



Town of Hermon
Public Safety Meeting Room
January 6, 2022
Town Council Meeting
7:00 PM
MINUTES

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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: Ronald “Ron” Murphy, Charles Lever IV, Steven “Steve” Thomas, G. Stephen “Steve” Watson, Phillip “Phil” Richardson

Members Absent: John Snyder III - excused, and Anthony “Tony” Reynolds - excused

Others Present: Town Manager Howard Kroll, Town Clerk Kristen Cushman, Stephen Wagner; Town Attorney and 17 guests

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

SIGNATURES. –APPROVE

MINUTES. -APPROVE 12/9/2022 minutes

WARRANTS. –SIGN 12/24/2021, 1/7/2022 warrants

RESOLVES. –SIGN

Councilor Watson moved to approve the Consent Calendar as presented. Councilor Murphy seconded the motion. Motion passes 5-0.

V. NEWS, PRESENTATIONS AND RECOGNITIONS:



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

Isaac Raymond representing Richardson Development Corporation: Looking to develop a private road for a subdivision off Arlene Drive and will be a private Bangor development and will be accessed through Hermon roads. This subdivision will be a 55 and over community like Dirigo Pines in Orono. The 55 and over will be written into each deed and enforced by staff. Mr. Raymond is seeking the next step that will be required from Hermon for this project to move forward.

Steve Thomas: The Council is not familiar with this project and will follow up with the Town Manager.

VII. PUBLIC HEARINGS:

Public Hearing for Hermon Golf Inc. Hermon Meadow Golf Club's Liquor License Application.

Chair Thomas opened the public hearing at 7:07PM. No public comments were given. The hearing closed at 7:08PM

VIII. COMMITTEE REPORTS:

IX. SCHEDULED AGENDA ITEMS:

A. OLD BUSINESS:

B. NEW BUSINESS:

R21-22-09 Consider approving Hermon Golf Liquor License Renewal

Councilor Murphy moved to approve R21-22-09. Councilor Lever seconded the motion. The motion was accepted. Motion passes 5-0.

FR-21-22-04 Consider authorizing payment to replace the failing Municipal Public Safety Building indirect water heater in an amount not to exceed \$5,900 payable to Mechanical Services Inc of Hermon, Maine.

Councilor Murphy moved to approve FR21-22-04. Councilor Richardson seconded the motion. The motion was accepted. Motion passes 5-0.



C. WORKSHOPS:

Councilor Reynolds – C & K discussion

Steven Thomas: Any introduction or does our attorney want to provide any introduction process?

Stephen Wagner, Town Attorney: My understanding is this a workshop Councilor Reynolds asked to have for folks to have a discussion on C & K Variety. So just as a background, this was an application that came before the planning board for site plan approval to replace the existing structure. This was approved by the planning board that was subjected to appeal by a number of neighbors that are here tonight. And that was to hear a public hearing and a subsequent meeting or deliberations before the Board of Appeals, and the Board of Appeals determined that the planning board did not err and denied the appeal. So, in terms of what the council is to do tonight. The council is not the venue to re-litigate that matter. That was before the Board of Appeals, if any aggrieved party, wish to challenge the Board of Appeals decision, the next option, is an appeal to Superior Court 30 days from the date of the appeals decision. So, I wouldn't advise the council to serve as any sort of appellate body to the Board of Appeals because it simply doesn't have that jurisdiction in this matter. I think, larger concerns that are at issue here about water runoff in the area, and how that C & K Variety may impact, and Council can listen to those things. Again, I wouldn't recommend, I suppose in theory, the Council could determine itself to be an aggrieved party. Take action on appeal. Of course, if that was the case, my law firm would step back and council would get its own counsel. But there are other options here besides stepping into the appellate process, which would be you could authorize my firm to investigate the runoff issues and see what authority the town might have to provide some sort of relief to the parties that are concerned. So that's certainly an action that the board could take tonight. And we can come back and provide you a summary of what we found.

Ernest Wheeler 20 Billings Road: First thing I'd like to read you is Village Commercial district 154.041. The purpose of this sub chapter is to encourage and support the ongoing development of an attractive, traditional rural New England village consisting of compatible mixed uses. It is a vibrant, pedestrian friendly and well designed. Standards of applicable new construction enlargements change of use were passed in 2013. Required submittals to the code enforcement officer and planning board determine whether the following standards will be met. We have questions about how they are being met. We still have questions about gasoline. What color is the building? Three things I will speak on tonight is gasoline, government, and construction. We have yet to see a fuel plan. We haven't seen a finished landscape plan. What about



