

## **Minutes for Tuesday, July 25, 2017 Special Planning Board Meeting**

**1. Call to Order:** The Special Meeting of the Planning Board (PB) was called to order at 7:05 PM.

**2. Introduction of Attendees:** Present were: Chair David Johnson, Secretary Laura Chadbourne, Members Kevin Taylor and Morris Gibely, alternate Member Ron Kiesman, and CEO Larry Lyle. Absent: Member Dan Cousins. Also present: First Selectman Lori Bennett, Martin Mooney (Head of School) and Sven Cole (Asst. Head of School) from Bridgton Academy (BA), Mary Costigan, Attorney for BA, Ross Cudlitz from Oxford County Soil & Water Conservation District, and Dan and Julia McQueen, landowners.

**3. Minutes from the July 18, 2017 Meeting:** The minutes were reviewed by the group. Laura Chadbourne moved and Morris Gibely seconded the acceptance of the minutes as written. The motion passed unanimously.

### **4. Communication & Bills**

#### **A. Correspondence Received and Sent (by date):**

1. Letter sent from PB dated 7-19-2017 to BA confirming commitments and outlining requirements for application acceptance. PB agreed to hold a special meeting on 7-25-2017 due to environmental concerns and the short timeline for completion
2. Email from PB dated 7-19-2017 to BA with distribution list forwarding letter of 7-19-2017
3. Email from PB dated 7-19-2017 responding to BA's question about who the phosphorus control plan should be sent to. PB responded that everyone on the distribution list should receive all information. Same email also noted an important update to the letter sent earlier in the day to BA, that the remediation deadline as agreed to in the consent agreement was for all work to be completed by September 1, 2017.
4. Email to PB dated 7-20-2017 (and distribution list) re: necessity of Maine DEP Permit by Rule (PBR) application (not just the receipt)
5. Email to BA dated 7-20-2017 (and shared with distribution list) forwarding DEP PBR application mailed 7-13-2017 including letter from Main-Land, application form, agent authorization, USGS site map, Erosion and Sedimentation Control Plan dated 6-5-2017 (incorrect version, should have been 6-20-17 version) Plan C2.1 dated 7-11-2017 and photos dated 7-7-2017.
6. Email from engineer Ross Cudlitz dated 7-20-2017 to Alison Sirois of the Maine DEP re: urgency of BA's PBR application and requesting support for review of the application as quickly as possible.
7. Email from BA's engineer dated 7-24-2017 to BA and Ross Cudlitz w/apology for incorrect email in DEP PBR application and noting it was an oversight by a member of the engineer's team.
8. Email from Ross Cudlitz dated 7-24-2017 to PB secretary and first Selectperson forwarding an email from Jeffrey Kalinich of the Maine DEP that the BA PBR had been approved on 7-17-2017.

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9. Email from PB Secretary to Sven Cole of BA dated 7-24-2017 (cc distribution list) requesting updates on 9 items required for emergency PB meeting the next night. PB only had updates on 2 of the 9 items.
10. Email from Sven Cole of BA dated 7-24-2017 (cc distribution list) with updates on outstanding items.
11. Email from PB Secretary to Sven Cole of BA dated 7-25-2017 requesting confirmation that contractor would complete cabin demo by September 1, 2017 as required by the consent agreement.

### 5. Old Business

- A. Board continued review of materials related to Bridgton Academy's proposed phosphorus control plan and remediation and re-vegetation plan for the ROW over the land of Dan and Julia McQueen (Map R1, Lot 2) ("BA Plan").

To refresh all parties as to the deliverables that had been expected at this Special Meeting, Chair Dave Johnson read aloud the list of deliverables from a letter sent by the PB to BA on July 19<sup>th</sup>. Each item from the letter was discussed:

1. Decision from BA on cabin repair vs. demolition – BA has decided to demolish
2. BA to apply for building or demo permit through Larry Lyle, Sweden's CEO. No demolition permit template in Sweden; BA worked with Larry Lyle to create a demo permit. BA submitted building permit and check for fee to Secretary Laura Chadbourne at the meeting. Total fee \$205.52; check for that amount attached.
3. Phosphorus Control Plan for the cabin repair or demo to Ross Cudlitz for review/approval (with a copy to all listed above) – Ross worked with Rick Dunton, BA's engineer (Main-Land). Main-Land submitted letter with opinion that no PCP was needed for the demo. Ross confirmed verbally that letter is accurate. Ross will provide written concurrence to the board that no PCP is needed.
4. Direct evidence of cost, commitment, and schedule from BA's contractor for cabin repair/demo – PB received at the meeting an estimate on Khiel letterhead for \$70,000 the cabin demo and remediation.
5. Direct evidence of cost, commitment, and schedule from BA's contractor for right of way remediation AND for the one-year maintenance plan. Khiel estimated \$15,000 for maintenance. Lori Bennett noted that the amount seems low in her experience. She contacted Travis Khiel to discuss earlier in the day.
  - a. Vote at Board of Selectmen meeting this evening requires a bond for \$185,000 to cover the costs of the engineer the town hired (Ross Cudlitz).
  - b. Bond discussion – Mary Costigan asked why a bond vs. a letter of credit. Letter of credit - money is set aside and not drawn upon. Bond is much more complicated. Julie McQueen – this sounds like an escrow account, not a letter of credit. Date is July 31, 2018 which doesn't allow for the 1 year for the completion of the job. BA is willing to get the date changed to October 31, 2018.

