

Meeting was opened at 7:00 p.m.

**Present:** Marlon Frink, Larry Upson, Denis Hebert, Barbara Hill, John Frink, Chris Cross, Peggy Lamson, Planner Tom Morgan. Absent Jim Leger.

**Minutes:** Minutes of meeting held 6/11/01, were amended as follows: Page 3, the temporary parking on Patterson Lane will be West of the ICR; access for the parking area must be approved by the Police Chief. Page 4, Chris Cross stated that Wal-Mart has attempted to violate every order re: the exterior of their store. Minutes, as amended, were accepted on a motion by Barbara Hill, seconded by Denis Hebert. Marlon Frink and Larry Upson did not vote.

**Correspondence:**

Copies of letters from Portsmouth Planning Dept., and the Newington Selectmen to the Director of the Pease Development Authority re: Update of Airport Master Plan and requesting a second public hearings be scheduled that will include notifying surrounding communities.

Letter from Building Inspector to Operations Manager, Fox Run Mall, re: unauthorized use of trailers for storage.

Copy of letter from NHDES granting permit modification (extension of construction of transfer facility) to Total Waste Management, River Road.

Memo from B.I. to Chairman Marlon Frink, advising that Wal-Mart continues to violate several orders regarding the exterior of their building.

Barbara Hill moved to delay action on any correspondence that did not pertain to either Pease Master Plan or Open Space issues, the purpose of this interim meeting. Motion was seconded by Peggy Lamson. In discussion Chairman Frink pointed out that he had instructed Tom Morgan to add, to the agenda, any 'time sensitive' issues

Denis Hebert noted that these decisions are difficult and the Board needs to have trust in the Chairman that the items on the agenda need to be addressed at this time.

The motion failed 4 to 2. Chris Cross abstained.

**Open Space Preservation:**

Attorney Charles Tucker was present to give the Board some assistance with their plans to preserve open space in Newington. Mr Tucker spoke on the history of zoning and owners rights. There are various options for obtaining development rights from owners such as purchasing land outright; purchasing easements; owners donation. Also discussed the tax benefits to the land owners. All agreements between the Town and the owners can be time determined or in perpetuity and each agreement can be tailored to the individual needs or requirements. Mr Tucker distributed a sample/guideline of a Conservation Easement Deed.

Chairman Frink stated that the Planning Board had worked on identifying parcels in Newington

that they would like to negotiate some development rights to and needed some assistance with the protocol and process.

Barbara Hill noted that some property owners would be concerned that their land would be open to the general public if easements are deeded. Mr Tucker advised that all of these issues can be spelt out in the agreement.

Mr Tucker suggested that the town Conservation Commission, with assistance of legal counsel, could negotiate and monitor any easements granted - he added that there is nothing unethical about taking the initiative in pursuing certain pieces of property.

Board was advised that many of the wetlands laws are changing including the permitting of filling wetlands for development if developer agrees to preserve a like size wetland either in the town where development is proposed or in some other town - that this will open large areas for development that was previously prohibited.

Chairman Frink stated that it had been suggested that a meeting be held between the Selectmen, Conservation Commission and Planning Board to work out details of approaching land owners. Mr Tucker saw no objection to inviting owners of land that the Board would like to see kept open and discussing general terms for the granting of conservation easements.

John Frink asked about liability - Mr Tucker stated that the land in open space, in most cases, would remain the owners responsibility unless the agreement allowed the town to develop recreation area or walking trails in which case the land would be added to the town's liability insurance.

Board thanked Mr Tucker for his help and he left the meeting.

### **Preliminary Discussions:**

A) Proposal by Newington Energy LLC to erect a 90' by 60' temporary building at 102 River Rd. Marlon Frink and Larry Upson stepped down citing possible conflict of interest and Vice Chairman Hebert took the Chair. Barbara Hill left the table as she objected to discussion, at this meeting, of any item other than Pease or open space.

Board was advised that this building has been erected without benefit of planning approval or building permit that the Building Inspector had ordered construction cease until approved by Planning Board. Representatives of Newington Energy stated that this was an oversight - that it was thought that construction of any structure was included in the overall site approval.

Board was advised that the building, on land owned by Sprague Energy, was erected to store climate sensitive materials for the new power plant - that the building is only temporary and will be dismantled no later than June 1, 2002.

Board discussed past approvals for this project and majority agreed that a structure on Sprague's land was not included.

Peggy Lamson moved that this proposal should go to a Public Hearing for site review. Motion was seconded by Chris Cross.

John Frink stated that as the building was already erected the only thing to do was place some restrictions and conditions for its use.

