

PLANNING BOARD

January 16, 1991

Members in attendance: Richard Smith, Sr., Chairman;
Robert Marston, Catherine George, William DiProfio, Mel Keddy

Others in attendance: Sarah Campbell, Rockingham Planning
Commission, and Larry Smith, Conservation Commission, Joe Conti,
Building Inspector

The meeting was called to order at 7:45pm by Mr. Smith.

Mr. DiProfio motioned to delay acceptance of the December minutes
pending review by the Board.

Dr. Marston second.

The motion carried.

Ms. Campbell explained Items 1-7 of the posted proposed changes
to the Zoning Ordinance as clarification and updating of RSA's.

Mr. DiProfio stated the first five were basically housekeeping
items, and motioned to accept Items 1 through 5 as posted.

Mrs. George second.

The motion carried unanimously.

Ms. Campbell then explained the changes to the Home Occupation
Ordinance from \$50. to \$25.00.

Mr. DiProfio said the Selectmen determined the fee for permitting
cannot be a tax for permitting. Fees must be relative to actual
costs to implement and the reduction reflects the actual cost.
The applicant will pay for his/her own Public Hearing costs.

Mr. DiProfio motioned to approve Item 6 as posted.

Mr. Keddy second.

The motion carried 4-1 with Dr. Marston against.

The amendments are attached to these minutes.

Mr. DiProfio read the proposed Septage Disposal Facility
Ordinance, Draft #2.

Mr. Joseph Conti stated that he was of the opinion that the dumping facility would be for East Kingston residents only. He now feels that anyone can dump according to this ordinance.

Mr. DiProfio stated that other towns will be allowed to dump.

At 8:53 Dr. Marston was called from the meeting by an emergency.

Daniel Bodwell questioned paragraph 14.3.4 and asked for a definition of the word "commercial". He stated the word is hard to define. He asked if the intent was to address hazardous waste, and if so the ordinance should so state this. He also noted that hazardous waste may be higher from certain residential Septage depending on the usage and presence of home occupations. He cited hairdressers, painting companies which could possibly dump chemicals/hazardous materials into the residential tanks. His comparison was to that of commercial septage tank dumping.

Mr. DiProfio stated the intent was to limit to residential uses and not for businesses.

Mr. Bodwell asked if the Board had any validity to define and confine to this degree.

Mr. DiProfio stated the Selectmen wanted to limit the dumping to residential.

Ms. Campbell stated the intent would be to allow the Selectmen to monitor closely.

Mr. Bodwell stated they are already required to monitor by other laws, and questioned if the selectmen have the expertise to do such.

Chairman Smith stated there would be more problems with restaurants and garages, etc. with grease, etc.

Mr. Bodwell stated that restaurants dispose of animal fats which create no problem and conceded that grease from garages may pose such a problem.

Mr. DiProfio said the ordinance does allow residential dumping.

Robert Rossi stated they still need a definition of "commercial".

Mr. Bodwell said that all can be hazardous if mankind is producing this kind of waste. It must be handled properly and restrictions are not overly justified. If taken to a municipal system animal fat can be a problem, to the lagooning systems it is not. He noted the municipal systems run it through chlorination and back to the rivers, then the sludge has to be dealt with.

Mr. DiProfio stated the purpose of the ordinance is to give some regulatory control to give solace to the residents.

Mr. Bodwell said he handles it in an efficient and effective manner and the town has to provide a place to dispose of waste. The question is, does the RSA give direction for this type of operation.

Ms. Campbell explained that other RSA's and standards and guidelines were put together for that purpose.

Janet Regan asked why not use "chemicals" rather than "hazardous" in the wording.

Dr. Marston returned to the meeting at 8:12pm.

Mr. Bodwell gave statistics on the average septic system which could produce 400 gals. per day of waste water. He compared this with figures for waste product spread on his fields and noted that the gallonage per acre was not out of line.

Mr. Bodwell addressed the problem of odors. He said he has tried several products to abate the offensiveness of the odor. He noted adding oxygen to the septage was supposed to help the problem. He stated the best solution was going back over his fields, after spreading, with lime. He said testing was ongoing for PH balance. He noted instantaneous PH balance values are possible.