buffers and fences now that all the trees are removed? What about neighborhood security with an open landscape? Housing Urban Development states HUD housing within 300 feet of a gas station requires an immediate use of evaluation chart reducing our home's value. Families Home Administration who finances many government employees' homes, states that it cannot guarantee the mortgage or the mortgage insurance, thus making it unavailable to finance said property. Gasoline taints the ground for 50 years beyond the life of the gas station. Hermon Exxon soil is still contaminated today. We haven't had a gas station there for better than 12 years. Licensing for C & K fuel allows one business to devalue up to 14 residences for their personal gain. All nine abutting residents as well as opposite side of Stage Road. They have a 10-foot walking access on the Stage Road, this puts everybody under 300 feet. The first six houses on Wendy Acres are also affected by this. We feel that this is unacceptable to lose value on these homes. With this existing gas station there are seven to nine other residences already affected by Brewer holdings LLC Irving station. Also known formally as the Country Market. This causes further devaluation and leads to more distressed houses. Grandfathered gasoline seems to be a topic that has been brought up, in that photograph you have in the last page of that full note that is a 1934 picture that Mr. Leathers started that store. And you will notice on the front of it that there are two gas pumps, an oil pump and a kerosene pump. I'm going to remind you that one of those pumps was used for home lighting. In 1934, the Rural Electrical Cooperative went up to Stage Road to Leathers Corner. Prior to that we are still lighting with kerosene light. In 1934, he moved across the street to the fuel location to across the intersection to what is now known as Tucker Auto Repair. This amounts to 87 years without fuel at this location. This is a long reach at best and should not convey the grandfather clause. My government item is as I was writing my brief for the Zoning Board of administrative appeals, I was called by a town employee. Now first thing I'll say, I've talked to many of the town employees, I typically initiate the calls. I did not initiate this call. A town employee called me before our December 15 zoning board meeting and asked if we could talk, I said I was not very sympathetic to talking but I would listen to the proposal. And I was asked if I would remove the DEP frog pond from my brief. And my reply was not emphatically I will not. Why are town employees calling outside of their job scope to play let's make a deal? I'm not thrilled by this, and I think we have some housecleaning to do. This week's topics are about Carpenter One map the plans are filed on. Article number four on the side information of these plans that make the determinations of what is going to happen. Article four no dig safe markings anywhere. There are underground fuel tanks, there are sewer lines, there are other things in the ground. Article Six all no erosion control measures shall be installed prior to the start of construction. To this moment, there are no erosion control measures. Number eight, provide MDEP approved silt fence barriers downslope of all



construction. As of this week, you can see the contour of the slope of that property because it's nothing to stop you from seeing the grade. Article 16 construction activities occurring after November 15 shall incorporate a winter construction plan which shall be approved by MDEP and municipality. The municipality has issued a permit a day and a half after construction has started. And we are still waiting to see what our winter plan is going to be and as I have spoken to someone about this construction, it will be a double silt with mulch between them. Summertime it's a single, wintertime it's double. Which have them complied with.

Roy Little, Carmel Maine: Speaking on behalf of my wife Cindy and her sister who own 21 Stage Road. But one thing that has not been answered for me is that in your regulation here 154.041 states Village Commercial District “This district is established for new commercial development in the form of mercantile and service businesses which draw their markets locally rather than regionally. This district is intended for the conversion of many of the existing dwellings in the area into a mix of home/offices for professionals who need access to the motoring public (e.g. real estate, insurance, family practice physicians, psychologists, dentists, chiropractors, etc) and conversions into retail or service businesses (such as restaurants, beauty/barber shops, specialty stores, etc), with one or two shopping plaza projects. In order to continue the traditional village mix of uses, new residences shall be permitted in these areas.” I have yet had anybody explain to me how this C&K project falls into that category.

Nancy Delong 21 Stage Road: Our relaxed quiet neighborhood will take on the district feel, the business district feel, not our current hometown feel. We will hear a lot of noise from Route 2 now with the pasture gone. The closest abutters to C&K will hear traffic until the last employees leave after 10pm weeknights 11pm weekends. We will hear refrigeration units running all night long. Dumpsters banging, snowplows plowing, so the employees arriving before 6:00 can open. Any time after 6:00am the trucks with merchandise, trucks with refrigeration units, oil trucks to supply the gas pumps could be driving around the Inner Loop Road, which abuts the sloped retaining walls. I fail to see how C&K can control such noise, especially in the evening or nighttime, or control exhaust fumes blowing our way several times daily by the wind. We spend a lot of time in the backyard, we're retired. Specifically at 21 Stage Road, three places on the C&K approved site plan shows the retaining wall drop will start as close as seven and a half feet from my back fence. The rest is 10 feet. If this plan to build so close to me goes through, I will not thrive, as well nor will some of my neighbors I do not want the damage the trees, the leach field, the sleep deprivation from noise, the decrease in property value. Who wants to live next to a convenience store



with gas pumps, the exhaust fumes, it doesn't fit the true spirit of village commercial blending in nicely with residential.

Doris Rogerson 77 Wendy Acres: Are any of the boards required to do a site visit?

D. OTHER ITEMS: (from Table Package)

Councilor Watson moved to waive council rules and accept the table packet. Councilor Murphy seconded the motion. The motion was accepted. Motion passes 5-0.

IX. SCHEDULED AGENDA ITEMS:

A. OLD BUSINESS:

B. NEW BUSINESS:

R21-22-10 Consider appointing Scott Perkins to serve on the Regional Planning Commission Advisory Committee for a two-year term through Eastern Maine Development Corporation.

