

Town of Hampden
Planning Board
Minutes – DRAFT
Wednesday May 25, 2016

The meeting of the Hampden Planning Board was called to order at 7:00pm on Wednesday May 25, 2016 at the Hampden Municipal Building Council Chambers by Chairman Peter Weatherbee.

Attendees:

Peter Weatherbee - Chairman
Michael Avery
Eugene P. Weldon
Kelley Wiltbank
Jim Davitt
Associated member Andrew Nelson

Staff:

Myles Block, Code Enforcement Officer
Ed Bearor, Town Attorney

1. Approval of Minutes – May 11, 2016

Member Weldon requested changes to the minutes to add page numbers, and add the resident's last name on the last page of the minutes. Motion by Member Weldon seconded by Member Wiltbank to approve the Minutes of May 11, 2016 as revised. 6-0

2. Old Business

A. Site Plan/Conditional Use: Fiberight LLC/MRC: Solid Waste Recycling and Processing Facility - Public Hearing (continued from April 13 and May 11, 2016)

Chairman Weatherbee introduced the continued Public Hearing from prior hearing sessions on April 13, 2016 & May 11, 2016.

The Municipal Review Committee/Fiberight LLC, has proposed to construct a 144,000 square foot Solid Waste Processing Facility with an attached 9,800 square foot administration building accessed by a 4,600 foot newly constructed commercial road. The road and facility are proposed to be located east of the Coldbrook Road on **Map 9, Lot 35 – 39 and Map 14, Lot 7.**

Chairman Weatherbee introduced Myles Block the Town's Code Enforcement Officer who will staff tonight's meeting, and Andrew Scott who was recently appointed by the Town Council as an Associate Member of the Planning Board. Mr. Scott is eligible to participate in the hearing and ask questions, but will not be eligible to vote because he was sworn in after the start of the public hearing.

Member Wiltbank made a motion to continue the Public Hearing this was seconded by Member Davitt. The vote was unanimous to continue the public hearing.

Chairman Weatherbee stated the first two hearings were focused primarily on two items, odor and traffic. The applicant needs to meet certain performance standards set forth in the Zoning Ordinance. The Board is going to review all performance standards, and would like to limit the comments on odor and traffic to only new information rather than repeating information that has already been presented within the public hearing.

Chairman Weatherbee invited the applicant to present first, and stated that he would then invite comments from the Board's peer reviewer Woodard & Curran, and then would open the floor to public comment.

It was noted that the Zoning Ordinance requires Conditional Uses to meet nine performance standards pursuant to Article 4.2.3., and that Site Plan Review requires an additional thirteen standards. The Board is reviewing within this public hearing whether the proposed development complies with the performance standards and the requirements of the Industrial Zoning District.

Sean Thies of CES Inc., introduced himself as the applicant's representative and spoke on the Site Plan Review standards.

Relative to Sec. 4.1.7.1 Mr. Thies stated that the proposed development meets all dimensional requirements. He stated that this has been reviewed and verified by the Town's peer review engineer Woodard and Curran.

Relative to Sec. 4.1.7.2 Industrial zone, Mr. Thies stated that there are no buildings in the vicinity. The building design and materials are typical to an industrial zone. What is proposed is a pre-engineered steel building with stick built front administration office. There is a proposed 80 acre conservation easement. The building height meets the ordinance, and additional setbacks are provided due to the height of the building.

Member Avery stated he is looking for a plan that shows boundaries. He sees boundary lines but no dimensions. He asked if it has been surveyed yet.

Mr. Thies stated that the purchase and sale agreement allows between 90 and 120 acres; there is some flexibility up to 110 acres.

Member Avery said that in order to demonstrate setback compliance, it must show the boundary location.

Mr. Thies referred to the site plan for the proposed development site plus the 80 acre conservation easement.

Member Avery asked has the development area been surveyed.

Mr. Thies stated yes, the plan shows property lines, and setbacks are shown from the property lines.

Member Avery asked if we have surveyed boundary lines with dimensions, and if so what is the plan sheet reference number?

Mr. Thies stated it is sheet number C-101, but he's not sure if there are metes and bounds.

Member Avery wants the metes and bounds shown. Mr. Thies said they can be shown on the finalized site plan.

