



Minutes

Town of Corinth Planning Board 03/16/2006

Meeting called to Order 7:04pm

**Present: Louise Reed Edwin Eggleston Althea Rivette
Joan Beckwith Alex Pellizzi Attorney Pozefsky
Cheri Sullivan, Secretary**

Fred Mann, Building Inspector- Excused

**Public Present: David Williams, Gayle Swinburne, Mary Williams,
Jeff Baker, Sigrid Koch, Arleen Springer, Roger Sitts, Sarah Alford,
Carroll Ogden, Ginny Ogden, Barbara Weatherwax, Tim Murphy,
Mary Murphy, Louise Kirkpatrick, Leif Sandwick, Mary Baugh,
Leonard Sandwick, Tim Hanchett, Kevin Hastings**

***Motion to approve minutes from 02/16/2006~ Edwin
Seconded~ Alex
All in Favor~ yes**

New Business

~ Cheri Sullivan- Mrs. Sullivan felt that she needed to address the Board to let all members know that even though she holds two positions at the Town Hall, when she is working as Deputy Town Clerk she will not be doing any Planning Board work and while she is working as Planning Board Secretary she will not do any Town Clerk work. Mrs. Sullivan said this has been an issue recently. The issue has been discussed with both of her bosses. It is, an agreement, that all parties involved are comfortable with and it eliminates any conflicts that may arise between the two positions.

~Chairperson Louise Reed said that she agrees and that the Planning Board hours are Wednesday from 12:30pm to 4:00 pm and from 8:00 am to 12:00pm on Thursdays.

~Louise Reed said that there is nothing else on the agenda for this evening and asked the Board members if they had anything they would like to discuss.

~Althea Rivette said that she wanted to address the Planning Board and say that in the last 7 years she has been on the Planning Board that she has learned a lot from Chairperson Louise Reed. She said that even though Joan is new to the Planning Board she has a wealth of knowledge in the medical field and all her years of experience from the Town Board. Mrs. Rivette said that Edwin also brings to the Planning Board a wealth of Knowledge in the trucking industry and that Louise has excellent knowledge when it comes to the environment and the wetlands.

Althea would like to respond to the letter-dated 03/02/2006 from DEC to the Town of Corinth Planning Board. She said that the Town Planning Board was not included in the project. The Town Planning Board was never given the opportunity to take over as lead agency and she feels that that is the Planning Boards job and it is what the Board does. Althea said that nobody cares more about this Town than its community members. She said that she would like to take this opportunity to let it be known that the Town of Corinth Planning Board does not consider itself bond to either the designation of DEC as Lead Agency or the Negative Declaration finding. She feels this way because the Planning Board was never recognized as an involved agency and served the proper notice and the exercise of due Diligence by the applicant of DEC. It should have been easily been determined that approval from the Corinth Planning Board for the Project would have been required. When the Planning Board commences review of the project after the moratorium is lifted,

the Planning Board will undertake its own review under SEQR. The Resolution will be sent to DEC region5 and Bedminster and hopefully the people listed on the letter dated March 2, 2006. Althea said that in regards to the first letter the Town received that somehow the Planning Board did not get a copy, through an error, so the Planning Board was excluded.

Althea said that she hoped that there was another Board member that would agree with her on this so that they could pass this resolution.

~Alex Pellizzi said he thinks that it is proper to respond to this letter. Alex Pellizzi said that basically DEC says, that the Projects sponsor said, that the Town of Corinth Planning Board should have been involved with this, not DEC but the Projects Sponsor Bedminster. He said that he feels that the Planning Board has to respond by letter and that the board needs to have a motion.

~Attorney Pozefsky said that any Board member can make a motion and if it's seconded then there could be a discussion on it then it would take the majority of the Board to pass the motion. If there is not a majority then it will not pass.

~Edwin Eggleston said that he believed that at the last Town Board meeting he heard someone say that the Planning Board should have this.

***MOTION TO WRITE LETTER TO DEC ~ Althea**

MOTION seconded by~ Edwin

ALL IN FAVOR~ Althea, Edwin, Joan, Alex

~Attorney Pozefsky said that he can tell the Board that what the letter said, that was sent to the Town Board, was that DEC was going to act as lead agent and if the Town Board had any opposition that the Town Board should notify DEC, apparently the Town Board did not notify them, therefore DEC has stated that based on that they would be the leads agent and DEC has conducted a SEQR and concluded that there was no significant environmental impact.

