



Town of Hermon

Public Safety Meeting Room

April 29, 2021

Town Council Meeting

7:00 PM

MINUTES

Council Meetings may be viewed live online and are archived after the meeting has taken place – check hermon.net Town Council for a Zoom link.

ALL ITEMS ARE SUBJECT TO APPROPRIATE COUNCIL ACTION

I. CALL TO ORDER BY CHAIRPERSON

II. PLEDGE OF ALLEGIANCE

Chair Thomas led those in attendance in the Pledge of Allegiance

III. ROLL CALL

Members Present: John Snyder III, Douglas “Doug” Sinclair Sr., Ronald “Ron” Murphy, Charles Lever IV, Steven “Steve” Thomas, Anthony “Tony” Reynolds and G. Stephen “Steve” Watson

Members Absent: None

Others Present: Town Manager Howard Kroll, Town Clerk Kristen Cushman, Town Attorney Ed Bearor, Scott Perkins, David Ramsay, Scott Pelletier, Shelly Lizotte, Engineer for Scott Pelletier and 6 residents.

IV. REVIEW CONSENT CALENDAR: REGULAR BUSINESS, APPOINTMENTS, SIGNATURES, And APPROVAL OF MINUTES:

SIGNATURES. –APPROVE

MINUTES. –APPROVE 4/15/2021 Minutes

WARRANTS. –SIGN 4/30/2021 Warrant

RESOLVES. –SIGN

Councilor Snyder moved to approve the Consent Calendar as presented. Councilor Murphy seconded the motion. Motion passes 7-0.



V. NEWS, PRESENTATIONS AND RECOGNITIONS:

VI. PUBLIC ITEMS OR COMMENTS: *(Items Not Already on Agenda)*

VII. PUBLIC HEARINGS:

- **Hold** a Public Hearing -- RPM Group (David Ramsay) is requesting a zone change from Agricultural Forestry to Residential B, Map 040 Lot 50-1 off Lily Lane for future development.

Three written testimonies from residents were handed out to the Council to read.

David Ramsay: In 2016 Phase III was approved. All requirements were met at that time regarding storm water and DEP. Once a year liquified manure is spread in the field to be tilled into the ground for corn to be planted. All the property around the field is Residential B.

Steve Thomas: What are you looking to put in currently?

David Ramsay: Nothing, I was looking to put elderly housing.

Steve Thomas: What is the maximum number of homes/elderly housing you could have in this development?

David Ramsay: Per the previous plan, there would be 10 more units on a private way.

Steve Thomas: Some concern the residents who are downhill will cause that piece of land, it's at a high point in that neighborhood. Concern is that with without a proper drainage this will be causing a water issue.

David Ramsay: There is a stone wall that is twenty feet wide and almost ten feet deep with stone as a buffer. Everything downhill from my property except for the four hundred feet which it goes in now behind whatever Pelletier put in there is wet land. Some of the lots have been clear cut to the line on the corners and this is not keeping the 20' buffer of trees per the plan. I have retained a 2 acre parcel in Clear View Estates, in case there was a water issue. I am still able to mow this 2 acres and it's the lowest lot. We have good drainage and mowable ditches. The Town said I can put six units per buildable acre. I have 15 acres and put 15 houses.

Patrick McCue 27 Nye Lane: Spreading manure alone is enough to impact every single resident. My wife, Britney and I have a three year old and a three day old son. We can not bring our son outside because of the stench of the field. The trucks are in



and out for multiple weeks and having a negative impact on my family. Concerning the rock wall is a few piles of old stones that were part of a farm field.

Steve Thomas: Wouldn't it be beneficial for this to turn into Residential B from AF?

Patrick McCue: Not to offend anyone, but let's leave low income to other towns. Hermon is a working town. All the problems that come along with low income. We want a nice neighborhood and spend the extra money. Raise my taxes before you put low income housing in. Every single home opposes the cornfield.

David Ramsay: Add to his comments... I did not say low income housing. I said housing for elderly people. Question: Would you like it to be a cornfield for the next 15 years or Residential B and put something there?

Tony Reynolds: Is there a chance to make it Residential A and put houses vs. apartments?

David Ramsay: I asked for Residential B because everything around is Residential B.

Mike Hashey 17 Nye Lane: Tanker truck came in multiple times spreading liquid manure over a three week period. At the end of three weeks it was harrowed and seeded.

