

CAMDEN PLANNING BOARD
Minutes of Meeting
January 6, 2010

PRESENT: Chair Chris MacLean; Members: Richard Householder, Jan MacKinnon, Kerry Sabanty and Lowrie Sargent; Alternate Members Sid Lindsley; and CEO Jeff Nims

ABSENT: Alternate Member Nancy McConnel

PUBLIC COMMENT: No one came forward.

MINUTES:
December 2, 2009

Throughout: Mr. DeMichelle's name had been misspelled.

Page 3:

Line 29: "Mr. Glass said that inventories..."

Line 32: A comma was added following the word "considered"

Line 48: "...the Board discussed and have not gotten far."

Page: 8: Line 33: The wording of this line was revised: "Each proposal must be justified as having an overall positive impact on the corridor as a whole. Projects to revitalize a downtown, like the proposal formulated by the Downtown ~~Business~~ Planning Group, satisfy the funding criteria.

Page 10: Page 10 corrections have been added:

Lines 11 and 12 now read: "They plan on widening the boardwalk along the harbor, and will re-configure the remaining parking to accommodate emergency access so that there will be no net loss of parking spaces."

Line 14: "proposal for a federal grant and to access the expertise..."

Line 19: "the group ~~will meet~~ has met to discuss..."

MOTION by Mr. MacLean seconded by Mr. Sabanty to approve the Minutes of December 2, 2009 as amended.

VOTE: 6-0-0

DISCUSSION ON PROPOSED PESTICIDE AMENDMENT

At the request of the Board, Mr. Nims had written to about a dozen property owners who would be impacted by the proposed amendment that would ban the use of the application of "cosmetic" lawn chemicals at multi-family rental units and nursing home facilities. One of the invitees (Bob McCuen) had sent an email for the Board's review. Members of Citizens for a Green Camden, the sponsors of the proposal, were also present, but would not be offered the opportunity to comment this evening – they can offer rebuttal at a later meeting. They had sent an email regarding a change in wording to their proposal which the Board had received.

Jeff and Rosemary Weymouth own and manage Town House Estates I and II – low-income multi-family units off Washington Street, and Mrs. Weymouth came forward to offer her comments:

- She understands the Board has been working on this for some time – she was surprised to learn of it in the letter – and wonders why they weren’t contacted earlier in the process. The Chair corrected this misperception and informed her that work was just beginning and that there would be ample opportunity in the future for everyone to offer further comments.
- They oppose any restrictions the Town would impose on their property unless it applies town-wide. The Chair informed her that the Board was considering an amendment offered by a group of citizens – they did not write this amendment, and it was not necessarily true that he or other members of the Board agreed with the way it was drafted.
- Mrs. Weymouth has just received the invitation and materials. She went to the Committee for a Green Camden’s website wasn’t sure where this amendment was headed, and thinks that needs to be made clear. She did not have time to do much research, but she wonders what kind of evidence there is to support the need for this amendment. Does the Town know for sure that there are chemicals being applied at multi-family housing units and nursing homes? They themselves don’t use lawn chemicals on their properties, but don’t appreciate being told they can’t use them if they choose to do so, especially when single family home-owners, who may apply more product and do more damage, aren’t being addressed.
- She read the current ordinance (Town Pesticide Policy) to say they must use a licensed applicator, and asks if that is so. Mr. Nims clarified that the Town’s Pest Management Policy applies only to Town-owned property.
- She wonders why requiring applicator to follow “Best Management Practices” isn’t sufficient to control any problem. From her reading, she thinks the problem comes from misapplications and not from the use of EPA approved chemicals. If they were to apply chemicals, they would hire a licensed applicator so they could be guaranteed the work would be done correctly.
- She asks if all the property owner/managers have been informed of this amendment, Mr. Nims replied that 12 letters were sent out, but he doesn’t know if they reached everyone - she quickly counts 14 – she thinks everyone should be contacted.
- Going to the Maine Board of Pesticides Control, she looked at ordinances from other towns and they seem mostly to apply ~~to~~ to woodlands and not to residences - and she wonders whether there is a legal basis for this proposal going forward.
- She contends that there are no pesticides used in their complexes, but that you could find more children in the area on Pearl Street from Park to Free Streets than at their units. It is not right or appropriate to single them out. If there is truly a problem then make the ordinance town-wide.
- Finally, she found the letters from the amendment’s sponsors insulting – it implies that property owners don’t care about the problems resulting from chemical applications – that they are not concerned for their tenants - and that is not true.

