

**Meeting Minutes**  
**Planning Board**  
Wednesday, April 3, 2019  
Newbury Municipal Offices

**APPROVED**

**Members Present:** Rachel McManus, Chair; Peter Paicos; George Morse; Larry Murphy; Kristen Grubbs; Martha Leahy (Associate Member)  
**Staff Present:** Martha Taylor, Town Planner

Rachel McManus, Chair, called the meeting to order at 7:02 p.m.

**A. March 2019 Financial Report**

R. McManus read the March 2019 Financial Report.

**B. Town Planner's Report**

M. Taylor reported that Jeffrey Hofmann, Millennium Engineering, Inc., for 23 Sled Road/131 Newburyport Turnpike, Owner/Applicant: William DiFrancesco, Stowaway Storage Newbury, LLC, dba Newbury Self Storage, would not be appearing tonight. There were some additional corrections he needs to make, he will appear April 17, 2019. That same night there will be another appearance concerning the Tenney's court ANR.

M. Taylor reported that the Board received a communication from the engineering firm AECOM about Mass DOT is expanding its intelligent transportation systems device coverage to include additional devices based on gaps in coverage.

M. Taylor said she got an inquiry from John Grossi, previous owner of Latitudes, who is also involved in the Thoroughbred racing business. He is looking for Chapter 61A land on which to locate a race track. M. Taylor said she had to verify that is an allowed use.

M. Taylor reported that they have been working on a project for two years to get a solar installation on the landfill. She said she met with the vendor this morning. Due to some changes the project will have to be reconfigured some.

**C. Update on Municipal Vulnerability Preparedness (MVP)**

K. Grubbs informed the Board that there is a round of MVP Action Grants. There is funding available to communities that have completed their plan. There was a meeting to talk about whether Newbury is interested in applying. There is an ongoing discussion about the Vulnerability of Plum Island Turnpike, so that would be a joint venture with Newburyport.

**D. Continued Public Hearing – Open Space Residential Development (OSRD) Special Permit Application, 170 Orchard Street, Map R-20, Lot 43A; Applicant: Charing Cross Realty Trust**

R. McManus opened the public hearing at 7:10 p.m.

Bill Luster, Charing Cross, came before the Board to give a recap of the project so far. He said that he has been doing real estate development since 1996 and he has had the same engineer, architect, contractors, and attorneys for the most part. He got a call from the engineer's office saying that Mello would not be able to attend. He asked his attorney to review how much it was going to cost him to change his engineer, this is the third time he has not been able to make it to the meeting.

B. Luster said that they did submit a couple pieces of information from Eastern Land survey. We are missing the soils test still, we will have to wait for the weather to allow it. He said he is so frustrated by this that he needs to find out if he makes a change in his team, what that would do to the schedule and the application. He asked the Board for their patience and any questions surrounding this issue.

R. McManus said that she can understand the frustration. She suggested withdrawing without prejudice, regrouping and then returning to apply again.

B. Luster said that he would rather not do that tonight, but that might be a good option.

L. Murphy asked what the status is for the option at 33 Pearson Drive.

B. Luster said that has been extended as well. He said he would send along the documentation to M. Taylor. It is extended through the Summer.

P. Paicos commented that the difficult thing is the public keeps showing up.

B. Luster apologized to the public who were attending the meeting.

G. Morse said that they would not necessarily mean funding a new application.

M. Taylor said that they would need to submit a new application, but any testimony from before could be incorporated and the Board could consider waiving the application fee.

R. McManus asked if the attorney was long term.

B. Luster said that Jeff Roelofs is new because they try to have an attorney from the area that the project is in. B. Luster is happy with J. Roelofs.

P. Paicos brought up the lack of a soil test, which has been an issue from the beginning, prior to the recent issue with the engineer.

R. McManus asked what B. Luster is proposing.

B. Luster said an extension to one of the next couple of meetings to see if we can get the ball rolling with a new engineer or someone more responsive.

L. Murphy said that it seems from what he is telling the Board that there is no end in sight and that there has not been much progress since November.

B. Luster said that he disagrees there has been communication back and forth between his engineer and the peer review engineer, that is not an insignificant amount of work.

R. McManus said if the Board entertains an extension it is not going to be a two week or four-week extension – it will have to be enough time for the applicant to find a new engineer and see if he will accept the work that has already been done.

B. Luster suggested that they extend to the next meeting and that they present their plan for moving forward then, not the work plans, but how they are going to move forward or if they will request to withdraw without prejudice.

R. McManus said with the understanding that they will not entertain any new engineering plans or details, the Board might consider that and assuming that his attorney will accompany him.

R. McManus opened comments up to the public.

Craig Loth, 144 Orchard Street, said that he is frustrated that they have come to several meetings and they are not getting any answers.

Channing Howard, 61 Central Street, said he spoke to Steve Fram, Board of Health, and asked if the health agent was present when they dug the first perc holes and if she had approved them.

M. Taylor said to her understanding Deb Rogers was out there when the soil testing was first done. What is on the drawing has been witnessed and approved.

C. Howard says that S. Fram said that the perc holes have to be dug where the sewage treatment will be installed, not in the middle of the field.

M. Taylor said correct. That is what they have shown for the shared system.

B. Luster said that previous to Charing Cross' involvement there were some perc tests done in the middle of the field. Once they got involved, they did soil testing to determine where they would put the septic system. They are now in the process of doing additional soil testing.