Member Weldon asked if any there is any profile or rendering showing heights of building, tanks and stacks.

Mr. Thies believes setbacks apply to the building not tanks, but he thinks the tanks meet setback requirements. There is no rendering.

Relative to Sec. Section 4.1.7.3 ingress/egress, Mr. Thies stated that the entrance permit from Maine DOT approves a road configuration that lines up with Bouchard's driveway to minimize potential conflicts. The road in allows adequate turning movements. He said that the layout meets standard requirements.

Relative to Sec. Section 4.1.7.4 internal circulation Mr. Thies stated that it is a large site with plenty of room for snow storage.

Relative to Sec. Section 4.1.7.5 signs/lighting Mr. Thies stated that they are proposing an entrance sign that complies with zoning, and that the lighting plan in their submission demonstrates no light spillover to adjacent properties.

Relative to Sec. Section 4.1.7.6 Mr. Thies stated that the proposed building is laid out to minimize grading, and wetland impacts.

Relative to Sec. 4.1.7.7 Mr. Thies stated that the layout minimizes grading and includes an 80 acre conservation easement.

Member Weldon asked how much of the 80 acres is already protected (wetland). Mr. Thies said he is not sure of the ratio of upland to wetland.

Relative to Sec. 4.1.7.8 Mr. Thies stated that all cuts and fills will be loamed and seeded, and stabilized.

Relative to Sec. 4.1.7.9 Mr. Thies stated that the site is designed to meet DEP Regulations Ch. 500 re water quality and quantity. There are three proposed underdrain soil filters providing detention capacity. The project is under review before DEP. The applicant would expect that a condition of approval of the Planning Board would include requirement for DEP approval.

Member Weldon asked about which watershed the project is located within. Mr. Thies stated that it drains away from I-95 and the designated urban impaired stream.

Relative to Sec. 4.1.7.10 Mr. Thies stated that the project would not have adverse impacts on scenic or natural beauty, rare or irreplaceable historic sites, or other features of importance to the community. He noted that DEP's review includes consideration of wetlands and vernal pools.

Atty. Bearor asked if the application submitted includes agency correspondence on these matters. Mr. Thies stated that if not they will provide those responses.

Relative to Sec. 4.1.7.11 Mr. Thies stated that the application includes letters from Hampden Water District, the Director of Public Works, and Bangor Sewer saying there will be adequate infrastructure capacity to serve the development.

Member Weldon asked whether stormwater pretreatment being required by Bangor will include anything not shown on the site plan. Mr. Thies stated that on-site storage tanks provided are required by Bangor and are shown on the plan.

Relative to Sec. 4.1.7.12 Mr. Thies stated that there are no outside storage areas. He noted that the 80 acre conservation easement would provide an audio /visual buffer.

Atty. Bearor asked if the holder of conservation easement has been identified.

Mr. Thies stated that it may be Landmark or if not the Bangor Land Trust.

Kyle Sullivan with CES, Inc., on behalf of the applicant, spoke regarding air emissions. He said they have applied for a minor source license (DEP). He said they have better site specific data and will supply revised analysis in next day or so. There was discussion of minor/major source thresholds. Mr. Sullivan presented mitigation measures.

Chairman Weatherbee said this is new relatively interested technology, and asked about the source of the data. Mr. Sullivan stated that the DEP asked for more post hydrolysis solids based on the Lawrenceville, Virginia Fiberight facility and this was tested by the DEP at labs.

Member Avery asked are they using a multiplier to account for the difference in size between the Lawrenceville site and the proposed Hampden facility. Mr. Sullivan stated no that is not needed.

Chairman Weatherbee asked if it the same system as Virginia? Mr. Sullivan stated that it was.

Mr. Sullivan referred to pamphlets that had been sent out to neighborhoods in proximity to the proposed development, and noted that the proposed facility is farther away from some of these neighborhoods than the current PERC facility in Orrington. He referred to a map on the projector.

Member Weldon asked if the DEP required modeling. Mr. Sullivan stated they had not. A Performance test is to be held within 180 days of starting operations. They cannot operate unless it complies.

Member Weldon asked if they will test for pollutants.

Mr. Sullivan referred to an extensive process and performance guarantees.