Attorney Pozefsky said that DEC further days in the letter that their determination is binding and they cite a section of the law which references that. Attorney Pozefsky said that he believes that this is what Chairperson Louise Reed was talking about. Attorney Pozefsky said that the section of that law that talks about "Due Diligence" to identify all the involved agencies, then DEC'S determination is final.

~Joan Beckwith questions how DEC determines this "Due

Diligence” she said that nobody was ever hear to investigate smells, noise or the time travel of the truck traffic. Joan Beckwith says that she does have questions and that she is not sure how to approach DEC that they have not talked to everybody involved.

~Althea Rivette said that she thinks that we have to approach this to make our feelings known. Althea also does not think that we should trust someone else to do this work. She said that it is the Town Planning Board and the Community that cares the most about our own water and houses.

~Joan Beckwith said that she feels that the Planning Board should have an opportunity to address this.

~Louise Reed said that she believes that we are going to get that opportunity once the DEC decides what they are going to do. Louise said that she can tell everyone that if the a special use permit comes before the planning Board that the Board can put special conditions on it.

~Joan Beckwith wants to know if the Planning Board can dissolve a letter saying that they wanted to see a facility like this, is there some place that the Planning Board can write restrictions that they would like to see.

~Attorney Pozefsky said that this is where the Planning Board has to be careful because if it already involves what DEC already went through in getting to their determination of their SEQR, it has already been done, there fore you can’t revisit what they have already reviewed. He said that in their letter it indicates the factors that they looked at in coming to their decision. Attorney Pozefsky said that he called DEC yesterday to talk with the Dave Mt. Pleasant, the gentle man who wrote the letter, and he has not received a returned phone call yet. Attorney Pozefsky said that he believed that in DEC’S Negative Declaration that there were six different factors that DEC found that had no significant impact.

~Alex Pellizzi said that what the DEC went through was the Environmental Assessment Form, and that half of the questions were answered by the applicant, and were accepted by DEC without any investigation. Alex Pellizzi reads a question from the packet" who are the agency’s that will approve this project the Town Board, the Planning Department, The Department of Health “and the only one that the applicant said yes to was the Sate Department.

~Attorney Pozefsky said that there are actually two questions before the Board, one is a motion to say that the Board

finds DEC'S decision is not binding and the other is whether the Board should send a letter first and ask DEC what did they do before the Planning board decides whether or not they want to do another review.

~Alex Pellizzi said that he believed that the original motion was to submit a letter and he reads from the original letter. Mr. Pellizzi said that after we end the letter we will send attachments that showing all of the adverse economic impact statements.

~Joan Beckwith said that for her information she needs to know what the DEC has looked at to come to their decision. She said that from what she gathers the DEC has decided that there was no significant impact on the community. She does not know what they looked at or whom they asked to come to their decision.

~Attorney Pozefsky said that has to be addressed to Althea and her original motion, because if you want to change it in any way, to say that the planning Board would like DEC to supply the Planning Board with whatever information that they looked at.

~Joan Beckwith asked if the Board could just attach this question or request with the original letter.

~Attorney Pozefsky said he did not believe so because her motion has gone beyond that and is saying that the Planning Board is not bound by what DEC did and they are going to conduct their own investigation and that is more than what Joan Beckwith is asking to do. He said that this would have to be asked of Louise to change the Motion.

~Alex Pellizzi said to answer Joan's question was the way the DEC decided the negative impact was, the applicant prepared an environmental assessment form, which contained about 25 questions. The applicant answered these questions and half of the questions that he answered Mr. Pellizzi feels were incorrect. Mr. Pellizzi said that DEC accepted those questions and their answers and as result the determined the negative impact.

~Attorney Pozefsky said that that is what Joan is saying is that she would like to see that paperwork herself.

~Louise Reed said that she thinks that the Planning Board should get all the information first and then decide to write the letter. Louise said that she only has two of the things that DEC has done.

~Attorney Pozefsky said that if Althea would modify her motion then they could resolve that.

~Joan Beckwith wants to know if the Planning Board has

time to get the information and still write that the Planning Board is not happy.

~Attorney Pozefsky said yes.

~Althea said that she is not sure if that is a problem or not because the first letter was written in August of '05 and that is the letter that the Planning Board did not get. It only went to the Town, to Dick Lucia and him alone.

