

## PLANNING BOARD

Monday, December 28, 2009  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman Peter Harris; Ward Peterson, Claude Patten, Jon Pike, Christine Long and Russ Davis.  
Members Absent: Gary Flack.  
Alternates Absent: William Rollins and Reginald Caldwell.  
Staff: Candace Daigle, Rick Ball and Elaine Murphy.

RMI held a public informational meeting on biosolids from 5:45 to 6:50. It was not part of the Planning Board meeting or public hearing.

The chairman opened the meeting at 7 p.m.

### **PUBLIC HEARING: PROPOSED AMENDMENTS TO THE ZONING ORDINANCE:**

P. Harris explained that the proposed amendment for Manufactured Housing Parks was tabled until the Planning Board gathers more expert advice on the issue. Tonight's meeting is for the proposed changes to the Aquifer Ordinance, prohibiting biosolids and the biosolids petition.

### **AQUIFER:**

P. Harris explained that the proposed changes to the Aquifer Ordinance are adding the municipal well-head protection areas to the district, to retitle the Ordinance to Aquifer and Groundwater Protection Ordinance, amend, add & delete definitions, update references, and reduce the amount of regulated substance requiring Best Management Practices storage to 5 gallons.

Mr. Kevin Sturgeon wanted to know why they are changing the name. P. Harris explained it is so that the well head protection area and aquifer can be regulated under the one ordinance.

Mr. Sturgeon stated that when the Aquifer Ordinance was first proposed there was a lot of discussion about storage of regulated substance and it was the Board's decision to use common sense to allow 55 gallons of material outdoors and now they want to reduce it to 5 gallon. That means if he has three 5 gallons containers of hydraulic oil in his truck and drives onto his property he is in violation of the ordinance. Whatever happened to the common sense the Board planned on using? Going from 55 gallons to 5 gallons is a large leap why not 25 gallons. C. Daigle explained that the 5 gallons refers to the outdoor storage of regulated substances. If it is in the truck it is not in violation. If the outside storage is more than 5 gallons then it simply needs to have secondary containment.

Mr. Sturgeon stated that this applies to businesses only but what about manufactured parks that have snowmobiles parked at units and each has gas for refueling them on site. That is more than the 5 gallons that businesses are allowed. Why is Belmont trying to exceed the State's Regulations? C. Daigle explained that they have participated in the Tri Town Aquifer and they are trying to have similar ordinance in the three towns. It was driven by some local needs. Belmont is currently more lenient than the State on outside storage. This will be the same as the State's model ordinance.

Mr. Roberts stated that if you have a mini excavator on your property you cannot have diesel fuel and gas on site. P. Harris stated that you can, it just has to have a secondary containment if it is stored on site.

Mr. Sturgeon wanted to know why the Board keeps changing/amending ordinances. We had agreed to use common sense on the storage of regulated substances and now they want to change that. He has been told that zoning takes away landowner's rights and he is against this change.

Mr. Dan Green stated that the intent is related to outside storage. P. Harris explained that storage is something that remains on your property for a period of time. It needs secondary containment so not to have to clean up any contamination.

Mr. Alfred Fecteau wanted to know if they refer to oil tanks. C. Daigle stated that fuel for heating of buildings is exempt.

### **BIOSOLIDS:**

P. Harris explained that the Board in the last few meetings has received good education on the cause and effect of biosolids. The Town is looking at going from their first proposal for a Conditional Use Permit to allow Class A biosolids to prohibiting it. After the information the Board received from the Conservation Commission at their last meeting there is a concern with the history of sludge and protecting farmers. The Board has shown an interest in placing a ban on biosolids and letting the voters decide.

Mr. Fecteau wanted to know if the Board is proposing to totally ban biosolids. P. Harris stated there is a proposal to ban biosolids. If the two articles are adopted at town meeting it could cause problems. The decision will be what the people want. There have been a number of people participating in the discussion and they have to educate the people on what is the appropriate and safe use of biosolids.