The Chair stated that there is still much for the Board to learn about this subject, and that they will be holding other work-sessions to give interested parties an opportunity to comment during the long process to consider this amendment. They are just beginning and are treating this amendment request just like any other – nothing is going to happening without hearing from many more people and deciding how to proceed. June is as soon as it could appear on the ballot, but it could be next November or even later. He hopes that Mrs. Weymouth will stay involved

and come hear discussions because it is possible that some of her concerns could be removed by hearing arguments that other people make.

Mrs. Weymouth left copies of her research with the Board for their review.

Jay Bakely: Owner of Balsam Hill Organic Lawn and Landscape Management. Mr. Bakely was present for two purposes:

- To ask the Board to consider the impact of lawn chemicals on chemically sensitized citizens. His child has lead poisoning and, as a result, has a hypersensitivity to many chemicals. Children have a reduced capacity to eliminate chemicals from their bodies already, and a child who is sensitized has even more problems dealing with exposure.
- He wanted the Board to know that there is an alternative available to property owners if they don't want to – or can't – use lawn chemicals. He believes that organic turf management offers the following benefits: reduced mowing reduced water needs, less damage from stress in hot or wet weather – resulting in reduced costs over time. He believes that his approach reduces the risks to people “at risk”.

Mr. Sargent asked Mr. Bakely if all synthetic lawn chemicals are toxic. Mr. Bakely offered that there is reason for concern based on the history of lawn chemicals that were once considered safe even for home owners to apply that are now banned. Mr. Bakely responded to the question of whether or not organic lawn chemicals could be toxic if over-applied by saying that over-use of any product is of concern.

Rick Mitchell: Quarry Hill: Mr. Mitchell is in charge of lawn and landscape care at the Quarry Hill complex – both the condo units and the nursing home. They responded to pressure from the same people involved here to stop the use of lawn chemicals all together, they complied and now only spray when there is a problem like poison ivy.

- Thinks the Town should show their official support for the proposed amendment but make compliance voluntary. To make it mandatory creates an uneven playing field for their competitors who don't have the same restrictions. In response to a question from the Chair, Mr. Mitchell said he thinks it is unfair because it is more expensive to use organic products and it is a more labor intensive management practice. Because their maintenance costs will be higher, Quarry Hill's competition will have an advantage when setting their budgets.
- If the Town's concern is poor application practices, then applicators should be required to do a better job. He believes applicators should be licensed so the work is done right – people over-applying pesticides cause many problems because they don't read the bags.
- If concern is exposure to children playing, then why aren't the schools included? They are the biggest users of lawn chemicals around. Mr. Nims confirmed that school property is not town-owned – it is owned by the school district – and the Town's Policy does not apply.
- If this amendment isn't voluntary, then it ought to be applied town-wide. What is going to happen if there is a big outbreak and Quarry Hill turns brown and dust starts blowing all over, how will that be handled? They are really trying – they want to be good neighbors and meet with Association members to work out these problems.
- People are more educated today about pesticides than they were ten years ago, but what they know today may scare them in 20 years – people have to be careful of overuse and use chemicals correctly. In his opinion, the chemicals are dangerous but he doesn't think he has the right not to tell people what they can and cannot use and neither does the

Town. He thinks licensed applicators need to be testing the soil to make sure they haven't exceeded application rates.