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- c. Lori would like to speak to legal counsel regarding the LOC or Bond, this could be a condition of approval.
  - d. BA expressed frustration that the consent agreement says LOC or Bond. They have provided a LOC so have met the requirement. Lori noted that the Selectmen are frustrated that nothing has been done for 18 months.
  - e. LOC originals were overnighted to town of Sweden (Selectmen) earlier this month
  - f. Town will provide invoice copies to BA for Ross' costs – provide tonight. BA will pay the town ASAP.
  - g. Discussion of how the bonds should be broken out. \$100K for road, \$70 for cabin. Selectmen are likely to agree to one letter \$170,000, expiration Nov. 1, 2017, as long as town lawyer reviews and approves. Lori will notify Sven Cole officially.
6. Direct evidence of submission of permit by rule application to the Maine DEP – **completed 7/21/2017**
  7. Evidence of Maine DEP approval (or approval by non-response) of PBR – completed. **Jeff Kalinich of Maine DEP sent email on 7/24 confirming PBR had been approved.**
  8. Bond (if remediation work will not be complete by September 1st) or letter of credit (if work completed before September 1st) for full amount of cost to implement the phosphorus control remediation and re-vegetation plan and to repair BA's cabin (adequacy of amount confirmed by Ross Cudlitz). Bond or letter of credit (LOC) must be approved by the Sweden Board of Selectmen. – **Khriel provided letter that all work will be substantially complete by September 1, 2017**
  9. BA to provide a bond or letter of credit for full amount of cost to cover the one-year maintenance obligation on the re-vegetation plan (adequacy of amount confirmed by Ross Cudlitz). Bond or LOC must be approved by the Sweden Board of Selectmen. – **covered above in the bond / LOC discussion above. LOC will combine work for remediation, cabin demo, and one year maintenance plan.**

Ross Cudlitz felt there are a couple of problem areas in the project. Ross requested that Rick Dunton be on site at times during construction. Ross is concerned that parts of the road will still have issues over the winter. \$15,000 for winter maintenance is not likely to cover it. Sven Cole stated that Rick will be on site regularly.

Secretary Laura Chadbourne read aloud the PB's Conclusions of Law related to this issue. She offered to also read aloud the Findings of Fact, but that they were 15 pages long, single spaced, 10 point font. Additionally, each PB member had received a copy of the Finding of Fact via email. Chair Dave Johnson moved and Laura Chadbourne seconded that the Findings of Fact not be read aloud. The motion passed unanimously.

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Laura Chadbourne then passed out a copy of a proposed motion related to the BA Plan. The Board read through each portion of the motion and made some amendments. Laura Chadbourne then made the following motion:

**The Planning Board (PB) votes to accept as complete and approve Bridgton Academy's (BA) application for a phosphorus control, remediation, and re-vegetation plan which consists of the following materials:**

1. Drawing C2.1 entitled "Right of Way Location, Phosphorus Control, Remediation, and Re-vegetation Plan" dated July 11, 2017
2. "Erosion and Sedimentation Control Plan" dated June 20, 2017
3. "Stormwater Maintenance Plan Bridgton Academy – Sweden" dated June 20, 2017

**Approval is conditional upon all of the following:**

1. Receipt of and approval by Sweden Selectmen and town attorney of a properly executed Letter of Credit (LOC) in the amount of \$170,000 to remain in effect until November 1, 2017. The LOC will cover the expected cost of the cabin demolition, remediation, and the one-year maintenance plan.
2. Building permit application for demolition of BA's cabin, to include a phosphorus control plan reviewed and approved by Ross Cudlitz. If a phosphorus control plan is not needed for the cabin demolition, written concurrence of that conclusion must be provided by Ross Cudlitz to the PB.
3. BA must reimburse the town in full for Ross Cudlitz' invoices to date prior to beginning any work.
4. ROW to be recorded at the registry of deeds and proof received by the Planning Board.
5. BA must notify the CEO, the PB, the Selectmen and the landowner before beginning any work. First Selectman Lori Bennett (representing the Selectmen) and PB Secretary Laura Chadbourne (representing the PB) to confirm that all conditions have been met prior to BA beginning any work.
6. Work undertaken must be in compliance with the application submitted by BA.
7. BA will ensure their design engineer is on site at regular intervals to oversee the remediation work.
8. Periodic site reviews by Ross Cudlitz, paid for by BA, may be required to ensure compliance. Town will determine when work is complete and beginning of one-year maintenance bond period begins.
9. The following notes from drawing C2.1 dated 7/11/2017 are incorporated into the PB's acceptance of the application:

Note 11: Use of the re-vegetated area by Bridgton Academy, its assigns or heirs shall be by foot traffic only.

Note 13: Any changes to the use of the ROW by Bridgton Academy, its assigns or heirs, or revisions to the approved plan by Bridgton Academy its assigns or heirs will require written approval of the McQueens or current owner of the land and the Town of Sweden.

Kevin Taylor and Morris Gibely seconded the motion. **The Planning Board voted unanimously to accept the application as complete with conditions as outlined above in the motion.**

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### **6. New Business:**

A. None.

### **8. Announcements:**

A. The next regular Meeting will be on August 15th at 7:00 PM at the Sweden Town Office.

B. The board has an opening for one Alternate Member (Alternate Members serve a 1-year term). Should anyone express interest, they can be appointed by the Selectmen.

Laura Chadbourne moved that the meeting be adjourned at 8:14 PM. Chair Dave Johnson adjourned the meeting.

Respectfully submitted,

Laura Chadbourne  
Secretary, Sweden Planning Board