

**SOMERSWORTH PLANNING BOARD  
MINUTES OF WORKSHOP MEETING  
SEPTEMBER 12, 2011**

**MEMBERS PRESENT:** Dave Witham, City Council Representative, Paul Robidas and Dan Proulx.

**MEMBERS ABSENT:** Bill Sweeney, Chairman, Anthony Delyani, Vice Chairman, Bob Belmore, City Manager, Ron LeHoullier, Erwin Grant and Matthew Durkee.

**STAFF PRESENT:** Dave Sharples, City Planner and Tracy Gora, Planning Secretary.

The meeting was called to order at 6:01 p.m.

1) PUBLIC MEETING

A) Low Impact Development (LID) Stormwater ordinance review and discussion.

**Brad Mezquita** from Appledore Engineering was present for the workshop to review his suggestions and first for a Stormwater Management Ordinance (see attached document).

Mezquita referred to the handout and went directly to page six. Stated that the NH Department of Environmental Services (NHDES) has a manual and model ordinance that is good to go by. Stated that he doesn't agree with everything from it but that he took a lot of stuff from there.

Sharples asked if the NHDES incorporated a lot of this into their Alteration of Terrain standards.

Mezquita replied yes and stated that if there is more than 100,000 square feet of disturbance then it has to be followed. Stated that the City can just regulate from 0 to 100,000 square feet.

Witham stated that he received communications from the Town of Newington regarding nitrogen in the Great Bay and that it is already being worked on.

Mezquita stated that stormwater plays a big part with nitrogen. Stated that towns are saying that if the EPA is going to make them upgrade their wastewater facilities, then it should be all or nothing. Stated that he thinks Somersworth meets the threshold.

Sharples stated that Somersworth does.

Mezquita referred to page six of the handout and stated that he started trying to outline changes that the City should look at incorporating into their regulations. Suggested making it an ordinance on its own. Stated that they have to determine where the new regulations will live; like if it should be part of the Site Plan or Subdivision regulations, but stated that it will have more teeth if it is its own ordinance.

Sharples stated that an ordinance would have to go to Council for approval where the Planning Board could do changes to the Site Plan or Subdivision regulations.

Mezquita stated that ordinances have more teeth in the legal process.

Robidas asked if everything would have to go to Council if it was an ordinance then.

Sharples stated that a stand-alone ordinance would have to be adopted by the Council.

Proulx asked what the chances are that it would pass Council.

Robidas offered that if the Council is educated on the subject then it should pass.

Sharples stated that it could be in the Site Plan or Subdivision regulations.

Mezquita stated that it doesn't need to be decided right now.

Robidas asked if it would make sense to invite the Council to the workshop meeting or wait until the process moves forward.

Witham stated that the Council leans on him to give Planning Board reports. Stated that he can talk with the Council as this moves forward and decide if it is going to be an ordinance.

Mezquita stated that if it is part of the Site Plan or Subdivision regulations then it is easier to change if something doesn't work.

Sharples stated that he wants to think of a scenario where it would be better in the ordinance rather than the Site Plan or Subdivision regulations. Stated that the only examples he can think of would have to go before the Planning Board anyway.

Proulx asked about if it was a City government proposal.

Sharples stated that the City government is exempt from all regulations and ordinances. Stated that ordinances regulate everyone, even single-family homes.

Mezquita stated that you wouldn't want to regulate a single-family home but you would want to regulate a new subdivision. Stated that if someone tries to phase a project then there is language from the State that allow you to include all development within a certain time.

Sharples read the applicability section from the handout and stated that it includes development that is disturbing 10,000 square feet or more.

Mezquita stated that you can exclude single lots if you want.

Proulx stated that you often clear more land than is needed for the actual size of the house.

Sharples showed an example on the easel and stated that it forces people not to disturb more than 10,000 square feet for a single family home.

Proulx asked about changes in regulations for lot area.

Sharples stated that this would be for existing lots of record.