Regarding odor, Mr. Sullivan stated that since the last meeting they submitted revised processes for notification to the town. Under the proposed protocols, the Town can participate in odor monitoring and response if they wish, but this is not required.

Atty. Bearor asked if this was revised since the last meeting. Mr. Sullivan stated it is in the meeting packet. Mr. Sullivan said they looked for another facility for comparison but that no facility is the same. The closest they found is EcoMaine in Portland. That facility handles 170,000 tons per year, 550 tons for day (vs. 650 proposed here). It stores 2-3 days of waste (vs. 2 days MSW proposed here). The nearest residence to EcoMaine is 1900' (vs. 3500 feet here). Mr. Sullivan presented a comparison of setbacks from EcoMaine, and said that there have been no odor complaints. He noted that the Woodard & Curran office is located within 1000 ft. There is very little waste stored, and the facility uses a negative pressure system such as is proposed here.

Member Avery asked about the nearest residence being 3500 ft, and what is the distance to the nearest property line that could be developed in the future?

Mr. Thies stated that the nearest property is across the street from access road.

Member Avery asked could we be provided distance to property line.

Mr. Thies said it is a 100 ft. right-of-way, and that because the processing area is at the back of building it would be somewhat further.

Member Avery said he is not just interested in where current residents are, but also is interested in what about other properties are in proximity and any impact on future developments.

Mr. Thies stated that H.O. Bouchard's is the land owner who entered the purchase and sale for this property, and that they are a willing participant.

Resident Mark Robson, 91 Maine Trail stated that there is 65 acres behind a horse farm with a 300' right-of-way from Coldbrook Road. That owner is holding the property for future development.

Mr. Thies stated that the land referred to is closer to the conservation easement parcel.

Mr. Sullivan was asked if the DEP provided a written report regarding the lack of complaints at EcoMaine in Portland, and it was noted that this would be good to have for the record. Mr. Sullivan stated they can provide that.

Denis St. Peter, CES, Inc. on behalf of the applicant spoke about relative distances from the EcoMaine facility and the proposed Hampden facility.

Member Avery also wants distances to property lines.

Bill Lippincott asked when the Board would hear public comments.

Chairman Weatherbee stated that they would now review the Conditional Use Standards before moving to public comment.

Sean Thies of CES, Inc. presented. Relative to Sec. 4.2.3.1 Mr. Thies stated that this section duplicates Site Plan Review standards that were referred to earlier tonight.

Relative to Sec. 4.2.3.2 Mr. Thies stated that there will be no exterior storage of solid waste.

Relative to Sec. 4.2.3.3 Mr. Thies stated that the proposed development includes a mile long access road and utilities. He said that the new infrastructure will add to the value of industrial land.

Relative to Sec. 4.2.3.4 Mr. Sullivan of CES, Inc. spoke about odor, gas, and fumes. He said there is no light spillover and there is an 80 acre visual audio buffer.

Relative to Sec. 4.2.3.5 Mr. Thies stated that they did a full traffic impact study. This afternoon they received the peer review stating that the issues had been addressed. They are working with Maine DOT regarding the 95 off-ramp located in Hermon. They are adding minimal traffic. They provided the haul route policy and will provide a map to trucks with designated routes.

Relative to Sec. 4.2.3.6 Mr. Thies stated that the project will not deprive light or air to adjacent properties.

Relative to Sec. 4.2.3.7 Mr. Thies stated that the site has no access to water bodies, spawning grounds, fish.

Relative to Sec. 4.2.3.8 Mr. Thies stated that they provided information regarding the applicant's financial capacity and technical ability.

Mr. Thies referred to three additional performance standards.

Relative to Sec. 4.4.1 Mr. Thies stated that they have previously discussed odor and air emissions. Regarding dust, the whole site will be paved or vegetated, and they are pursuing an air emissions license from DEP.

Relative to Sec. 4.4.2 Mr. Thies stated that the project will not produce electromagnetic interference.

Relative to Sec. 4.4.3 Mr. Thies stated that no concerns arose during the local review process regarding fire safety access. The building will need approval by the Code Enforcement Officer and the State Fire Marshall for building permits.

Member Davitt asked if water was located off Coldbrook Rd. Mr. Thies stated that they are installing a water main from Coldbrook Road.