- They care for 26 acres. He believes that organics are more expensive to use – chemical pesticides must be cheaper to use or they would have stuck with organics and not created chemical pesticides to begin with.
- He re-stated that the proposal ought to apply town-wide and the Chair agreed that, if the chemicals are dangerous and harm children and cause birth defects and illnesses in people with lead contamination, then it would apply to everyone in town as much as it does at Quarry Hill. Mr. Mitchell asked if there were other places where chemicals were banned like this. The Chair replied that the State of Maine regulates their property and the Town of Camden their property, and that there are other places as well. He wasn't familiar with how those regulations were written.
- In response to questions concerning his statements regarding the use of chemicals on school playing fields, Mr. Mitchell reported seeing bags of product with “cross-bones” on the sides being applied in spreaders to these fields – he does not know what the product is however.

Mr. Sargent asked about Quarry Hill's specific program for chemical applications: Mr. Mitchell replied that they hire out all spraying to licensed applicators and that the companies offer options for chemical and organic care. Quarry Hill has gone green and doesn't use any chemicals. The last applicator he spoke with at Quarry Hill said that he applied 1.75 tons more of the organic product than he would have if he used synthetic. Mr. Sargent said the Board is interested in bringing in applicators that do large scale applications so they can learn more about chemicals and costs.

Ms. MacKinnon is interested in knowing about pest problems that can only be controlled synthetically. She is also concerned that the amendment has been changed to include pesticides and is no longer limited to cosmetic herbicides. The Chair noted that the Board hasn't yet made that decision and they will need to think about what direction they will take in going forward with this amendment. They need to discuss the Planning Board's priorities – this is not the only important priority for work at this time. They need to decide whether to address pesticides, herbicides or both, but they are not close to that point.

No one else came forward to speak. The Board asked Mr. Nims to next invite commercial applicators to offer comments. They agreed to stop the discussion of the amendment until it came time to go over the priorities listing for work to amendments.

DONWTOWN ZONING PROPOSAL

The Board will put further discussion regarding the historic features of downtown buildings on hold until they can meet with the Historic Resources Committee to discuss a proposal for a separate amendment to accomplish this review. Otherwise, they will continue to work on finalizing a Design Standards amendment to Site Plan Review.

GATEWAY 1 UPDATE

Don White, Camden Representative to the Interim Advisory Board, informed the Board that the one-year deadline to comply with the Action Plan has not been formally extended. Next week

the Local Action Committee will meet and there may be word then. A subcommittee will make the formal recommendation to the full committee, and perhaps the subcommittee vote will be taken when they next meet. It appears now that there are many communities that won't make that deadline, so there is every expectation the deadline will be extended.

Mr. White received a copy of the Local Action list of changes that need to be made to the Comp Plan and thinks that there are some that should be very easy to complete. After discussion, the Board agreed that the transportation issue would be the hardest to address and agreed to try to find members for a subcommittee that would work on proposals to make the necessary changes. The Chair agreed to serve on that subcommittee as did Ms. MacKinnon. The Chair believes the Board should move forward as if the deadline for a Town-wide vote is this November. Mr. Nims was asked to contact some former Planning Board members to see if they would be interested in working on the project: names mentioned were Jim Elliott, Kelley Macomber, and Jimmy Kierstead – the Town's Alternate Member to the Gateway 1 Interim Committee and former Board member.

REVIEW and PRIORITIZE POSSIBLE ORDINANCE AMENDMENTS

The Board had been given a list of 25 possible Ordinance amendments that had already been somewhat prioritized by Mr. Nims. The first priority was obviously the work to the changes required by Gateway 1 since the Select Board vote had committed the Planning Board to that work already. Mr. Nims was asked to select those amendments that he would recommend as more urgent than others:

1. The six Shoreland Zoning Amendments that the State says must be implemented by this coming June.
2. Survey required when within 10 feet of coastal wetland setback: Recently adopted changes to the Shoreland Ordinance have made it more difficult for the CEO to determine the new measurement point to determine compliance with requests involving the coastal setback. It used to be fairly easy to visually determine the high-tide mark, but now the starting point is the spring high tide mark and that is not obvious. Mr. Nims believes the only accurate way to find the setback line is through a survey, and he would like to formally institute that request. Since the recent changes, he has been asking for surveys without authority from the ordinance, and has had no complaints, but he thinks this change is necessary to prevent problems in the future. If someone doesn't want to go to the expense of a survey they simply have to be at least 15' beyond the estimated setback line.
3. No ZBA approval for parking trust fund annual fee: The way this amendment was written originally, the ZBA has to grant a variance from the requirement. It doesn't seem necessary for what will be a repeat request, but he would keep the permanent purchase of spaces under ZBA review. It is expensive to the Applicant and time consuming for him and the ZBA members for a routine approval.
4. Mandatory Use Permits: Right now, the only way the CEO is made aware of changes in ownership of a business is if the new owners (or the current owners) are requesting a change of use. Mr. Nims believes it is important to head off any problems with changes to business