~Louise said that she has talked to DEC and they said that they would take any input that the Planning Board has.

~Althea said that that is nice but it is not in writing and doesn't make her or this Board able to account for anything and she know that if something isn't written on paper then it's not worth anything.

~Joan wants to know if the Planning Board can write DEC a letter stating the Planning Board wants to know what DEC looked at and then if we are not happy with what they have, can the Planning Board then follow up with the present letter stating that we don't find their decision to be binding.

~Attorney Pozefsky said that yes that was an option.

~Alex Pellizzi said that the DEC has already told the Planning Board what they have looked at. He said it was the EAF that was filled out by the applicant Petruzzo. He said that the DEC accepted Petruzzos statements in the questionnaire and they did not question any of his answers. So, basically this is why the Planning Board must reply to this letter and state that the Planning Board wants to be lead agency.

~Edwin said that he feels that the Planning Board should write the letter to DEC and say that we want to take over.

~Louise said that the Planning Board can't take over, they need to state that they want to put their input in and ask what DEC has done.

~Joan says that then they can get an answer for both.

~Louise said yes, the DEC has given some paperwork to the Board that she has just received and one is on mining and the other is on wetlands. Chairperson Reed reads from the letters and states that she will get copies to the Board members.

~Althea said that she would like to send the proposal that was presented here tonight and also to have the question answered that Joan asked and that she would like to see where DEC is, who've they've asked, where they are and what questions they have

answered. Althea said that it is up to this Planning Board to do this job and she feels that the Planning Board can participate as much or as little as they see fit. Althea said to Louise that she is an expert at this, Edwin has been around forever in the trucking business and Joan has served on the Town Board for years.

~Joan said that she has no problem sending the letter she just would like some answers.

~Althea asks why the Board can't do both.

~Edwin said that the Planning Board can.

~Althea questions if there is a 30 day limit on this second letter because she know that there was one on the letter that on lt the Town Board received.

~Attorney Pozefsky said that just to be safe the Planning Board should respond with in 30 days.

~Althea said with the first letter in '05 it stated that the Town needed to respond within 30 days, Althea also said that the fact that the Planning Board did not get it was not Louise's' fault. Althea said Louise said that she handled it, however no one else has heard about it.

~Louise said that the secretary knew about it.

~Althea said that Cheri was not ton the board

~Louise said Cheri and herself have been working on the permits with DEC and what are current and what are not.

~Joan said that it does not look like there is a response time on the letter that the Planning Board has just received. Joan just feels that the Planning Board should just respond to this letter and let DEC know that the Planning Board is not happy and that they are requesting the information that DEC currently has that DEC has based their decisions on.

~Louise said the permits that she has been researching are the permits that have been previously given to that property and/or ones that are current for it.

~Althea said that she was not aware that there were any permits on record.

~Louise said that it is very hard to decipher between a permit and a BUD and get a straight answer.

~Althea said that he doesn't have any because Petruzzo let the permits run out, because she has looked them up.

~Joan asked if most permits have an expiration.

~Attorney Pozefsky said that BUDS do not have a n

expiration.

~Joan wants to know if the expiration date has come up to expire and the process is no longer being done there at this particular point, then that makes the process null and void at this point. So if they haven't resubmitted an application then it can't be done until a new application goes in.

~Louise said that she does know that he has one that it still good and that expires in 2007

~Joan wants to know if we can ask for a list of permits that Mr. Petruzzo has, so that this Planning Board knows what is current.

~Attorney Pozefsky said to Althea that she wants to use the written resolution that she presented to the Board and that she also wants him to include that the Planning Board is not happy with DEC'S decision.

~Louise said that she would like to see the resolution that Althea has written because she has not seen it yet.

~ Louise said that she does not like the way that it is worded and feels that it can be worded nicer.

~Althea said that she sees nothing wrong with it it's short and to the point. She said that Scott Hunt wrote it, he's her neighbor and he helped her do it.

~Althea wants to know if the Planning Board can ask DEC to hold off on issuing permits until the planning board can absolve their position as an involved agency.

~Attorney Pozefsky said that the Board can ask them if Althea wants to include it in her motion. He said that if the board wants to make that motion that they can put that into Althea' letter

~Alex asks Althea if he can include in her letter to DEC that the Planning Board request that DEC hold off issuing any permits to Petruzzo until they respond to us on giving us a position on the SEQR process.