Member Scott asked the address of Eco Maine? Mr. Thies said it is in Portland, and the specific address can be found on google.

Chairman Weatherbee called on Kyle Corbeil, P.E. of Woodard & Curran, the town's Engineering Consultant, for peer review.

Mr. Corbeil said that they have submitted two prior project review letters. No review letter was provided yet regarding air emissions but they working on it. Odor and air emission information was received from the applicant on Friday morning so there was not time to complete the peer review and report. Mr. Corbeil received the applicant's traffic submittals and mentioned a couple of basic items. He said there is a waiver request regarding the location of trees, and that the amount of proposed parking is based on the max number of shift employees not total employees. Both of these requests will need Planning Board action.

The Operation and Management manual provided by the applicant contains a lot of information Woodard & Curran has asked for regarding odor emissions and odor complaints. It details what Fiberight staff is responsible for. The matter before the Board is whether this meets what the Board is looking for.

Regarding the comparison with EcoMaine, Woodard & Curran is working to verify whether the control technologies are comparable. The proposed complaint protocol that the applicant has developed will need input from the Board, including assigning designated contact(s) and taking into account impact on designees: workload, response times. If the Town is responding to odor complaints will this be in a recording role or reporting, which would need training – initial and ongoing. Mr. Corbeil said that having a single complaint contact number is ideal for staff workload and resident clarity.

He said we'll need to determine preferences regarding method of communication i.e. phone, email etc., and to implement some sort of follow up regarding what triggers DEP reporting to town. How and to whom?

Mr. Corbeil introduced Diane Morabito of Maine Traffic Resources. Ms. Morabito had requested a full traffic study which has been provided. Two addendums have been submitted that address most of our concerns. In terms of performance standards, she finds no sight distance concerns, no level of service (LOS) concerns at the site road. There are LOS concerns at the 95 off-ramp in the afternoon, and she suggested that the Board needs to determine whether it's concerned with that intersection.

Member Scott asked Ms. Morabito if she worked with the applicant on haul routes. Ms. Morabito said the applicant provided those. She noted that she has suggestions regarding signage and striping on the access road but that these will go through review under the Town Ways Ordinance.

Public Comments:

Chairman Weatherbee asked anyone wishing to speak in favor of the application please come up to the podium.

Rich Armstrong, Kennebec Road, said he has lived here all his life, loves the town. He said he is for the town. His parents moved to Newburgh because of taxes. This project will bring income to the town. He said that we need to look at what's right with the project, not what's wrong. The Town needs more tax base.

John Simon, 8 Horseshoe Lane, said he is not for or against. He said we could use the tax base. What roused his interest is that he is a retired professional engineer and has seen several editorials in the newspaper. One comment that concerned him is the air quality. He said 8 or 10 years ago there was an accident at Orrington, the chlorine tank exploded, and there was a plume and a whole neighborhood was shut down. Air quality during accidents needs to be considered. The amount of mercury emitted would be 25 times more than Orrington. He said he thinks that point needs to be refuted, or addressed. Horseshoe Lane has a lot of children around, that's the air they will be breathing. He saw this in writing in the newspaper from a professional engineer. He doesn't want slow doses of mercury pollution and is worried about younger people. Mercury needs to be eliminated. He asked if the tanks of ammonia are pressurized and has there been a plume analysis. He referred to the prevailing wind after from that area. There are many people on Daisey Lane, Westbrook Terrace – a lot of families live there.

Atty. Bearor advised members of the Board that if they review information that affects their thinking, such as a newspaper article, it should be put on the record so the applicant, the public and other members of the Board are aware that this is part of your consideration.

Resident Bill Lippincott said he had raised issues at the first hearing regarding air emission. Keith Bowden did analysis and by his calculations feels that the project exceeds federal standards regarding mercury, hydrogen sulfide. He referred to a May 19, 2016 letter from Mr. Bowden regarding the danger of storage tanks on the grounds.