Mr. Green stated that he is a farmer and beekeeper and the reason farmers want biosolids is because it is free. He stated that biosolids are sewer waste consisting of human waste, poisons, detergents and pharmaceuticals that don't break down. It is not recommended for farms growing food. Farms are not dumping grounds. Most farms get developed into housing lots and if biosolids were used on that farm would you want children to play on the soils where the actual content of the material is unknown. Plants absorb the soil and any possible contaminates. We don't own the land we are only stewards of it. We cannot control what people put down their drain but with more regulations we could encourage them to use safe chemicals that don't pollute the earth. Human waste is not fertilizer. Everything needs to be

studied. He harvests plants and vegetable and would not use human waste as a fertilizer. Biosolids contain bacteria which can affect the crop and insects. It enhances the crop but creates bacteria. He used an example of a farmer who used a harvester to harvest his crop that was grown using biosolids. When he harvested blueberries with that same machine the fungus from the biosolids were transferred to the blueberry crop. We need to restrict the use of sludge/biosolids because it will go onto land that may be used for housing. We need to protect land for growing food. Mr. Green submitted a poster with the different types of bacteria and their effect on plants.

Dr. Caroline Snyder stated that she lives in Sandwich and has studied and taught environmental classes for ten years. She challenges the fact that biosolids are not the same as sewer sludge. They are defined as pollutants. Mr. Ned Beecher from New England Biosolids Residual Association stated that there is no harm from biosolids Dr. Snyder stated that in 2002 the Academy of Science showed that there is harm to human beings and animals. Hundreds of cattle were killed from biosolids. The Natural Journal never investigated the complaints. Both the science and risk assessment is outdated. Mr. Beecher explained that the death of those cattle was the result of too much sludge being spread on that property. There are organizations that can refute all those allegations. It is easy to jump to conclusions. Scientific policy has to be documented.

Ms. Denise Naiva stated that a study from Cornell University published in March 2009 show a case for caution to be revisited. She has a twenty-eight page report with very informative studies that shows the affects of biosolids on the land. She will provide the report to anyone who wants them.

Mr. Ken Knowlton stated that there is a 2007 court case on sludge on farmland. A judge raised doubts about the affect sewer sludge has on animals and land. He submitted copies of the case for the Board. Mr. Beecher clarified that the court case involved in the litigation was two farmers suing because of the affects biosolids had on the cattle. This happened prior to 1990 before there were regulations. There was one case where the USDA granted a payment for not planting the crop because the land was contaminated and the judge over turned that case. That is only one case that focused on that issue. There is a lot of science to biosolids and there are international conferences on the science research on biosolids. Every international conference publishes papers on their research. Scientists have spoken to the practice being acceptable and two Natural Scientists have come to the same conclusion. The vast majority of scientists feel it is an acceptable practice. It is a matter of trusting every environmental agency in country and accepting the practice. The USDA and Food and Drug Administration agree with the EPA that the practice is acceptable. This is what is best for society. The hauling is short and is the best use of local nutrients without having to order fertilizer from far away. The risks are managed.

Mr. Sturgeon stated that before he came to the meeting he knew nothing about biosolids and was not as scared as he is now with cattle dying. He bought some commercial fertilizer to see what is in it. If they vote to ban biosolids will fertilizer be banned? What about ash. Animals have died from grazing on land treated with biosolids. Is everyone going to stop eating beef because of biosolids? Dr. Snyder stated that it is legal to ban large quantities of fertilizer. Out west last summer the sludge was so contaminated it was declared hazardous waste. The parks where it was spread had to be cleaned up and the parks had to be closed. It cost millions of dollars to remove the contaminated soil and have it shipped out of State. Mr. Sturgeon stated that some people believe if a little is good then more must be better.