Andrea Garland 532 Wing Road: My husband and I have been life long residents of Hermon except when we went away for college. My property is downhill from the cornfield. I will admit I was against Nye Lane when it was being developed. We have since made great friendships and neighbors with residents on Nye Lane. My concern is we are directly downhill from Nye Lane/cornfield. There is rock wall and row of trees we planted when we moved in. Manure spreading does happen over multiple days and we do close- up all windows during this time. I would like to see a plan before a zone change.

Patrick McCue: Is the Town of Hermon giving Mr. Ramsay a blank slate to do A, B, C or D with this property? Shouldn't we know before what Mr. Ramsay is going to do with this property?

Steve Thomas: Whatever he decides to do, he will need to go through the Planning Board.

Howard Kroll: Once the zone change is granted for any property it is an opportunity for any developer to do what is eligible under that zone.



David Ramsay: Step 1: Go in front of the Planning Board – approve or disprove. If approved move to Step 2: Go in front of the Town Council who reviews the plan and considers the zone change.

Lauren Martin 71 Nye Lane: Last home on the right by the turnaround. The pile of rocks is not 20'. Looking to pave the driveway and unable at this time due to the amount of water in the yard.

Chair Thomas opened the public hearing at 7:02PM. Public comments were given. The hearing closed at 7:43PM

- **Hold** a Public Hearing -- W. L. Properties (Scott Pelletier) is requesting a zone change from Agricultural Forestry to Residential A, Map 011 Lot 052 (Newburgh Road) for future Residential A Subdivision.

One written testimony from a resident was handed out to the Council to read.

Shelly Lizotte, Civil Engineer working for Scott Pelletier: (Jason Pelletier is no relation to Scott Pelletier). Mr. Jason Pelletier did express concern because there were a lot of other agricultural properties surrounding it. Scott Pelletier would be developing subdivision lots similar to what is on Pendleton Drive. There would not be multi family development on that property and be compatible with Pendleton Drive.

Steve Thomas: This piece of land is surrounded by Agricultural Forestry zone and looking to have a zone change to Residential A.

Shelly Lizotte: Regardless if it is zoned Agricultural Forestry or Residential A homes can be built. The main difference is the shorter amount of frontage in Residential A. The reason for asking for Residential A is a large portion of the land has wetlands. Either way Scott Pelletier is looking to do a subdivision and will depend on the zoning on how many lots will fit. As Mr. Ramsay stated, any development goes in front of the Planning Board. As an engineer our job is to comply with all the requirement of the Town, State of Maine which includes storm water and DEP regulations. They are strict on what can be done.

Tony Reynolds: The State has told us on the last problem we had, the storm water run off has buffers, vegetation and trees that are considered in the project. The landowner who has the property goes out and cuts the trees down moves the buffers and changes everything. State does not have laws to say you can't do this.



Shelly Lizotte: There are restrictive covenants placed on subdivisions that go in the deed to prevent this from happening.

Chair Thomas opened the public hearing at 7:45PM. Public comments were given. The hearing closed at 7:55PM

Two written testimonies from residents were handed out to the Council to read.

- **Hold** a Public Hearing -- W. L. Properties (Scott Pelletier) is requesting a zone change from Agricultural Forestry to Residential B, Map 006 Lot 005 (Bog Road) for future Residential B. Subdivision single family homes or muti-family units

Two written testimonies from residents were handed out to the Council to read.

Chair Thomas opened the public hearing at 7:56PM. No public comments. The hearing closed at 7:57PM

VIII. COMMITTEE REPORTS:

IX. SCHEDULED AGENDA ITEMS:

A. OLD BUSINESS:

B. NEW BUSINESS:

- R20-21-37 Approve** a Zone Change request to Map 040 Lot 50-1 off Lily Lane for future development. The proposed zone change will be from Agricultural Forestry to Residential B.

Steve Thomas: Is there an obligation of the Town to move ahead based on the application submitted into similar use property?

Ed Bearor, Town Attorney: I will speak on all zone changes at the same time. Reminder of what the Zoning Ordinance says:

§ 154.006 AMENDMENTS.

(A) Initiation of amendments. An amendment of this chapter may be initiated by a written petition as detailed in § 10.01 of the Charter, or by recommendation of the Planning Board, or by a recommendation of the Town Council. The Town Council may approve such proposed amendments by a majority vote.



B) Zoning amendments.

(1) The Town Council shall refer proposed amendments to the Planning Board at least thirty days before the legislative meeting at which said amendment is to be considered. The Planning Board shall make investigation of the proposed amendment, including whether the requested amendment is compatible with the purposes and provisions of this chapter and the current comprehensive plan, and present a written report to the Council.