~Althea said that it sounded good to her.

~Alex said that because right now this Board has no position, they are really not an involved agency, they only have jurisdiction and not an involved agency. So that when DEC gets this letter they can say well we don't think that you should be an involved agency, just jurisdiction. So at least if we can get them to give us some kind of position at least we can get a position right now instead of when the moratorium is passed. At least we can respond.

~Louise said that the Planning Board is going to respond but that she feels that this letter is a tad bit rough. She said that DEC is an entity that the Planning Board will need to work with again in the future and she doesn't feel that the letter needs to have the tone that it presently has.

~Edwin said that maybe we need to add a little honey to it.

~Attorney Pozefsky said that he will write it out and read it back to the Board members.

~Jeff Baker the Attorney for Safe and Responsible citizens asked if he could have a moment to clarify a few things. He said that the Planning Board is an involved agency, whether DEC recognized it or not. He said that what wasn't done is that the Planning Board was not notified, for the notice of intent to be lead agency and asked for your input. They notified the Town and Supervisor to let the supervisor know where the project is located. The Town is not an involved agency it is a host community.

Jeff Baker said that notifying the Supervisor is not the same as notifying the Planning Board. The Planning Board is an independent body. Jeff Baker said that the way the Law works and what happens with this project is that it goes through coordinated review and that means that where there are many agencies giving an approval for the project, one is designated lead agency and makes the SEQR determinations which are then binding on all of the other agencies. He said that this is a very important step. When they are going through the coordinated review to designate the lead agency they have to exercise due diligence and look at who are the other agencies involved. Jeff Baker said that this is DEC's obligation, but just as much so as it is the applicant's.

Jeff Baker said that what the law says is that if DEC exercised due diligence and still missed an agency, it does not mean that it is an invalid, coordinated review. It means that mistakes can happen. He feels that it is pretty obvious that when you are doing a project of this size that you would need some type of local planning Approval and DEC should have known that the Planning Board here would require some type of approval.

Jeff Baker feels that what the Planning Board is doing with this resolution is putting DEC on notice and in turn putting the applicant on notice saying that the Planning Board is not bound by it because it is not a valid coordinated review. Jeff Baker said that DEC can continue to go forward and issue their negative declaration and

not change it if they want. He said that even if they don't reconsider it, that when this application comes before the Planning Board that they are free to make their own determination under SEQR. Jeff Baker said that if the Planning Board feels that an environmental impact statement is required because it will give you more information and possibly allow you to do things differently, more than simply your zoning code and conditions on your special use permit. The planning Board will exercise that authority. Jeff Baker said that the Planning Board can't exercise that now, they don't have the application in front of them, however what they are doing is exercising their right and putting everyone involved on notice that the Planning Board has the right to do that. He said that he thinks it is fair and appropriate to everyone involved to let them know that the Planning Board will exercise their rights.

Jeff Baker said that he did look at the materials submitted on the application to DEC and he feels that DEC did a strikingly poor job. He said that they did not make the kind of inquiry necessary and they have not held a public hearing on it yet, but he understands that there is suppose to be.

~Alex asks Jeff Baker if based on this resolution, the Planning Board is telling DEC, that after the moratorium, that the Planning Board is going to act as lead agency, right.

~Jeff Baker said he language is a little off

~Ales said what if next month DEC issues a permit before the moratorium and SEQR process, How do we stop that permit.

~Jeff Baker said that he can't without going to court, but their decision is not binding on the Planning Board. HE said that DEC has their own policy, which many towns disagree with. HE said that even if a project isn't allowed under local zoning that the applicant can still go through the DEC process to get the permit to get them their state permits. These permits also say that they do not give the applicant the right over the town or any other local permits, it lets them know that they still have to go through the local process. He said that the Planning Board can still turn down the application based on the towns existing laws.

~Alex wants to know if that then would kill the DEC permit.

~Jeff Baker said that it would not, it just means that it would not have any effect. He said that what you are saying with this application when it comes before you is that you are not going to declare yourself lead agency, because lead agency is done with a

coordinated review, the Planning Board is just going to say that they have to make their own SEQR determination because it was not a coordinated review. Then you will first make a decision if you are going to require an environmental impact statement or not, then you go forward with your normal process, so essentially you are saying that the Planning Board still has all the tools available and that the Planning Board is still going to look at this process because DEC did not include you in it.