Resident Joe Hornbrook, Main Trail said he is here to present new information. He said it feels like the engineering is still ongoing. Feels like its being rushed. He referred to the town's Waste disposal facility licensing ordinance as an ambiguous ordinance and asked whether this project is subject to the ordinance. He referred to Sec. 5.9 Nuisance Control and said that the burden of proof is on Fiberight to prove that they are not going to be a nuisance to me living on Maine Trail. He referred to the two boilers and four stacks (65' tall). He said post hydrolysis solids take garbage in at 5 tons/ hr and .5 tons wood. This will create odor and pollution. He referred to the open flare flame, similar to the landfill, which will burn 330 days a year. Carbon monoxide, NOx, PM, SO2, VOC's, HAPs. A new flare 1.8 miles from my house – same distance as current flare. He said I can smell the flare from landfill. Was worse when the landfill was operating but I can still smell it. At least 850 homes are within 2 miles and would be affected by emission or odor and higher levels of manganese and nickel. This is a dirty, polluting use. H2s gas makes trash smell, gas is heavier than air. (Mr. Hornbrook submitted a topographic map to the Board). He said the odor will come down the hill to a stream bed that runs behind my house, it will stink. The odor hotline is an admission that the plant will stink. He asked who will police the hotline. He said he has been hostage in my house from the landfill. When plant breaks down, and two days of trash collects, it will smell. This is a heavy industrial facility. He asked what processes are involved, and said this use is beyond the scope of Hampden's ordinances. The Ordinance did not contemplate this use. He wants to challenge the town's ability to permit this, and asked how he can do that.

Chairman Weatherbee stated that you have raised your issues to us.

Joe Hornbrook said there should be moratorium on this use. He asked if the town has followed Article 6 regarding the Landfill Oversight Committee. He said he doesn't want this facility. Maine is a big State, it could be elsewhere, not in proximity to 2,000 residents.

Chairman Weatherbee stated that the Planning Board is limited in what it can look at.

Atty. Bearor said that the licensing Board may or may not be applicable but, if applicable, it would be within the purview of the Town Council not the Planning Board.

Member Weldon asked Mr. Hornbrook whether, when he smelled the flare, did he report it. He asked what is the history of reporting odor.

Mr. Hornbrook stated he had not reported it. He said when he moved here he knew about the landfill, and knew it would be closed soon. He urged the Board to read the air quality report, saying that the project would generate tons per year of pollutants.

Mrs. Hornbrook, Main Trail, stated that she is not against the facility but is against it in Hampden. The proposed Hampden facility is ten times larger than the Virginia facility. She said that very little has been said in the hearing about health of humans and quality of life. Pollution is pollution, minor or not. Odor will come from trucks; don't believe odor can be controlled. There will be odors, complaints, calls. Odors will come down the utility corridor. She said this could affect a third of the population in town and pets. The generator at the closed landfill can be smelled from Main Trail. Mrs. Hornbrook has concerns about the project affecting the value of her house. Maine is big with lots of land. This does not need to be in anyone's backyard. She said she thinks that Hampden will go from being a community of choice to being the trash capital of Maine.

Mark Robson, Main Trail, asked about the impact of the project on deer and moose yards and asked whether it would adversely affect habitat. He asked what is the Ordinance on odor. He said no one wants to smell anything, and that if it does not meet the ordinance, then it must be voted down. He said there are hundreds of vernal pools on the property and asked what the applicant has done to identify and protect vernal pools. He asked what he should do when he follows a trash truck that's not covered. Who does he call? Who will pick up the trash that blows out of trucks? He said that the quality of life in Hampden is paramount. Mr. Robson stated he would rather pay more taxes than see this project go through.

Kathy Walker, 5 Old Coldbrook Rd. stated she has had a lot of experience with the landfill and the hotline that was established by Casella. She said the number went right to Casella, someone came out almost immediately, the town received a report, and the report showed up on Town Council agenda. She said that the latest flow chart provided by the applicant eliminated MRC's role. She said that the Casella hotline seemed to work.

Ernie Mayo, Sidney Blvd, said he moved here in 1977. He said that when Sawyer Mountain (the former landfill) closed was one of the best days of his life. He said Hampden will lose tax revenue because people will not want to move here because of the facility and the visible smokestacks and towers as well as the current landfill mountain.