ownership, is to require that all new businesses have a Use Permit no matter if it is the same use or not.

He would also like to change the requirement that building permits be published in a newspaper to one that requires posting on the Town web-site instead. But the Board agreed that they would limit the proposals to five to ensure they could get the work done by the Select Board's April deadline. When Mr. Nims suggested that those amendments that could be considered "housekeeping" changes could be included in one Warrant Article, the "to do" list was revised to include a couple other changes that fit that category:

The side setback requirements in the B-3 District need to be brought into consistency with the rest of the Ordinance. That change plus the Use Permit, the Parking Fund change, and the building permit listing change will all fit the "housekeeping" category.

There has been a renewed request by Beedy Parker to include a two week delay in proceeding with demolition of a building, but the Board put that on hold as well as Harold Wright's request for a High Elevation Forestry proposal. Other items of high interest were also put on hold to control the work load facing the Board:

- The Pesticide Amendment: There is still too much information to gather and review to get this done. In addition, this was the last request made for an amendment, and it didn't seem right to take it ahead of others.
- The Property Maintenance Ordinance: many people are interested, but it just didn't reach the priority level at this time.
- Rezoning the west side of Cobb Road and reducing minimum lot sizes for non-sewered lots were also held: the Board has decided in the past not to tackle these requests, and their decision stood.
- Home Occupation: work to revise the Ordinance has been presented to the Board, but they had not discussed the revisions in enough detail to move forward at this time.
- X-rated shops: Comments had been received from citizens during the public discussions on downtown zoning, but the caution from Attorney Bill Kelly is that the Board cannot simply act to ban this kind of business altogether without interfering with constitutional rights to free speech, etc. They are not ready to decide where in Town these businesses would be allowed in order to avoid a total ban.

- Changes to the Subdivision Ordinance are not a priority because there are no applications in the pipeline, and no urgent need to make these changes.
- The Wind Ordinance is ready for the Board's review, but there is not time to work through what could become a controversial new ordinance.
- A request to address noise was also put on hold – there have been no other complaints received about noise coming from High Mountain Hall – the subject property an abutter suggested was a nuisance that needed solving. The owner has stated that she is going to install air conditioning and that should help control the noise in the summertime that comes from open windows.

Although they do not vote on the creation of a TIF District(s), the Select Board is interested in hearing what projects for improvements the Planning Board considers important.

After April the Board will resume work on the Historic District and the Pesticide Amendment proposal among others.

The resulting immediate schedule for the Board looks like this:

January 20th: Review the proposals (three at this time) for Gateway 1 grant money, and prepare a recommendation to the Select Board who will have the final Town vote. The actual decision on funding will be made by the Funding Subcommittee of the Gateway 1 Interim Committee.

Each applicant will be given ten minutes to make a formal presentation and ten minutes will be set aside for Board deliberation. The deadline for the grant applications is March 31st, so the Board does not have to make a decision that evening. Applicants will be heard in the order by which their proposals were submitted.

DISCUSSION:

1. *Site Plan Review pre-applications:* There were none.

2. *Minor Field Adjustments:* There were none.

3. *Other:*

The Select Board discussed making a request to the Planning Board to consider televising all of their meetings, not just Public Hearings. The Board agreed to do so.

There will be an update on the progress of the TIF proposal on January 14th at which projects to be funded for improvements will be discussed and proposed.

There being no further business before the Board they adjourned at 8:15 pm

Respectfully submitted,

Jeanne Hollingsworth,
Recording Secretary