Chris Cross noted that there are two options 1. Board could approve as there is no further impact from site review or public hearing. 2. Could go through the regular site review process.

The motion to go to public hearing failed 1 for three opposed.

Chris Cross then made a motion to approve only this temporary building and the Planning Board would waive further review of the proposal conditioned upon the building meeting all applicable

building regulations. John Frink seconded the motion.

Marlon Frink, as a private resident, received permission to speak and asked what material would be stored in the building. Board was advised that there would be no chemicals or flammable materials only basically electrical materials.

Richard Hebbard, Patterson Lane, also spoke and stated that he had no objection to the building but did object to the way employees of Newington Energy planned their work - that proper planning could have saved a lot of problems - that in his opinion, he questions the poor job performance of some of the engineers.

Denis Hebert agreed and stated that Newington Energy is on "thin ice" but agreed with Chris Cross's motion. However, he would like to amend the motion by adding that the building must be removed by June 1, 2002.

Building Inspector Doug George asked if there should be any limiting language on the building permit - and was told that the permit was for this temporary building only and that any other building, permanent or temporary must have Planning Board site review and approval.

Peggy Lamson voiced her objections and showed some photos of silt runoff into the river from Newington Energy construction site following last weekends rains she added that this is just one of many areas where Newington Energy has failed to meet requirements.

Denis Hebert stated that the Town has been very lenient but there will come a time when the Town will say "no" - it is evident from the pictures that erosion control is not adequate. The construction manager for Newington Energy stated that the erosion controls would be corrected. The motion was amended to add that the temporary building at 102 River Road must be dismantled and land restored by June 1, 2002 and any other buildings will require Planning Board approval.

Motion carried - Peggy Lamson opposed.

Jerry Gagney, Meridian Engineers, asked the Board to consider an area off River Road to store road construction materials. Access would be from River Road. John Frink asked if the land is stabilized and was told yes. There was a question if River Road was a State Road in which case the State would need to approve any curb cut. This will be checked.

Prior to leaving the meeting a representative of Newington Energy informed the Board that a meeting had been scheduled with the Board of Selectmen to discuss possible extension of working hours at the construction site,

B) Request by Wal-Mart for outdoor sales of patio furniture.

No representative present - no action taken.

Relative to Wal- Mart was notification that due to a clause in Wal-Mart's lease, the proposed construction of the Outback Steakhouse in the former Star Center would not take place.

Mr Hyder, owner of the property, was present and related his problems with Wal-Mart management and his frustration in trying to get the problem resolved which would allow Outback to follow through with their plans.

Tom Morgan noted that Wal-Mart had been less than open in revealing the contents of the lease and they should apologize to the Town and Outback Steakhouse for all of the hours and funds spent on the Outback Steakhouse proposal.

Denis Hebert asked Mr Hyder if Wal-Mart asked about traffic. Mr Hyder stated that the issue was never raised nor did they express regret at the time wasted. It was noted that Wal-Mart never raised any objections to Outback during the public hearing process.

Mr Hyder asked if he could have something in writing about Wal-Marts violation of town regulations - that there are some lease violations and he still hopes that Outback Steakhouse can build in Newington.

Denis Hebert moved to deny Wal-Mart any outdoor sales. Motion was seconded by Peggy Lamson but action on the motion was tabled until July 9, when a Wal-Mart representative will be invited to the meeting.

**Other Business:**

A) Tree Preservation at Little Bay Road.

Tom Morgan reported that the developers of the site at 340 Little Bay Road, have asked for the Board's opinion about removal of two trees in the lot frontage.

Board discussed and concluded that trees need to be removed, as previously agreed to, as they do prohibit the site distance from the entrance.

It was moved by Chris Cross, seconded by Denis Hebert, that the trees should be removed and in addition the stone wall should be lowered to improve visibility. Motion carried - Marlon Frink and Larry Upson abstained.

B) Reviewed draft of Memo to Pease Development Authority re: update of Pease Master Plan.

Denis Hebert stepped down citing possible conflict of interest.

Barbara Hill returned to the table.

Peggy Lamson, Newington's representative to the PDA, cautioned that the Planning Board should pay close attention to the proposed updates - that if not checked all of South Newington could be swallowed up by the Pease Airport and as many members as possible should attend a meeting to discuss this issue, scheduled for June 26<sup>th</sup> at the Pease Tradeport.

Board proceeded to edit the draft memo to the PDA which, when complete, will be signed by Tom Morgan for Chairman Marlon Frink and forwarded to the Pease Development Authority

C) Board signed the Allard's site plan previously approved with some amendments to the notes on the plan.

Meeting was adjourned at 9:50 p.m.

Pat Main  
Secretary