Dr. Snyder stated that it is wiser not to adopt the State law because once you allow sewer sludge to be used in Belmont you cannot control where it comes from. The State rules do not have a ph management plan. The ph has to be managed because if it is too high or low it can regrow pathogens. In Sandwich you cannot put sludge on dairy pasture or over the aquifer because the soil is sandy and it will filter through to the water table. By State rules you only need 2'-3' for a water table. They have no ground water monitoring. New Hampshire allows stockpiling for up to two years. You have to have a permit if it is stockpiled for more than seven months. There are documents that show stockpiles pollute groundwater. Sixty towns in New Hampshire have a more stringent ordinance than the State. It is better to be safe than sorry.

Mr. Fecteau wanted to make the public aware that if biosolids are banned then it could increase the cost of maintaining your septic system. P. Harris stated that currently biosolids are allowed by special exception.

Mr. Tom Clairmont wanted to know how it is going to appear on the ballot. Is it going to be submitted by petition in favor or not or is it going to be just an alternative to prohibiting biosolids. P. Harris stated that he won't know that until after the Board deliberates. C. Daigle clarified it by stating that the petition goes on as submitted. The Board will state whether it supports or doesn't support it. Anything that the Board puts on the ballot will say it is supported by the Planning Board. Mr. Clairmont stated that this started when he applied for a special exception for Class A biosolids then was told he needed a variance to stockpile it while waiting to spread it. He is interested in using biosolids to bring nutrients to his hay field. He agrees with Mr. Green about using best management practices to preserve the land. We are stewards of the land. He is making an investment in land and trying to preserve the farm. Ph management is a major deal and RMI takes soil samples of fields to determine what the right balance of ph is. He ask that everyone stay open minded. Banning is extreme. The views at these public hearings have been an education for everyone.

Mr. Roberts stated there is talk about losing farm land if biosolids are allowed but it may help farmers hold onto their land and not have it developed. This would keep more open land.

Mrs. Susan Condodemetraky wanted to know what will happen if both articles passed. C. Daigle stated that it would be a legal issue. Mrs. Condodemetraky stated that there are two sides to this issue; the people who don't want it because they want to stop pollution and keep the land pure, and the other side is the people promoting it are making money from it.

Mr. George Condodemetraky stated that the scientists are the ones who do the studies but are not the ones who work at the plants on a daily basis. The plant worker can have bad days and may not do the job they are getting paid to do. Not all controll may be followed. Everyone has a bad day. He referred to the nuclear plants and how they were supposed to be safe and then we found out they were not as safe as we thought. This is a new industry and nobody has proven whether it is right or wrong. They have not seen the affects yet. He would rather be safe than sorry. He wants to make sure his children and grandchildren are safe.

Mr. Beecher stated that there are 16,000 public servants that work in waste management plants that would take offense to the statement that they are not doing their job right. They are the ones who are exposed to the pollutants daily; they are not going to put themselves at risk. They have no incidences of significant health issues. During the first six months they may experience upper respiratory and gastric problems until they get acclimated.

Mr. Clairmont wanted to know if the Planning Board goes forward with both options and they both fail does it go back to the current ordinance. C. Daigle stated it does; that both Class A & B will be allowed in the rural zone by special exceptions on lots over 3 acres. Mr. Clairmont added that they will need a variance to stockpile.

Mr. Roberts asked that the Planning Board put the petition on the ballot but take no position on it because a lot of people will go along with what the Planning Board recommends without educating themselves.

Mr. Ken Knowlton explained that two months ago the Conservation Commission was asked to study the application of sludge/biosolids. They have had representatives from Resource Management and Dr Snyder attend their meetings to hear both sides of the issue. They have also done extensive research on the web. He stated that the Commission is pro-agriculture.

He stated that in the past the solution to pollution was dilution and we know what that did. There are now dead zones in the ocean because of the dumping. In the 1960s Laconia's sewer was on line and there was algal bloom in the lake and they told us it was safe to swim and play in the water; there was nothing wrong with algal blooms. Now we find out that it created toxic bacteria. The Commission works on the premise of taking the safe route until they know what the long term affects could be. The Planning Board could put a moratorium on sludge/biosolids to do more studies. DES has to do something with sewage and RMI can get rid of it in other ways.