Councilor Murphy moved to approve R21-22-10. Councilor Lever seconded the motion. The motion was accepted unless doubted. Motion carries.

X. APPOINTMENTS:

XI. MANAGER STATUS REPORT:

Howard Kroll: Thank you to the citizens for speaking this evening on what you feel is most important to you. Another part of that discussion, I know Mr. Wheeler came to a past meeting regarding drainage that takes place from the subdivision above him. Just to give you a little history, that subdivision was approved by the Hermon Planning Board in 1988. And at the time there was one drainage easement that was given from what is now known as School House Lane to this area that was supposed to collect water. Again, 1988 is what I would like to put into your mindset. That project faced a lot of challenges. Namely, developers were running out of funds, elevations for the road not being correct and they had to go in and redo the road a few times. It wasn't until 1993, that the road was accepted. It was a major work in progress, but in addition to that, another drainage easement was approved also off School House Lane that goes over to properties near Mr. Wheelers home. The reason I'm bringing that up is this fairly new to myself, but Mr. Wheeler, and Councilor Reynolds, who have been here for decades, I rely on them for their historic input. And what I think we should at least consider is looking at those easements and seeing what kind of condition that this pond or this retaining area is



doing. Do I think it's clear cut? No. I think those two drainage easements are great, but they haven't been looked at or really discussed in going on 30 years. So, in fairness to the residents over there, I think we should at least contemplate doing something a little bit more in depth to find out where the lines are. Is this the most appropriate place to start? I don't know. But if we do nothing, nothing happens. But if at least we can look at what Mr. Wheeler is claiming for damage to his property. I can tell you; Josh Berry went up there with Councilor Reynolds. And it's a real, I mean, there's drainage coming down off the end of Wendy Acres dead end near the Rogerson's as well as off the subdivision that is above it. There are some challenges in that area. And I'm not saying I can fix it overnight. But I think we've got to start somewhere. And I promised Councilor Reynolds, I knew he wasn't going to be here tonight, that I was going to bring this up. But I think it would be important that we at least contemplate taking a further look at this area. We have two drainage easements that were put in for a reason. Like I said, do I think this is the most appropriate place to address this? Probably not when Mr. Wheeler has a direct access to this area. I'd like to see what options that we might have. I'm not saying it can get fixed. But I think back in 1988 and 1993, the town made a commitment to do something about the drainage that was coming off that hill. So, I know we have a meeting in two weeks. And I know we've got Mr. Wagner here from Rudman and Winchell, but I really need some advice on what the next steps should look like. I don't know what they are. But I think we need to start with at least looking at the legal description of these areas, where it started at, and go from there. And Mr. Wheeler absolutely has to be part of that discussion. He's the one that's being affected the most. This is the file that we discovered on Hermon Village Estates, again, that was approved in 1988. And I get it, it really had nothing to do with Mr. Wheeler's property per se, but the development of it absolutely has affected him whether it's right or wrong. But I think at least, we should take a further look into it and see if that pond is draining in the right area and going where it should. Or if there's work that needs to be done, where I've got to get private property owners' permission to do something. We've got to come up with a game plan. And I know Mr. Wheeler didn't bring it up during his presentation, but I didn't want to lose this opportunity to at least bring it up. And quite honestly if Mr. Wheeler hadn't shown up a couple of meetings ago. We wouldn't have known. I mean, I had no idea there was two drainage easements off School House Lane over to this drainage area that exists.

Steven Thomas: I think you should be working with Mr. Wagner to review everything. And we think around the same time, probably working with one of the engineers that the town has worked with in the past, and maybe get a preliminary assessment, like what would be involved to fix the drainage issues there?

Howard Kroll: I think we would absolutely have to. I've got properties up there that I don't know where this exists. I don't know where the property lines are at. Yes, there's some markers that were placed in 1988. I don't know if they exist. I think in all



fairness to the people that, you know, we could possibly be going to this easement. They might not even know that there's an easement there. So, I just, I want to be fair to everyone. But we've got to address this. My suggestion is, we meet again, on January 20. I mean, if you would allow me to at least do some research and see where we can go from there. I think that would be a good start. That everyone affected is notified and signs off on crossing their property. There's legality that's involved in this. It's not just the town walking up with the backhoe and starting to excavate. I don't think I'd make many friends on that. And I wouldn't want anyone to be treated like that.

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

XIII. COUNCIL ITEMS:

Steve Watson: Would like to have Mr. Wagner research and answer Mr. Roy Little's question and get back to the Council. What is Village Commercial and what it comprises?

Steven Thomas: Wanted to thank Andy and Greg from Hermon Rescue on December 17, 2021. Mr. Thomas was in respiratory distress. If it was not for their quick action, compassion and experience Mr. Thomas is certain he would not be here now. He also thanked the Hermon residents and several Council members who reached out to help his family. Mr. Thomas could not be prouder to be a Hermon resident.

XIV. EXECUTIVE SESSION:

XV. ADJOURNMENT:

Councilor Murphy made a motion to adjourn the council meeting at 7:58 pm. Councilor Watson seconded. With no objection the council meeting was adjourned at 7:58 pm.

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.