~Attorney Pozefsky said that he has written the letter over and reads it to the Planning Board members. He said that he tried to capture the essence of it and instructed the Planning Board members to let him know if they wanted it changed. He said that it is addressed to Mr. Haynes

** Letter is attached to last page of minutes*

~Althea stated that was very good and Alex, Joan and Edwin agreed.

~Alex said that the Board members still needed to vote on the Motion.

****MOTION TO SEND LETTER AS WRITTEN BY ATTORNEY POZEFSKY TO DEC-***

Motion made by~ Althea

SECONDED ~ Alex

ALL IN FAVOR~ Althea, Alex, Joan and Edwin

Old Business:

KEVIN HASTINGS- (Morgan Estates)

~Louise said that she knows that Mr. Hastings is here for Morgan Estates and asked him what he had to present to the Planning Board tonight. She tells him that he has to have another public hearing.

~Kevin Hastings said that is here just to update the Planning Board. They are near conclusion with the health department. They have a few issues left with Department of Transportation to work out and that he has new maps that are current with the changes that have been made.

~Louise said that February was when he was her last and since then most of the old tires and cars have been all cleaned up. The wells have been put in and that she does not know what he has done since.

~Mr. Hastings said that part of the packet tonight contains the results of the quality testing. One part is the well logs for the yields and the other part is for the quality testing for contamination issue on both wells. He said that he had his meeting on Tuesday with the health department and that Jim Meehan was mostly pleased with everything in this package and he will have a short comment letter in a couple days from him.

~Louise questions if he only has two wells there

~Mr. Hastings said that they have two new wells plus the existing well. One on lot 20 and one on lot 6. He said that here is no indication of pollution and that there are three pages of tests that have been done.

~Althea asked if they were going to be chlorinated

~Mr. Hastings said that they were not that they are individual wells.

~Louise said that she understood that he had dropped this information off at the town Board and that they have pretty much resolved all the issues.

~Mr. Hastings said that he wanted the Town Board to see the results of the testing. What he had presented to the Department of Health he had put in a binder and what he presented to the Town Board was a binder with all that information because what they wanted to see was the results of all the testing because of the resolution on the PDD. He said that the Planning Board has seen everything that is in the binder for the Town Board it was just specifics that the Town Board wanted to review.

~Althea wanted to now if these two were new

~Mr. Hastings said no they were the same two long driveways that came down before. They are just clarified now and made more clearly on the map.

~Louise wants to know how wide the driveways are

~Mr. Hastings said that the typical driveway is 12 or 15 feet.

~Mr. Hastings said that one last thing on the cemetery is that they have a final parcel map that is being prepared for the Town Board.

~Edwin asks if Mr. Hastings attended the last Town Board meeting and states that Mr. Majors suggested that the Town Board request that Mr. Hastings should be required to put a fence up around the cemetery and clear a path to it for public use.

~Mr. Hastings said that it appears that recently someone was in there and set the head stones up properly.

~Louise asked Mr. Hastings if he asked the Town if they were going to take it over.

~Mr. Hastings asked Attorney Pozefsky if he could comment on this

~Attorney Pozefsky said that it has to be dedicated to the Town and he has not received anything on it yet.

~Mr. Hastings said that he thinks that the important part is that he has the space allocated for it. He wants to know if he will be able, at this point to set a public hearing for next month, upon the anticipation of the results of the Health Department and Department of Transportation.

~Joan said that she didn't think we could

~Louise said that they can try

~Attorney Pozefsky said that they could schedule it and then if something doesn't fall through then we don't have it

~Mr. Hastings said that there is another review letter in there from DOT that has a very short list of items that needed to be addressed.

~Louise said that the next meeting is April 20 and that if everything is not completed by that date that she can open the public hearing and just leave it open until the next meeting.

~Joan questioned the information in the letters

~Mr. Hastings said that they are short letter with only a few request each and that they should be able to satisfy within a couple of weeks. He wants to know if they can do the final application at the same time.

~Louise said that he needed to send out the certified letters to surrounding residents again.

~Louise asks if there are any questions.

None of the Board members have any questions at this time.

Motion to Adjourn: Joan Beckwith

Seconded: Alex, Pellizzi

All in favor, Yes

Meeting Adjourned at 8:05pm