Keith Bowden said that he was the source of the op-ed referred to by a prior speaker. He said that the mercury levels compared data he submitted to the Planning Board in April. He analyzed data Fiberight submitted that cited PERC facility source and Lynn Muzzie, MDEP, air emissions. The applicant submitted new information on Thursday. Available Control Technology post hydrolysis solids and wood being burned, acid gases, Sulphur dioxide. He said the proper

control is live injection. (He referred to a slide in the applicant's presentation). He said 33 lbs. per year of mercury would kick the project to the major source threshold under DEP. He said the data said 99.4 tons/yr. of carbon monoxide but he found 2.7 times that amount. There are still outstanding issues regarding carbon monoxide. After his March 23 letter to DEP, CES did additional testing. He said that the numbers he used were based on data the applicant submitted back in June 2015. Those numbers could kick them to major source category. He said the applicant is using numbers sampled in past month and disregarding older data.

Mr. Bowden continued, saying that the Ordinance section 4.1.7.13 talks about no unreasonable adverse effects and he talked about air quality. He referred to site plan sheet C101. He mentioned a March 30 memo from CES to Lou Pizzuti at DEP, and a May 19 memo he wrote that the last page (of 200 pages) talks about an underground 100,000 gallon wastewater storage tank, next to a 150,000 gallon wastewater storage tank. He said that Bangor is requiring storage to hold back two days of effluents. He talked about the possibility of adverse impacts to groundwater or surface water and asked what provisions were in place in the event of a breach. He said that the underground tank should be double walled with conductivity sensor and alarm. He said that underground tanks in the petroleum industry must be double walled. The above ground tanks, if breached, would go to anaerobic digestion tanks, he said he doesn't see any secondary containment on the site plan. He said if there were a major upset, explosion, the tanks contain methane. He said he was manager of a pilot plant in Gorham that had a dike built and secondary containment tanks.

Ivan McPike from the audience asked what does the law require.

Mr. Bowden said he did not know what the law requires. He said that best engineering practices would call for operational controls and alarms in sumps, and referred to the Ordinance Conditional Use standards. He said wastes are liquid, solid, and gas, not just solid waste. He does not think that the Ordinance provisions are being met. Mr. Bowden said that section 4.2.3.4 addresses dangerous emissions, but he does not see that applicant has submitted emissions controls to the Planning Board. He said that section 4.4.1 addresses some of toxics, but no secondary containment for tanks, potential for odorous emissions, still some work to be done to meet the zoning ordinance. He referenced a May 23, 2016 letter regarding air emissions and their relationship to the zoning ordinance.

Member Scott asked if he thought this needs further analysis.

Mr. Bowden stated he knows what enzymatic hydrolysis entails. The University of Maine study eliminated trashanol, said the economics weren't there. The Sept. 2015 proforma was in the Bangor Daily News, and that was the extent of the pro forma. He doesn't think industrial sugar production can be done. He said he has been a skeptic from day one.

Chairman Weatherbee asked if there were any other speakers. There were none. He said we have some more materials to receive from the applicant, and that the Board will table this matter to their next meeting on June 8, 2016.

Fiberight CEO Craig Stuart Paul asked for permission to speak and was invited to do so. He said that he came to the hearing to listen, and has listened to concerns of air emissions. He said that Fiberight is approaching this project with an abundance of caution, and employs four engineers and a PhD. He said the only way to prove to the public that you won't smell it is to operate it. He said there are no pressurized chemical tanks and that mercury emission are under the threshold.

3. New Business

A. Proposed Ordinance Amendments, referral from Town Council

Mr. Block summarized a memo from Town Manager Angus Jennings regarding proposed amendments to the Zoning Ordinance, Shoreland Zoning Ordinance and Subdivision Ordinance that have been referred to the Planning Board by the Town Council.

Planning Board Action: There was a motion made by Member Avery, which was seconded, to forward the draft to the Planning Board Ordinance Committee. Mr. Block asked whether a date would be set for the Ordinance Committee meeting. Chairman Weatherbee said that it depends on how the continued Fiberight hearing goes on June 8. Member Weldon agreed, stating that there are volumes of information to review for this permit application and he would prefer to postpone consideration of the Ordinance amendments until after the Fiberight matter is resolved. There were no objections. A date for Planning Board Ordinance Committee will be set upon conclusion of the Fiberight hearing and decision.

5. Planning Board Concerns - None

6. Adjournment
Meeting adjourned at 9:48 pm.

Respectfully Submitted,

Michael Avery,
Planning Board Secretary