L. Murphy asked if the additional testing is for each of the 14 lots in the yield plan, because that is a concern here to see that we have a viable yield plan here.

B. Luster said that he did not think it would be for all of the lots.

L. Murphy said the yield for the Open Space Residential Development is dependent on the yield plan shows as viable lots.

M. Leahy asked how many people were attending for this public hearing and how many times they had attended.

K. Grubbs said that we have requested additional information, until we have that it doesn't make sense to move forward.

R. McManus said it is not unreasonable to continue until the next meeting, where we will talk about how you will proceed and nothing else.

K. Grubbs asked if this can be prepared for the next meeting.

B. Luster said that it is up to the Board he would not be apposed to a month from now, but he will have an answer before two weeks.

**Motion:** a motion was made by P. Paicos and seconded by K. Grubbs to continue this public hearing to May 1, 2019 at 7:05 p.m. The motion passed unanimously.

**E. Continued Public Hearing – Modification to a Previously Approved Site Plan, Newbury Golf Center, 131, 133, & 151 Scotland Road, Map R43, Lots 2, 11 and 4B; Applicant: Erik Sorensen, President, Newbury Golf Center, Inc.**

R. McManus said that she would like to continue the public hearing. The Board of Selectmen, due to various circumstances, continued the public hearing to April 9, 2019. This Board is proposing they also continue to April 9, 2019 and have a joint hearing with the Board of Selectmen.

Jeanine Cunningham, 143 Scotland Road, asked if the Board could tell them how the site walk went on Saturday.

R. McManus said it was just to see where the site is after the winter, not a whole lot has changed. It was more for the Boards to see where the site is as they discuss how the applicant will move forward.

J. Cunningham asked if they got to the wetlands in the back, there was a lot of brown runoff coming from there this winter.

R. McManus said that that was their understanding, but that was not the case when the Boards were out there.

Craig Loth, 144 Orchard Street, said that it is a terrible eyesore, if it can not be finished in a timely manner, it should be returned to its original state.

**Motion:** A motion was made by P. Paicos and seconded by K. Grubbs to continue the public hearing for the Newbury Golf Center to Tuesday April 9, 2019 at 7:15 p.m. The motion passed unanimously.

**F. Review of the Warrant**

M. Taylor reported that the Board of Selectmen (BOS) had some concern about the general bylaw concerning roosters so the BOS decided not to put that on the warrant.

Concerning the marijuana bylaw amendment there was some difference of opinion whether Daycare should be included or not, there was also some concern about reducing the residential buffers. There were also some questions about the wireless amendments, concerning why the buffer is being reduced from 900 to 300 feet, there may be unintended consequences.

Leslie Matthews, 11 Main Street, said that the wording dwellings may be misconstrued by people who are going to be taking out the permits and she said that the builder should not be allowed to live on the property.

M. Taylor said that if the owner was there, they could still live in the existing house.

**G. Liaison Reports**

M. Taylor reported that she is attending a MVPC conference the next day on transportation. K. Grubbs reported on MVPC stormwater collaborative meeting and they announced that they have hired a new environmental planner. K. Grubbs explained what the Municipal Separate Small Stormwater System (MS4) is.

**H. Continued Public Hearing – Site Plan Review Application for Proposed Rehabilitation of Newbury’s Upper Green, bounded by High Road, Green Street, and Hanover Street, Assessors Map U-09, Lot 75; Applicant: GreenER, c/o Dr. Keith Ablow**

R. McManus opened the continued public hearing.

R. McManus said that the Board has a request from GreenER to accept their request to withdraw without prejudice.

R. McManus read the portion of a letter from GreenER that was relevant to this topic.

K. Grubbs asked if they suggested if they would come back in a different way.

M. Taylor said that GreenER said they are trying to break the project down into more discrete things that the Selectmen would like to see done. Then they might donate funds for specific things, like replacing the flagpole.

Fred Thurlow, 26 Marsh Ave, said that he was at the Selectmen’s meeting and said that we don’t want to drop this ball, GreenER had good intentions, not everyone agreed with everything they wanted to do. They did offer to try to be a fundraiser to do this. There are already sums set aside for the beautification of the Green. He said there are lots of things that can be done right now to improve the Upper Green. We have just got to stay on top of it.

F. Thurlow also had a general comment about the audience’s ability to hear what the Board was saying.

R. McManus commented that when things are proposed, it seems that people's comments can be overwhelming in number. It might help if people could be more aware of respect for whatever is happening. Maybe things could have been worked out. It seems that when someone proposes something, there is always someone there to take their legs out from under them.

**Motion:** A motion was made by P. Paicos and seconded by L. Murphy to accept the request from GreenER in the letter dated March 21, 2019 to withdraw the Application without prejudice.

T. Matthews asked if GreenER would have to go back before the Conservation Commission to ask to withdraw.

M. Taylor said that the Order of Conditions has not been filed, because the Conservation Commission was waiting for additional information. They don't have the other approvals. They have already closed the hearing. It may be a moot point.

The motion passed unanimously.

On a motion made by L. Murphy and seconded by G. Morse, the meeting was adjourned at 7:56 p.m.

Respectfully Submitted,

Emily Noble  
Planning Board Administrator