Mr. Knowlton did an overview of the Conservation Commission's power point presentation. What would this petition article mean to Belmont if passed? All local control of where, how much and what types of sewer sludge/biosolids are applied is eliminated. NH rules only will now apply. Any public hearing will be conducted by NH DES. Any complaints about smells, dust, health or contamination concerns will be handled by NH DES. NH rules do allow both Class A and Class B sewer sludge/biosolids to be applied. The Planning Board would have no input on the use if the petition passes.

NH rules do not require pH management at treated sites. If pH is not controlled prior, during and after spreading, pathogens can regrow and heavy metals can mobilize. Cool and moist climates encourage pathogen regrowth especially if the sewer sludge/biosolids are stockpiled or top dressed. NH rules do allow sewer sludge/biosolids to be applied on highly permeable soils, sand and gravel pits. Top dressing occurs in sand and gravel pits. Class B sewer sludge/biosolids are used for reclamation. The majority of Belmont's agricultural land and sand and gravel pits are located over our Aquifer.

NH DES runs the treatment plants, wrote the regulations that the sludge industry must follow and determines acceptable pollutants parameters the industry must follow. They conduct pollutant level tests

only four times a year. They pay RMI to dispose of sewer sludge/biosolids produced at treatment plants. If the petition passes, Belmont citizens, Planning & Zoning Boards, Selectmen and Conservation Commission will have no control over the application of biosolids in Belmont. NH DES will have control.

Mr. Knowlton stated that at the last public hearing the Conservation Commission did a presentation and stated that they are opposed to having sludge/biosolids applied to land in Belmont. University studies question this practice. They believe water quality could be compromised and the health of our citizens put in jeopardy immediately and over time. If the petition passes, Belmont will lose all control over what class of sewer sludge/biosolids is applied, how much is applied as well as how and where it is applied. Should we risk potential contamination of our aquifer, the very resource we have worked so hard to protect? The Conservation Commission does not support the petition as scientific investigation indicates a plausible risk to the public in the spreading of biosolids on our land. They look at the whole picture and there are a lot of unknowns and lots of questions. The Commission is not comfortable putting biosolids over the aquifer. If the citizens vote in favor of the petition they are opening the town up to having Class B biosolids spread in Belmont. There is a possibility that it could be spread over the aquifer.

Mr. Green wanted to know if the town could be more specific in where the biosolids come from.

P. Harris stated that in fairness to RMI he wouldn't say that their spreading of biosolids is equivalent to creating a dead zone. Mr. Knowlton stated that the long term affect could be similar just done in a different manner. Mr. Beecher stated that he is not sure if everyone has received all the research material. Dr. Snyder stated that the National Academy of Science states that if Class A biosolids are stockpiled it causes the growth of pathogens. They recommend that if it is not used in three weeks then it should be retested and NH does not require them to. Mr. Clairmont stated that they should reference NH DES for information.

Mr. Green stated that some work that DES does has to do with funding. Mr. Carl Bartlett stated that there are five individuals DES has dedicated to working biosolids which is federally funded. He stated that anyone who has a business would do everything they could to help their clients; if not then they would be out of business. He also stated that the problems at the nuclear plant that everyone refers to only lasted eight minutes because all the safeguards that were in place worked. USDA regulations do work. The killing of the cows from biosolids happened twenty years ago before regulations were in place. There are only a 1% of bad situations compared to all the good. He stated that he uses Class B on his land in Northfield. He had to go before the Planning Board once and now he doesn't have to back to them because they have seen the results.

Mr. Knowlton stated that this is a very sensitive subject with opinions on both sides. He apologizes if he came across as anti-RMI, anti-DES or anti-agriculture that is not what he intended. He stated that if you don't study history you are doomed to repeat it. The Conservation Commission's interest is in protecting the aquifer and the land in Belmont.