Mezquita stated that they can choose to exclude those individual lots.

Witham asked if that would trigger development of a single-family home to have to come before the Planning Board.

Sharples stated that it would only be the case if it is a stand-alone ordinance.

Mezquita stated that there should be waiver-ability.

Sharples stated that they already have that in the Zoning Ordinance but that they might be able to build in a waiver process through the Planning Board. Stated that work in the wetland buffer has to go to the Conservation Commission before going to the ZBA. Stated that he is concerned about the cumulative impact of development.

Mezquita stated that the five-year timeframe for phase development came from the NHDES.

Robidas stated that there aren't going to be too many more big box developments and that it is all going to be additions and rehabilitations.

Mezquita stated that this applies to new and recurring development.

Witham stated that he thinks that five years is good for phased development.

Sharples asked about if a proposal is to put in a shed but it puts the total phased development to over 10,000 square feet.

Mezquita stated that a wavier can be requested.

Proulx suggested having an administrative waiver.

Sharples stated that it would depend on the facts of the request.

Witham stated that in the applicability section, it is leaning on the State regulations and that they are not just arbitrary numbers. Stated that there is a foundation to it.

Mezquita stated that he thinks the NHDES went to 20,000 square feet in a model ordinance.

Witham asked if the fact that Somersworth is small and has the has the highest rate of impervious surface allow the City to be tighter.

Mezquita stated that there is a balance. Stated that it is all defendable because of Alteration of Terrain permits and because other communities have it.

Sharples asked what the City of Dover does.

Mezquita stated that they don't have anything in their regulations yet. In handout, moving to section after applicability stated that it is going to a two-year storm event now. Stated that they start balancing volume in addition to flow rate.

Witham referred to the third bullet point regarding off-site disposal and stated that a project on High Street comes to mind where the discharge was off-site.

Sharples stated that if it is declared that the system can adequately handle the stormwater then it doesn't need to go before the City Council. Stated that it would have to go before City Council if the system needs to be altered.

Mezquita stated that he has seen projects where the detention pond is off-site and the pipe can't handle more stormwater so the applicant would be responsible for increasing the size for drainage-not the City.

Sharples stated that currently the City doesn't regulate volume, it just regulates rate.

Witham stated that he is wondering if this really needs to go before the Council because this isn't really the world in which they live.

Mezquita offered to change City Council to City Engineer or designee.

Sharples suggested changing it to the Department of Public Works and Utilities.

Witham stated that he doesn't think it belongs with Council.

Sharples stated that he would like language that captures the scenario of someone cleaning out the site but doesn't require an Alteration of Terrain permit or a Timbercut permit. Stated that there are situations when people will clear a site but don't come in to develop it until years later. Stated that a meadow is different from a forest. Stated that he would like to formalize it but that maybe it's already captured with the 10,000 square foot threshold.

Mezquita stated that according to State regulations, if you leave the stumps, it doesn't trigger a permit. Referred to the bullet point regarding groundwater recharge and stated that the wording mimics what the State has. Stated that the "A, B, C and D" refer to soil types. Stated that the State regulations mandate having a soil scientist and asked if the Board would want that requirement or use soil maps.

Sharples stated that he doesn't find the soil maps to be accurate.

Witham stated that he likes the idea of requiring a soil scientist but asked about the cost.

Mezquita stated that it is usually about \$1000.00

Sharples stated that they require a lot of development to do it anyway.

Mezquita stated that the Alteration of Terrain permit says that test pits just have to be where the development is going and not for the whole site. Stated that you need to know the soil group, percolation rate and where the seasonal high water table (SHWT) is to know how to design it.

Witham stated that he agrees that a soil scientist should be used.

Robidas agreed.

Sharples stated that they need to be certified.

Mezquita stated that he will put that in.

Proulx asked if wording can be put in saying that the number come from that State, just to save time on discussion.

Mezquita stated that infiltration rates can be by infield percolation rates or by NRCS book for the most restrictive layer.