Mr. Bodwell addressed the problem of disease carrying bacteria. He said an EPA study revealed the reduction of nearly 100% or 99.99% of pathogens was possible after lagooning the pumped waste for 35 days.

Mr. Keddy asked what safeguards were in place against a third party hauler bringing in hazardous waste.

Mr. Bodwell stated only himself and two other haulers were allowed to dump into his lagoons. He said he might consider blocking off the Sanborn Road access. He noted he would want to talk to the Selectmen to limit the number of haulers if they want to use his site. He noted haulers should know where they are going to take their loads. If the dumping site were open to all East Kingston residents it would force him to accept from haulers that he may not want to do business with.

Mr. DiProfio stated they are trying to comply with the state regulations and Dan's site.

Mr. Bodwell asked why the restriction of 100 ft. setback from a public way.

Ms. Campbell stated this was taken from the State guidelines she believed, however, she will recheck.

Mr. Bodwell stated this is not in the State guidelines, however, this may be in the new guidelines which he has not reviewed.

Mr. DiProfio said they are complying with State law and if the Town law is more restrictive, they will try to be the same as much as possible.

Chairman Smith asked if Mr. Rossi would like to comment.

Mr. Rossi stated he does not like the word "commercial" and noted there are too many differing opinions. He noted it gives too much hassle. He cited the "commercial" use as applied to apartments.

Mr. DiProfio stated he should make a list of typical types of establishments and the Selectmen will then rule on their acceptance or rejection.

Mr. Rossi said he also would have a need to clarify the apartment upstairs and an attorney's office down.

Mr. Bodwell said there could be a problem in the future with other Boards of Selectmen. He suggested removing the word "commercial" and keeping "industrial".

Mr. Rossi suggested they find a substitute for the word "commercial".

The Board explained that they have only one hearing and would have to hold another if there is a substantive change.

Mr. Rossi foresaw future problems, as happened with garbage disposal. He stated bigger businesses would use the word "commercial" to their advantage and put the smaller hauler out of business.

Mr. Bodwell noted the problem with the annual permitting process is that the Board will change.

Mr. DiProfio stated he agreed that there is a potential long term mayhem with the situation.

Mrs. Regan suggested they put the definition of "commercial" in a list of definitions.

Chairman Smith define two, "commercial" and "industrial".

Mr. Rossi stated he has already spent \$1400 on an attorney and three days in Concord trying to get the definition, and to date he has no answer.

Mr. DiProfio suggested using the definition in the Zoning Ordinance definitions.

Mr. Rossi said that was the problem, it eliminates 30% of businesses. Big business would snuff out the smaller carriers and by the letter of the law they would be right.

Mr. DiProfio asked how the rest of the Board feels.

Dr. Marston said if Concord cannot define commercial, how do we do it?

Mr. Rossi stated they are talking too many professions when talking "commercial".

Mr. DiProfio suggested eliminating garages and industrial sites.

Mrs. George wants a way to protect the town against the unscrupulous person who doesn't care. She acknowledged she felt that Mr. Bodwell and Mr. Rossi do not want to hurt the Town.

Mr. Keddy stated at the time of annual renewal, they could list what types will be looked at.

Mr. DiProfio questioned commercial septage.

Mr. Rossi stated that the restaurant produces animal fats, which would not affect his operation as they would the treatment plants.

Mr. Keddy asked what they should exclude.

Mr. Bodwell said manufacturing plants, some beauty shops, doctors, computers (some).

Mr. Bodwell said regarding his site, they are pretty tight on who is using it. If the site is required to accept all residential septage generated in Town, it is difficult to restrict the hauler's use. He noted he thinks the present system is working pretty good.

Mr. DiProfio added, except for the odor.

Mr. Bodwell stated this was his only concern.

Mr. Bodwell also noted there has always been odors from his property and hopes there will be for a long time to come also.

Mr. DiProfio said the people were looking for local, federal and state requirements for the operation and trusting us to know what is hazardous and what is not. He said the Board is not trying to be overly restrictive and does not seek to put him out of business.

Mr. DiProfio asked if they would be willing to live with the Ordinance.

Mr. Bodwell said he wouldn't take it as a blank statement, he does not like the annual permit, staying 100 ft. away from a public right of way and that his site must accept any East Kingston resident's septage.

Mr. DiProfio is also concerned with the problem of accepting all East Kingston resident's septage.