I haven't heard much in the way of process having been followed here tonight. The closest we have come is recognizing if called upon to consider, making this zone change that doesn't give approval to any project that might go forward as a result of his zone change.

Mr. Ramsay has prior approval to develop the corn fields from a couple of years ago (2016 or 2017) and it's zoned agriculture, so that he can do whatever is consistent with the agricultural designation on that property. If he wants to do something different, he will need to go back to the planning board to get approval. You can have single-family homes in the agricultural Zone. He has approval for one concept but if he doesn't have approval for some of the described he would need to go back to the Planning Board for approval.

This is the way you typically entertain requests for amendments to the zoning map. Okay? But I don't think the process was adhered to. I asked Kristen to send a copy of what the Planning Board had done. I got a copy of the minutes which don't reflect whether they made a recommendation positive approval. My assumption is they did or you would have been told. That's important because to make positive recommendation requires a majority vote or a negative recommendations requires 2/3 vote. The record is lacking here.

I am also going to suggest, probably most of the time the zone change request upgrade. Agriculture to Residential B or Residential A

Doug Sinclair: Should we go forward with the Zone change or should we go back to the Planning Board and let them straighten it out?

Ed Bearor: I can say on paper, does not suggest the process was followed. It is within your right to send it back to the Planning Board and say the Town Attorney said it was not done right. Or you can act on the proposals tonight and if either of the applicants feel they have been wronged they can apply again.

Steve Thomas: Sounds like you are saying we might want to table the items and make sure we follow the correct process?



Ed Bearor: I don't want to be the one to make that decision. You all need to come to a decision. If I was sitting there, this would be my decision.

Howard Kroll: Ed would you clarify what the Planning Boards role or expectation would be to deliver to the Town Council.

Ed Bearor: They should present a written report to the Council. I think their minutes need to be beefed up to include whether the requested amendment is compatible with the purposes and provisions of this chapter and the current comprehensive plan and make their recommendation to the Town Council.

Shelly Lizotte: Thank you Mr. Bearor, your explanation was helpful. It was my understanding regarding Mr. Scott Pelletier the guidelines was followed. There was a public hearing I attended where residents spoke and discussion among Planning Board members. We were able to explain in more detail to the Board, then they took a vote and it was recorded. Respectfully this puts Mr. Scott Pelletier in a hard position to go back to the Planning Board and cost him a few months for something we have already done.

Ed Bearor: The burden of proof lies with the applicant. The Planning Board needs to send a written report to the Town Council. If we are going to adopt an ordinance we need to follow the ordinance.

Patrick McCue: If the Town Attorney questions the process of the Planning Board is it public record to go back to Mr. Ramsay's 2017 initial request of the corn field? Is that public record?

Howard Kroll: Yes

Patrick McCue: Even though it was done in 2017 can it be reviewed by the Town Attorney if a citizen has questions about the process?

Ed Bearor: If it was 2017 then certainly but typically it is vested 30 days if an appeal has not been filled.

I am being critical of the Planning Board. The process needs a little more attention to detail. If there was a challenge to the written record, it is my thought they could have a probable case because of the inconsistency with the ordinance.

David Ramsay: If a Councilor lives on Nye Lane does he have to abstain?

Ed Bearor: He does not have to abstain because this is a legislative body. A Planning Board member would.



Howard Kroll: Could the Councilor also speak on this item?

Ed Bearor: It would be best if a Councilor living on Nye Lane acknowledge he lived on the road before the discussion started. But the disclosure is the important thing. The Councilor does not need to reclude themselves because they are acting in a legislative body.

Charles Lever: It's me.

Ed Bearor: May I make a suggestion to remand it back to the Planning Board.

Howard Kroll: Ed, would you define remanding so we are all on the same page.

Ed Bearor: Remand is the higher body returns to the lower body to do it again. Planning Board can decide to reopen or rely on the record it created and prepare the report.

Howard Kroll: Would this require another public hearing?

Ed Bearor: That would be up to the Planning Board. The Planning Board can say we had a public hearing and we do not need another one or they can say they wish to hold another public hearing but they don't have to. They can coincide with themselves. The importance to their decision needs to be clear with direction.

Councilor Sinclair moved to remand to the Planning Board R20-21-37 to be clearer in their directions and minutes. Councilor Murphy seconded the motion. The motion was accepted. Motion passes 6-1.

