

**TOWN OF HENNIKER
PLANNING BOARD
March 25, 2009**

Approved Minutes

Members Present: Kristin Claire, Chairwoman; Kellie Dyjak; Ed Miner; Rick Patenaude; Scott Osgood; Ron Taylor, Selectman, ex-officio; Leon Parker, Alternate Selectman, ex-officio

Members Excused: Terry Stamps

Others Present: Laura Scott, Planning Consultant; Jeff Roach; David Foster; Alan Michie; Tom Patenaude; Denis McComish; Caleb Dobbins; Jennifer Astholz, Recording Secretary

Chairwoman Claire called the meeting to order at 7:00 pm.
Board members welcomed Rick Patenaude and Ed Miner to the Board as a result of the recent election.

Jeff Roach submitted his letter of intent to serve as an Alternate Board member to the Planning Board. Mr. Osgood asked if he filled out the volunteer application. Mr. Roach stated that he has over 10 years experience in the construction industry in Massachusetts and worked for NER Construction Company. He stated that he has been coming to the Planning Board meetings for many months and is interested in serving the community in this capacity.

Ron Taylor **MOVED** to accept Jeff Roach's application for membership to the Planning Board as an Alternate. Kellie Dyjak **SECONDED** the motion. Motion **PASSED, 6-0**.

Mr. Roach is to be sworn in at the Town offices before the next scheduled meeting of the Planning Board.

Chairwoman Claire stated that Terry Stamps indicated by email her willingness to continue as the Budget Director for the next term if the Board desires. Scott Osgood also stated that he was willing to continue in the position of Secretary.

Mr. Taylor **MOVED** to approve Kristin Claire continue in the position of Chairperson. Mr. Osgood **SECONDED** the motion. Motion **PASSED, 5-0-1** (Ms. Claire abstained.)

Mr. Taylor **MOVED** to approve Ed Miner as Vice-Chairperson. Mr. Osgood **SECONDED** the motion. Mr. Osgood stated that he believes Mr. Miner brings the experience and patience that is a helpful attribute to the role. Motion **PASSED, 5-0-1** (Mr. Miner abstained.)

Chairwoman Claire **MOVED** to approve Scott Osgood to continue in the position of Secretary. Mr. Miner **SECONDED** the motion. Motion **PASSED, 5-0-1** (Mr. Osgood abstained.)

Chairwoman Claire **MOVED** to approve Terry Stamps to continue in the position of Budget Director. Kellie Dyjak **SECONDED** the motion. Motion **PASSED, 6-0**.

Review and Approve Minutes of the 3/11/09 Meeting

The minutes were reviewed and corrections were made. Mr. Osgood **MOVED** to accept the minutes as corrected. Ms. Dyjak **SECONDED** the motion. Motion **PASSED, 4** (Ms. Dyjak, Mr. Osgood, Ms. Claire, Mr. Miner) - **0 – 2** (Mr. Taylor and Mr. Patenaude abstained).

Draft Earth Moving Regulation Amendments

Laura Scott explained that the Excavation Regulations have not seriously been reviewed in probably 15 years. The regulations have been very confusing and place a high burden on applicants to go through a permitting process every two years. The Board is trying to administratively make the process easier for the operators. Ms. Scott stated that the draft has not yet been reviewed by legal counsel since this is the first reading by the Planning Board.

Ms. Scott stated that the Conservation Commission was asked to provide comments; however, they have not replied yet. Chairwoman Claire stated that Ms. Stamps asked via email correspondence that no decision be taken by the Board until the Conservation Commission has a chance to review the regulations.

Ms. Scott stated that this is not a public hearing but a forum to be able to hear from members of the public about the process.

Rick Patenaude stated that the Town regulations are complicated and difficult to read. He suggested taking the sections about “Authority”, “Purpose” and “Scope” and overlay it with the State regulations 155-E. He stated that if the Town really only wants to comply with the State requirements. He stated that everyone in the industry understands the expectation of the State RSA’s, and they adequately cover the Town concerns.

Rick Patenaude **MOVED** to overlay RSA 155-E with the Town’s sections of “Authority,” “Purpose,” and “Scope.” And have that be the town regulations on excavation

Ms. Claire asked if 155-E addresses Town process at all, and asked where the Town’s procedures would be stated.

Alan Michie stated that the required information is already available, so there is no need to repeat it.

Ms. Scott stated that all of the information on RSA 155-E is stated in the black land use law book

Mr. Patenaude stated that another positive feature of referencing the RSA's is that the Town regulations would automatically be updated when changes are made at the State level. Mr. Osgood stated that this is similar to what the Board voted to do with the Zoning Board regulations this past Town Meeting.