Mrs. Regan suggested they stay away from hairdressers. Since there are hairdressers in town, what will the town do in this situation.

Mr. Bodwell stated one solution might be that the Ordinance insist that all residential based business have the system tested before pumping and that this be the burden of the owner.

Mr. Keddy noted that manufacturer of chemicals must supply the use with data sheets showing the safe methods of disposal.

Mr. Joseph Conti said these items should be put into a separate septic system. He also showed concern with what comes from out

of town.

Mr. DiProfio stated they cannot control what comes from other towns, they cannot regulate commerce.

Mr. Bodwell said he started in 1982 and other towns have hauled in, however, Mr. Rossi was the only other hauler that he allowed to dump into his lagoons.

Mrs. George left the meeting at 9:00pm.

There was some discussion about the meanings of "hazardous".

Mr. DiProfio stated they should regulate closely the non-residential waste and allow all residential.

Mrs. George returned to the meeting at 9:05pm.

Mr. DiProfio motioned to accept the Ordinance as read and discussed.

Mrs. George second.

The motion failed 2-3.

Mr. Keddy motioned to accept the Ordinance as written with the exception of the words "commercial" and find a suitable.....restatement to strike the word "commercial" from 14.3.4.

Mr. Keddy stated that this would not do, either.

Ms. Campbell asked why.

Mr. Keddy said in some cases, a non-individual client should be authorized by the Selectmen. At this time, Mr. Keddy withdrew his motion.

Mr. DiProfio read the next amendment which adds new language to Article V, restricting Mobile Home Parks.

Mr. DiProfio motioned to approve the amendment as submitted.

Mrs. George second.

The motion carried unanimously.

Mr. Bodwell asked if it had been reviewed by legal counsel. Ms. Campbell replied that they had it reviewed by Town Counsel and

then went back a second time for clarification. Mr. Bodwell stated that the Board could expect a challenge.

Mr. DiProfio read amendment to Article IV.G, which adds a new Section G which prohibits manufactured housing parks and subdivisions.

Mr. DiProfio motioned to approve Article IV.G as amended.

Mr. Keddy second.

The motion carried unanimously.

Mr. DiProfio read amendment to Article XI which would prohibit manufactured housing in cluster developments.

Mr. DiProfio motioned to accept Article XI as amended.

Mr. Keddy second.

The motion carried 3-1-0. Yes-Mr. DiProfio, Mr. Keddy, Mrs. George; No-Mr. Smith; abstain-Dr. Marston.

Mr. DiProfio read amendment to Article XI.G which would allow six (instead of eight) units to be located on one acre in a cluster development.

Mr. DiProfio motioned to approve Article XI.G as amended.

Mrs. George second.

The motion carried unanimously.

Mr. DiProfio read amendment to Article XI.I.Q.6 regarding the layout of a cluster development.

Mr. DiProfio motioned to approve Article XI.I.Q.6 as amended.

Mr. Keddy second.

The motion carried unanimously.

Mr. DiProfio asked the Board what message they wanted him to take to the Board of Selectmen about the septage ordinance defeat.

Chairman Smith stated the Board wanted to take out the word "commercial", and the ordinance was withdrawn for lack of motions.

Mr. DiProfio asked the Board to reconsider.

Mr. Keddy stated that some commercial uses aren't producers of hazardous waste.

Mr. Bodwell stated he will give the Board copies of test data and they are welcome to inspect his site at any time. He noted he has no problem with sharing the data and having inspections as he never did inhibit this on his site.

Mrs. Regan suggested they take "commercial" out, as they can always put it back in.

Dr. Marston stated the Board needs more input on the 100 ft. setback from right-of-ways.

Chairman Smith stated that he is in favor of the 100 ft. setback as it is meant to protect the effluent from coming out into drainage ditches if they exist.

Mr. DiProfio stated the Board could post and hold a hearing on February 4, 1991.

Mr. DiProfio motioned to remove the wording "commercial or" in paragraph 14.3.4 and post this ordinance and hold a public hearing on February 4, 1991.

Mr. Keddy second.

The motion carried unanimously.

The meeting was adjourned at 9:40pm.

Respectfully submitted,

Nancy J. Marden, Secretary

Typed: January 19, 1991