- R20-21-38 Approve** a Zone Change request to Map 011 Lot 052 (Newburgh Road) for future Residential A Subdivision. The proposed zone change will be from Agricultural Forestry to Residential A.

Councilor Sinclair moved to remand to the Planning Board R20-21-38 to be clearer in their directions and minutes. Councilor Murphy seconded the motion. The motion was accepted. Motion passes 6-1.

- R20-21-39 Approve** a Zone Change request to Map 006 Lot 005 (Bog Road) for future subdivision single family homes or muti-family units. The proposed zone change will be from Agricultural Forestry to Residential B.

Councilor Sinclair moved to remand to the Planning Board R20-21-39 to be clearer in their directions and minutes. Councilor Murphy seconded the motion. The motion was accepted. Motion passes 6-1.



O20-21-15 Consider approving and holding a public hearing on May 27, 2021 for Municipal Budget

Councilor Reynolds moved to approve O20-21-15. Councilor Snyder seconded the motion. The motion was accepted. Motion passes 7-0.

O19-20-16 Consider approving and holding a public hearing on May 27, 2021 for School Budget

Councilor Reynolds moved to approve O20-21-16. Councilor Snyder seconded the motion. The motion was accepted. Motion passes 7-0.

FR20-21-23 Consider awarding construction and paving bid

Councilor Snyder moved to approve FR20-21-23 for B & B Paving to be awarded the paving of roads. Councilor Snyder seconded the motion. The motion was accepted. Motion passes 7-0.

Councilor Reynolds moved to approve FR20-21-23 for Gardner Construction to be awarded the additional projects of: Blackstream Rd, Billings Cross Culvert, Hillman Drainage and Bog Rd Guard Rail in the amount of \$ 99,450.00. Councilor Snyder seconded the motion. The motion was accepted. Motion passes 7-0.

Councilor Snyder moved to approve FR20-21-23 for Hopkins Paving to be awarded the additional project of: Shoulder work at \$300.00 per hour. Councilor Reynolds seconded the motion. The motion was accepted. Motion passes 7-0.

Councilor Lever moved to approve FR20-21-23 for Gardner Construction to be awarded the additional projects of: EOP Material at \$180.00 per hour and 2" minus gravel at \$20.00 per yard. Councilor Reynolds seconded the motion. The motion was accepted. Motion passes 7-0.

C. WORKSHOPS:

D. OTHER ITEMS: (from Table Package)

X. APPOINTMENTS:



XI. MANAGER STATUS REPORT:

Manager Kroll thanked everyone for attending the Public Hearings and who sent in emails on the zone change requests.

Manager Kroll went on to thank the Boy Scouts for the Earth Day community clean-up on 4/24/2021. The Girl Scouts volunteered their time to help with this clean up. As they were cleaning they came across mounds of used needles in the ditches in multiple places. Please be aware of your surroundings. This is insulting to expose volunteers to this risk.

XII. FINAL PUBLIC ITEMS OR COMMENT: (*Items Not Already on Agenda*)

XIII. COUNCIL ITEMS:

Tony Reynolds: Bog Road shoulders are breaking down and will need to be fixed this year and Newburgh Road is 3 ½ feet narrower by Donnie Pelletier's home.

XIV. EXECUTIVE SESSION:

Consider enter into Executive Session to discuss economic development matter(s) per 1 M.S.R.A. § 405(6)(C)

Councilor Reynolds moved to enter Executive Session to discuss economic development matter(s) per 1 M.S.R.A. § 405(6)(C). Councilor Murphy seconded the motion. The motion was accepted. Motion passes 7-0.

XV. ADJOURNMENT:

Councilor Sinclair moved to adjourn the meeting at 9:45PM. Councilor Snyder gave seconded. With no objection the meeting was adjourned at 9:45PM.

Respectfully Submitted,

**Kristen Cushman
Town Clerk**

Explanatory note #1: All items in the CONSENT CALENDAR are considered routine and are proposed for adoption by the Town Council with one motion without DISCUSSION or deliberation. If DISCUSSION on any item is desired, any member of the Council or public may request the removal of an item for it to be placed in the regular agenda prior to the motion to approve the Consent Agenda.

Explanatory Note #2: In the interest of effect decision-making: At 10:00 p.m., the Chairman shall poll the Council and Town Manager to identify remaining items which shall be carried forward to the next Regular Meeting.

Explanatory Note #3: A Councilor who feels the need for the Council excusing his/her absence will make the request to the Town Manager or the Town Clerk prior to the meeting.