

PLANNING BOARD MEETING OF March 13, 2012: Town Hall Banquet Room

**I. ADMINISTRATIVE BUSINESS**

Chairman Wayne Hayward – Opened the meeting at 6:30 p.m.

Quorum/Attendance

Members Present - Chairman Wayne Hayward, Albert Borges, Jaime DeSousa, Rene Fleurent (arrived at 6:45 p.m.), Peter Nopper and Albert Silva

Absent - Joseph Morra and Gary Staffon

Planning Director, William Roth was also in attendance.

Acceptance of Minutes of February 28, 2012

Jaime DeSousa moved to accept the minutes of the meeting on February 28, 2012, and was seconded by Albert Borges. The motion passed by unanimous vote. Rene Fleurent was not present for this vote.

1) Fairhaven Neighborhood News - Ads-Nye Lubricants & McCoy- \$180.00 (\$90 each ad)

Albert Silva moved to pay this bill, which was seconded by Jaime DeSousa. The motion passed by unanimous vote.

2) CPTC-Seminar- Conference for Rene Fleurent - \$50.00

Approved at previous meeting members signed the bill.

Receipt of Plans: None

Approval of Plans: None

**II. CURRENT PLANNING:**

1) Mill Road and Bridge Street – Layout alteration and acceptance.

William Roth - This is a petition for a street acceptance along Mill Road and a second street acceptance along Bridge Street. The Mill Road acceptance was conditioned as part of Southcoast Hospital's Special Permit approval to provide an additional turn lane. The Bridge Street acceptance was originally required when the AT&T building was approved previously to provide for a sidewalk. During the title search for the Mill Street acceptance it was discovered that the additional right-of-way was never dedicated. The owner of the AT&T property is in agreement with these acceptances and "no takings" will be required because they will be dedicated by the property owner. I'm recommending approval. The Selectmen are holding a hearing on April 2, 2012, and I will forward any comments.

Albert Silva motioned to approve this alteration and acceptance. Albert Borges seconded. The motion was passed by unanimous vote.

**III. LONG RANGE PLANNING**

1. RR District Overlay Disband Committee –

Chairman Hayward – I'm not sure we need this committee at this time and feel that it should be

disbanded.

William Roth – I have not been able to work on this and feel the best course would be to disband the committee until a draft can be prepared and then at that time organize another committee.

Chairman Hayward – I am announcing that we're disbanding the committee. But it is something to look at in the future.

#### **IV. PUBLIC HEARING:**

##### 1.) Accepted Street Discontinuance - Nye Lubricants - River Avenue

Attorney Marc Deshaies – I am representing the petitioner. This is not a typical looking street. It looks like a driveway. All of the lots are united under one ownership now. This street acceptance goes back to 1893. The New Bedford Thread property is where Nye Lubricants operate their world headquarters. Upon Town Meeting voting to discontinue, we are asking for a positive vote to discontinue River Avenue. We will come in with a Form A after Town Meeting.

William Roth – This is pretty straight forward. The only issue I raised is that the street be divided up as the abutters decided and the rear lot 242 be combined with an adjacent lot so that it will have frontage to a street. A condition to that effect has been identified.

Albert Silva – Has the Town maintained that road?

William Roth – Not to my knowledge, it's a parking lot.

Albert Silva – So, the Town is donating this land?

William Roth – No, the Town does not own the land; we only have a right-of-way for a street. A right-of-way is essentially an easement over the property for a road. We have to deem it not in the public interest to have the street. Then the Selectmen will have a hearing on it on April 2 and forward it to Town Meeting to discontinue.

Albert Borges motioned to recommend this street discontinuance to Town Meeting. Peter Nopper seconded. The motion was passed by unanimous vote.

##### 2) Def Subdivision- Rescind – McCoy/Pacheco - Wigwam Beach Subdivision

Mr. Luis Pacheco - I would like to discontinue the subdivision.

Chairman Hayward – It would be difficult for us to go forward on this since this subdivision was approved five years ago and most of the signees are no longer on the Board or deceased. The subdivision was approved but no plan has been presented meeting the conditions of approval that the Board could sign.

Luis Pacheco – Who owns the document?

Chairman Hayward – It's on file. I'm just going to recommend that we rescind the subdivision and put it on file.