Ms. Scott stated that a lot of the changes she proposed were from 155-E so that all of it is in this document; however, the extra part needs to be reviewed. For example, the lists on pages 5 & 6 show the extra elements suggested by Mike Vignale, Town Engineer. These are mainly those items that are above and beyond what is listed in 155-E. Section 201-7B & C were added primarily for new operations. On page 9, section F, the time parameters were changed. Section N changed specifically for Henniker. Ms. Scott suggested the change of Section U, and the Town Engineer suggested changes to Sections R, S & T on page 10. Ms. Scott stated that the changes on page 11 were made to make it clearer about how much time an operator has to comply if there is a violation; 155-E addresses it, but it is not really clear.

Ms. Scott suggested that a side-by-side comparison of the Town regulations could be made with RSA 155-E for the Board to review.

Ms. Claire stated that she likes tying the two documents together as suggested. She would like to be able to clarify sections, if needed.

The Board members said they would read through RSA 155-E, which is in the black law book and is available online. Ms. Scott will make a comparison of the State and Town regulations for the next meeting. She stated that she will ask Town Counsel if he has experience with this in other towns and if there are any negative effects to consider by tying the two sets of regulations together.

Mr. Osgood stated that any additions that the Town wants added that are above the regulations in the RSA could easily be added under Chapter 11 of 155-E.

Denis McComish stated that he is concerned about the increasing cost of operations. He is worried about the potential increased cost of inspections needing to be done by the Town Engineer. Ms. Scott stated that an applicant would be responsible for paying for services rendered by the Town Engineer for inspection of plans for a new pit, etc. The Planning Consultant's time and Code Enforcement Officer is paid for through the regular Town budget process.

Caleb Dobbins stated that his lawyer uses the term "exempt" instead of "grandfathered" operations and suggested that change to the regulations.

Ms. Claire stated that she is not aware of any requirement at this time that states that existing pits have to be inspected by the Town Engineer. The Code Enforcement Officer

and Planning Board are the authorities charged with that responsibility. Applications for new pit operations may necessitate review by someone with more expertise.

Mr. Michie stated that the Bureau of Mines is the agency that monitors the excavation industry once per year.

Ms. Dyjak asked if the Bureau of Mines gives a written record of their inspections that could be added to the Planning Board file for assistance in the inspection process.

Rick Patenaude stated that he understands that the Planning Board has the responsibility of monitoring pits in Town; however, to simplify the process for everyone, he suggests that they follow the State regulations. He stated that a lot of problems are created when a group tries to regulate something without having the necessary expertise. He stated that each operation is unique, and each company runs very differently than another one.

Ms. Claire stated that the scope of what the Board will be reviewing will have to be related to what was approved in the Planning Board file. She stated that the Planning Board will not be trying to review the same criteria as the Bureau of Mines. She also stated that this process is being done to clean up the Town files so that everyone knows what is happening with the excavation pits in Town.

Mr. Osgood stated that the Board is only trying to fulfill their responsibility for doing what is required; their intent is not to antagonize businesses in Town.

Mr. Dobbins stated that adding anything more than what is already required by the State creates a burden to the business operators.

Ms. Claire explained that most of the extra things in the Town regulations have to do with the administrative process for new pits.

Mr. Miner stated that he agrees with Rick Patenaude's idea. He stated that the Town may have some items to add to the document, such as fees. He suggested that the Board follow Mr. Osgood's suggestion of adding any necessary requirements to one section.

Rick Patenaude stated that he would be willing to work with anyone on the Board and Town to create a new document.

The Board agreed by consensus to have Ms. Scott prepare a written comparison of the State regulations and the Town regulations for review at the April 8, 2009 meeting. She will add the sections about authority, purpose and scope and will add details of additional administrative procedures for review.

Mr. Patenaude withdrew his earlier motion as there was no second made.

Ms. Dyjak asked if a subcommittee would be helpful to do the inspections. Ms. Claire said that she is hoping that the process will not be that complicated and hopes that the entire Board will be involved in the process and a subcommittee will not be needed.

Ms. Claire thanked the public for their time and interest in helping with the process.

Mr. Dobbins stated that he went on the Town's website to check Planning Board minutes and agendas and there were no current ones available. Ms. Scott stated that only one person on the Town staff is available to change the website, so it is difficult to keep updated; however, she would let the Town Administrator and staff know that the public looks to the website for information.

Member Binder Updates

Ms. Scott provided updated information to the Board members.

Other Items

The Board discussed upcoming agenda items for the next meeting. Ms. Scott mentioned that NEC will be coming in for a conceptual consultation for a new athletic field. She explained that their application for special exception for the athletic field and parking lot was denied at the last ZBA meeting, and that is why they are coming in for a conceptual consultation on plans for a field only.

Adjournment

Ms. Dyjak **MOVED** to adjourn the meeting at 8:25 pm. Mr. Patenaude **SECONDED** the motion. Motion **PASSED UNANIMOUSLY**.

Respectfully submitted,

Jennifer Astholz
Recording Secretary