P. Harris closed the Public Hearing and thanked everyone who took part in the public process. The

voters will make the final decision.

**MOTION:** J. Pike moved to table the Board's deliberation on amendments until the January 11, 2010 meeting.

The motion was seconded by W. Peterson.

C. Daigle explained that they cannot make any changes to their proposals at that meeting so if they want to make any changes then they need to discuss it tonight so the changes can be noticed.

W. Peterson withdrew his second.

**AQUIFER:**

P. Harris wanted to discuss the proposed amendment to the aquifer ordinance and the reduction in outside storage of regulated substance from 55 gallons to 5 gallons. W. Peterson stated that it is allowed as long as there is a secondary containment system. J. Pike stated that he agrees with Mr. Sturgeon about only be allowed to bring 5 gallons of regulated substance on your property. Having multiple snowmobiles on site plus gasoline to fuel them can amount to more than the 5 gallons allowed for businesses. C. Daigle stated that the Board chose not to regulate residential uses. J. Pike noted storage refers to long term storage not just storing it overnight. C. Daigle stated that the 5 gallon requirement would be consistent with the State regulations requiring secondary containment. If it is in a vehicle then it is exempt.

**MOTION:** C. Patten moved to post the proposed Aquifer amendment as written.

The motion was seconded by W. Peterson and carried (6-0).

**BIOISOILIDS:**

P. Harris stated that the discussion is to consider prohibiting biosolids in Belmont. J. Pike stated that the increase in the bills from the waste water treatment plants should not be taken into consideration when making this decision. He wanted to know how many tons of biosolids could come to Belmont. Mr. Bartlett stated that Mr. Clairmont was looking at 8 tons to be able to grow 3-4 tons of hay. That is based on soil nutrients. Mr. Roberts has 50 acres and it is 10 ton of Class B biosolids per acre. Class B has been permitted for years. Belmont can recycle what Belmont contributes. W. Peterson wanted to know if they could regulate it so they can only get biosolids from the Franklin plant.

Mr. Condodemetraky reminded everyone that the public hearing was closed and RMI should not give more information.

J. Pike stated that based on the first public hearing he stands for Article 2 as written which is to Prohibit the land application of all Biosolids in all zones and define biosolids. He has heard both sides and stands by his motion to ban biosolids. P. Harris stated that his concern is if they loose the vote to prohibit

biosolids and the petition passes wouldn't they be safer if they stayed with the current ordinance requiring a special exception to spread biosolids. J. Pike wanted to know if the voters could vote for Article 2 and the petition. C. Daigle stated that they are opposing questions. J. Pike stated that they need to stop and study the regulations and the process Mr. Clairmont had to go through. The concern is that the land not be misused. He doesn't want to loose control of what we have now.

**MOTION:** J. Pike moved to table the discussion on biosolids both prohibiting biosolids and the petition article to allow until the January 11, 2010 meeting at 7 PM.

Mr. Bartlett had a procedural question and wanted to know why if Belmont is following DES and Best Management Practices for the aquifer why they are having trouble letting DES oversee biosolids. C. Daigle stated that DES has no regulatory authority over Belmont's aquifer. If DES regulates the permitting process for biosolids Belmont would have no local authority over biosolids and the Town and abutters would not know when someone is applying to spread biosolids.

W. Peterson seconded the motion (6-0)

### **OTHER BUSINESS:**

### **BOARD'S ACTION-MINUTES:**

**MOTION:** On a motion by P. Harris, seconded by J. Pike, it was voted to approve the minutes of December 14, 2009, with the following corrections:

Page 4 third paragraph. 4<sup>th</sup> and 5<sup>th</sup> sentences should be: Spreading of biosolids is checked on commercial sites. The heavy metal concentrate is closely and strictly regulated on the State and Federal level.

