randy answers that if it were him, he would send it to DEP first because they speak for the health and human safety of the State, but

you are looking out for the welfare of your Town, so it doesn't keep you from requesting additional information and it doesn't say you are automatically approving it either. Chip said that if the board is held to 75 days, and the applicant says that time is up and he is not granting the board any more time, then the board would take a vote at that time and would not approve the application due to lack of information, so the applicant is not going to push it because it is not in his best interest to do this. Chip said he thinks the board needs answers from the applicant to a list of questions, such as the amount of tonnage he is applying for and has the amount been amended from previous requests?

Randy said he will send a complete list to the secretary of what the DEP will require and what the board should require and things that he feels are missing. The secretary in turn will forward the list to the applicant and the board for review.

Tom said that on their site visit to the Triano facility, it was brought to the boards attention that the facility in Hamden is not accepting any more waste, and the Old Town facility is not licensed to accept out of state waste. Mike Triano said there is a gray area as to what constitutes out of state waste. If it is "processed" after arriving in the state, which no one really knows what that means, then it can be considered in state waste and he doesn't want any part of that process.

Randy said that what he thinks that the applicant is talking about is regular MSW (household) waste and DEP requires a 250 foot set back from the waste handling area to the property line, and a 500 foot set back from a residential area and this site is only 470 + feet wide, so there isn't

even enough land to pass that first requirement right now on the DEP application for even handling MSW at that site the way it is showing on the map. Randy explains that there are two provisions to get waivers from that setback requirement. One is that you get waivers from abutters and they sign off saying that they don't care about that, and the second is that the DEP, after reviewing it and determining where it is, they deem it to be appropriate to be a waste

handling facility.

Randy also points out that there are also other set backs that would be required. Some of those are: 100 feet from a road , 500 feet from a residence and 100 feet from a protected natural resource. Keith asks if there are waivers for any of those setbacks? Randy said he wasn't sure about those.

Chip asks Randy's suggestions regarding getting a letter of credit or bonding insurance to make sure that if this business goes belly up, how would the board make sure that there is money enough to clean up the area and return it to it's previous state? Randy said that he would refer the board to their attorney or finance director on this matter, but he wanted to let the board know that DEP will look into his finances and require the applicant to have a financial capacity to sustain this kind of a project also.

The board briefly discussed a packet presented to them by Pam McAlinden for review regarding alleged financial judgments against the applicant. A workshop for the Hannon project is scheduled for Wednesday, February 27, 2008 at 6:00 p.m. at the Acton Town Office.

Tom Cashin makes a motion that the applicant must set up an escrow account with the Town on or before the next planning board meeting or the process halts until one is set up. Keith seconds. All in favor. Pass 4 - 0

Randy Tome wanted to clarify his position on the issue of MSW/CEE and said he feels that this building is cramped with one or the other and to get both coming in would be difficult, so he doesn't know if the applicant has a plan for one coming one week and the other the next week. To have them coming in simultaneously and sort them and keep them separate would be a concern of his. Keith asks Randy to add a list of concerns he has to the list he is submitting for the applicant. Randy said he likes to put together a draft and send it to someone here to review

and comment on before he submits a final. Chip said it isn't necessary for the formality and to just send a letter. Randy agrees.

2. Presentation for a second amendment for Sebago Technics by Shawn Frank. Shawn gives the board a new copy of the map that shows the test pit on it. Chip says that what they want to do tonight is see if they have a completed plan of submission. The board reviews the new map and goes over with Shawn the list of requirements needed to find this application complete.

The list is as follows for the final plans:

- a statement that all storm water structures have been installed
- a resubmission of the road plans as part of the final package
- a statement of the national plume associated with the nitrates
- regard lot 14, once approved, as a single family lot. No further subdivision may occur without further review and approval from the Acton Planning Board
- depict a typical building envelope on lot 14
- check on historic and natural areas
- storm water areas depicted on final map

-change language to say "no historicals" instead of N/A

-installation of a residential fire sprinkler system per Acton Fire Department code

Yoli makes a motion to waive the high intensity soil survey. Keith seconds. All in favor. Passed 4-0

Tom makes a motion to waive the traffic study. Jim seconds.

Discussion: Yoli asks if there are still a lot of concerns regarding the site distance? Shawn points out that the typical single family home, not age restricted, generates ten trips per day. Yoli said she remembers the board discussing that if this develops any further it would be addressed. Chip asks the board if they want to explore that now or do they want to wait until an expansion is applied for? The board decides to wait until any further expansion is applied for.

All in favor. Passed 4-0

Keith makes a motion to accept the Preliminary Plan Application as complete. Tom seconds. All in favor. Passed 4-0

Yoli makes a motion to hold a public hearing for Eagles Trace subdivision. Tom second.

Discussion: Keith said he thinks it is probably not necessary for a single family, but he thinks it is a good idea to stay consistent and have one.

All in favor. Passed 4-0

A public hearing is scheduled for Eagles Trace subdivision on Thursday, February 22, 2008 at 7:00 p.m.

Regarding perspective new members, Tom asks what the status is on Randy staying on the planning board? Chip says he spoke to Randy and said he is working on resolving his work conflict. The board decides to give Randy two more meetings to resolve his work conflict before they will recommend that he be replaced as a board member. All in agreement.

Tom said he spoke with Larissa Crockett regarding her desire to be on the planning board as an alternate and he thinks that it would be a good idea to recommend her to the selectmen for an appointment. Chip said he spoke with Arthur Kelly, who was on the Sanford planning board for two years in the past, and he feels he would be a better choice. Chip said he has a problem with Larissa Crockett being on the board right now, especially with the Hannon application in front of the board, because with everything that has happened so far, she has been a very outspoken advocate against the project and she may try to bring up things that may stall it. To turn around and say you can be completely unbiased and fair on this project all of a sudden, and the board has to realize that they are not an advocate group and is obligated to look at every application, whether they agree with it or not, and be fair right down the middle and said he doesn't think the appointment would stand up. Chip said he also doesn't feel that it would be

fair to Larissa to say that you now have to turn around and be fair right down the line. Tom said he reviewed two meeting minutes where an exchange took place regarding Larissa Crockett, and reads from the meeting minutes of November 1, 2007. Tom doesn't think her record shows a bias at all. Tom said he didn't know Larissa before this process began and he feels after

talking with her privately that she is articulate and asks good questions, which is important for a board member.

Larissa Crockett comments that she didn't just start attending the meetings after the Hannon application came in, but was active before that time, and she felt she could remain unbiased on this application as well as any others.

Tom makes a motion to recommend both Larissa Crockett and Arthur Kelly's names to the board of Selectmen for consideration as new Planning Board members to fill the one vacant spot that is available right now. Jim seconds.

Discussion: Yoli asks Chip how things were left with Randy? Chip said Randy is trying to work out a conflict with his place of employment, and points out that the board has not done anything substantial yet with the Hannon application. He feels that Randy can still take part in this application process without being behind on anything. All in favor. Passed 4-0

Keith makes a motion to accept the meeting minutes of January 3, 2008. Jim seconds. All in favor. Passed 4-0

Keith makes a motion to accept the meeting minutes of January 17, 2008. Jim seconds. All in favor. Passed 4-0

Motion made by Jim to adjourn the meeting. Second by Yoli. All in favor.

Meeting adjourned at 9:30 p.m.