Jaime De Sousa motioned to rescind this subdivision. Peter Nopper seconded. The motion was passed by unanimous vote.

#### **V. OTHER BUSINESS:**

##### 1) Planning Operations & Budget

Chairman Hayward – As far as the budget goes, Selectmen cut 30% in one line item, the salary account. Other line items have not changed in what we proposed in FY 2013. Other departments are not using their money and it goes into the general fund. They're looking to cripple this Board. I find that objectionable. I think it's personal with this Board. They want us to go on and beg to the Finance Committee. If our total budget were to go, we would still operate. The other part is travel. We have a member that travels each month to SRPEDD in Taunton. It is required, representing the Town to the entire district. To ask a member to go at night in their own car for nothing is objectionable. Once you give these things up, they're gone.

William Roth – I don't think you would be successful fighting the Selectmen's Office and the Finance Committee on this.

Rene Fleurent – If we do nothing, what are the ramifications. They'll keep doing it. I'm willing to stand up.

Jaime DeSousa – I agree. I commend you for standing up.

Chairman Hayward – At this point, I will get up at Town Meeting.

Rene Fleurent – I recommend that we band together at Town Meeting to plead our case.

## 2) Wind Turbine Bylaw Amendment

Chairman Hayward – I am allowed to put things on the agenda. This was added. In so doing, because of the timing, the Board should set up a public hearing. I have advertised a public hearing for Tuesday, April 3 to get it on the town meeting warrant. The wind turbines are not my issues. Looking forward, we should limit the scope in the short time that we have before Town Meeting: maximum height and setback. If they meet the rules and regulations, you must vote for it or stand up and defend yourself. If the town doesn't act now, there are developers ready to take these issues on. I'm not comfortable sleeping on this. If the public hearing is posted and held, you have a zoning freeze. I am reacting to what I see and hear.

Louise Barteau – I want to thank you for inviting us and being proactive. It's scary what you're talking about. The density of the population in Fairhaven is pretty dense. This is happening very quickly. I am offering the Board any information we have. What was appropriate 5 or 10 years ago, may not be appropriate now. We have many other concerns.

Curt Devlin – The science has changed around these turbines as well as the health and safety impacts. The wind industry has begun to change their tune. I encourage the hearing to talk about the science.

Ken Pottel – They don't have to go through the Planning Board as well?

Chairman Hayward – That could be.

Curt Tramposh – I have been trying to find out how various communities are dealing with this. There will be a new attitude towards wind if people go on line. Some towns have had moratoriums on this to buy time to consider all of the issues.

William Roth – Pursuant MGL 40A SEC. 5 – I don't believe you have enough time to do what you want. In the past, we've held our hearings in plenty of time and give them to the selectmen. Due to the scrutiny of this issue, I believe the selectmen will want to follow this to the letter of the law. So, if you gave them an article tomorrow, they would have 14 days to then give it back to the Planning Board at which time the Planning Board would setup the public hearing. Following this procedure, you would not have enough

time to hold a public hearing before Town Meeting.

Chairman Hayward – If this board sets a hearing and advertises for 2 consecutive weeks, we are meeting the letter of the law. So, if they don't take that point of view, they probably win in court, I don't know.

Rene Fleurent – Is the bylaw flawed? Yes. The last thing I want to do is throw a bylaw together. I think we should sit down and review the entire bylaw.

Chairman Hayward – I take issue with that.

Rene Fleurent – I don't feel comfortable doing it this way. I want to do things correctly. That's my opinion. I would like to see an alternative way to prepare a new bylaw.

Jaime De Sousa – I am in favor of having the hearing on April 3. I say that with the knowledge that I will not be on this Board at that time.

Chairman Hayward – I not asking them not to comply with what's there now. I'm looking to the future.

Albert Borges – I concur with Mr. De Souza and we should have the public hearing.

Chairman Hayward – We might waste somebody's time on April 3. But I don't see it.

Rene Fleurent – We do need to make some changes.

Rene Fleurent motioned to set a Public Hearing on April 3, 2012. Albert Silva seconded. The motion passed by unanimous vote.

## **ADJOURNMENT**

Albert Silva moved to adjourn the meeting and was seconded by Rene Fleurent. The motion passed by unanimous vote. The meeting was adjourned 8:26 p.m.

Respectfully Submitted,

James Pelland, Secretary  
To the Planning Board