Sharples stated that he would like to add some clarity to that.

Mezquita stated that you want to have separation between the SHWT and the infiltration mechanism.

Witham asked what groundwater recharge is.

Mezquita replied that it is infiltration. Stated that it is prohibited in high-load areas like a gas station.

Sharples asked how they know a high-load area and what are the contaminates. Stated that there should be clarification on that.

Witham stated that the handout references 15% slopes and asked if that number interferes with anything else in their regulations because he wants to be consistent.

Sharples stated that 20% is mentioned elsewhere in the City's regulations.

Mezquita stated that it can be maintained for consistency. Referred to the next page of the handout and explained the State formula for water quality volume. Asked if the City has the watershed defined.

Sharples stated that there is a map but that he will make a new map and title and date it so it can be referenced.

Robidas stated that it can be used to see where water goes from a specific point. Asked if it should then be done with Lily Pond.

Sharples stated that they know of pollution issues with Willand Pond.

Witham asked about nitrogen load.

Mezquita stated that total impervious area is already addressed in the ordinance.

Sharples asked for clarification on the escrow for the parking lot.

Mezquita stated that applicants don't always need all of the parking that the regulations require. Stated that having an escrow can allow for less pavement as long as the applicant can prove that they can comply.

Robidas asked when you can force the hand to have the applicant build it.

Mezquita read from the sample regulations and stated that it is hard to enforce.

Sharples read from the existing regulations regarding allowing for less parking.

Mezquita stated that you can encourage less parking but then what happens later on if it is determined that the property needs more parking.

Proulx stated that there is no wrong answer but that public safety is important.

Robidas asked if that goes against what they are trying to do.

Mezquita stated that it can be taken out if it is already addressed in the existing regulations. Referenced the section regarding higher pollutant loads. Gave examples, like gas stations, from the handout.

Witham mentioned the use of a contractor's office/storage yard. Stated that it is a use that they often see.

Robidas stated that they are currently not well regulated.

Sharples stated that there need to be a reporting requirement.

Witham stated that stormwater reporting is done by the property owner and that he feels there should be third-party audit just to make sure everything is going properly.

Mezquita stated that you have to consider who hires the third party.

Sharples asked how the City can protect itself.

Witham stated that there can be language stating that it is subject to third party review.

Sharples stated that in the event the City doesn't keep track of annual reports they can always go back to it if it is in the regulations.

Robidas stated that he can see it going by the wayside if they're not going to enforce it.

Sharples stated that they will have to try to figure that out.

Proulx suggested having an escrow.

Witham asked if they can have an LID impact fee.

Sharples used the example of having a stormwater park where the City owns the facility. Stated that the project would hook into the system and the owners pay a fee to the City to manage the stormwater.

Robidas stated that it would be a full time job.

Witham stated that he was thinking more of a one-time, upfront fee, similar to third party review for site plan applications.

Mezquita asked if a City Engineer could do third party work.

Sharples stated that his concern is how they collect the fee. Stated that the requirement would have to live in the application.

Robidas suggested checking with what other communities do.

Mezquita stated that he can't think of other communities that do it. Stated that the last bullet item in this section refers to upkeep being the owner's responsibility, not the City's.

Sharples suggested mentioning some sort of association.

Witham stated that it should be a civil matter.

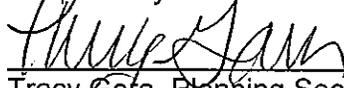
Mezquita stated that this conversation with the Board has been useful and that he needs to incorporate changes and do a draft document.

Robidas thanked Mezquita and stated that he has been great to work with.

Mezquita stated that they probably need two more of this kind of meeting. Stated that they need to think about having this as an ordinance or a regulation. Stated that he is leaning toward having it in the Site Plan Regulations so that this Board can handle their own changes.

Meeting adjourned at 7:20 p.m.

Respectfully submitted:



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Tracy Gofa, Planning Secretary  
Somersworth Planning Board