The sixth paragraph 7<sup>th</sup> sentence should be: Mr. Bartlett stated that 50% to 80% of Class A soils is lime or ash to stabilize Ph is used to stabilize the material.

Page 5 1<sup>st</sup> sentence should be Class A biosolids is an accepted soil amendment for good agriculture practice per USDA good agricultural practices certification.

The third paragraph 2<sup>nd</sup> sentence should be: Biosolids are 75% water and 10 tons wet 2.5 ton nutrients are spread on an acre field.

The last sentence in the paragraph should be: Class B Biosolids have been approved and used in Belmont for years.

Page 6 third paragraph 3<sup>rd</sup> sentence should be: Mr. Bartlett stated that they test for 179 different chemicals.

(4-0-2) R. Davis and W. Peterson abstained.

**STAFF REPORT:****223 DANIEL WEBSTER HIGHWAY LLC TAX LOT 101-028:**

C. Daigle explained that 223 Daniel Webster Highway LLC has received their building permit to start construction on the shell of the building. They have not received the interior fit-up permit as the Building Official is waiting for sprinkler plans.

**ELECTIONS:**

C. Long and W. Peterson terms are up in March and need to sign up for reelection between January 20<sup>th</sup> and 29<sup>th</sup>.

**HAULASS POWERSPORTS LLC FOR THE LODGE AT BELMONT TAX LOT 246-001:**

C. Daigle explained that Mr. Harmon of Haulass Powersports approached her in August about a Change of Use permit to allow snowcross meets at the greyhound track. He has been working on getting his track license before moving forward with an application to the Town. Normally they would fill out a change of commercial tenant and staff would review it but she needs the Board to determine if this is a change of use or if a site plan is needed. This is considered outdoor recreation which the track already has. Some of her concerns are related to the impact motorized races vs dog races would have such as noise issue and 500 contestants fueling snowmobiles on site. They estimate 2,500 spectators and between 250-500 participants. W. Peterson wanted to know the capacity of the track. C. Daigle stated that they will be using the walled interior grand stand and have vendors outside. Events will be held within the footprint. R. Davis stated that those are the top end numbers for attendance. Mr. Harmon stated that they will have between 250-500 competitors throughout a weekend. Some competitors come to qualify and leave after one day while others stay the two days.

W. Peterson wanted to know who regulates the noise level of the sleds. Mr. Harmon stated that they are regulated through the organization. P. Harris wanted to know if they would be running under the lights at night. Mr. Harmon stated not at this time. P. Harris stated that the car sportsclub has held events at the park and have worked well with the town. They were usually done by 5:00 PM.

W. Peterson wanted to know the sanctioning body that checks the track for safety issues. Mr. Harmon stated it is the same one that does the races in Ossipee. W. Peterson wanted to know what the decimal levels are for a sled. Mr. Harmon stated that it has not been issue in past. They are 99 decimals or lower on professional sleds. They are not as loud as grass drags. R. Davis stated that it is not louder than existing traffic on the trails.

C. Daigle wanted to know if it is a change of use as it is still an outdoor recreation use or is the use so different that it would require a site plan. They can determine that it is same use and see what happens with the first race or two. They are well buffered but there are residences above them but it is a permit use by Special Exception.

W. Peterson wanted to know how many races they are planning this winter. Mr. Harmon stated one race but they will be using the track as a practice track once or twice a week. The only other practice track is

in upstate New York.

The Board discussed handling it as a change of use but let Mr. Harmon know that he may have to come back to the Board for a public hearing if they find the use so different from the existing use.

**MOTION:** W. Peterson moved to allow staff to work with Haulass Powersports LLC on their Change of Use permit. The permit will be good for the 2010 snow season.

J. Pike seconded the motion (5-0-1) R. Davis abstained.

**ADJOURNMENT:**

**MOTION:** On a motion by C. Patten, seconded by W. Peterson, it was voted unanimously to adjourn at 9:24p.m. (6-0)

Respectfully submitted,

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Elaine M Murphy  
Administrative Assistant