

1-11-17 – These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester**  
**Planning Board Meeting**  
**Wednesday, January 11, 2017**  
**Municipal Complex**  
**Approved Minutes**

**Members Present**

Brian Sullivan, Chairman  
Evan Sederquest, Vice Chairman  
Elizabeth Richter, Member  
Richard Snyder, Member  
Cass Buckley, Ex-Officio  
Aaron Hume, Alternate Member

**Members Absent**

Michael Weider, Member

**Staff Present:**

Andrew Hadik, Planning Coordinator

**Others Present at Various Times**

Kevin Hatch  
Brian Remillard

Chairman Sullivan called the meeting to order at 7:03 pm.

**Agenda**

**General Business**

- Review & sign invoices.
- Review & approve minutes for 12/21/16.
- Discuss & approve substitution of reformatted Potter conditions of approval.
- Discuss the concerns about the renewal and scope of the Southwoods LOC.
- Discuss the substitution of the revised School Impact Fee report.
- Update on proposed 10 unit expansion of Villages of Chester, Phase II

**7:15 Appointments**

Tentative – Steve Cotran (Realtor/Owner) & Will Lambert (Builder) – Southwoods Subdivision

**7:45 Public Hearings**

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1. Adopt the updated Capital Improvements Program (CIP) for the Town of Chester.
2. Application by the G.B.N. Properties, LLC, property owner on Dump Road (Map 13 Lot 1,) to amend the Site Plan for the G.B.N. Properties, LLC Composting Facility, for the addition of the processing of wood pallets and siting of recycling containers for materials removed from yard waste, as allowed by a ZBA variance granted May 17, 2016.

**Future Meeting Dates:**

- January 25, 2017 – CD Villages of Chester Expansion
- January 26, 2017 – PB Annual Budget Review with BOS

Chairman Sullivan stated that Mr. Hume is the alternate at this meeting for Mr. Weider.

**Review and approve minutes for 12/21/16**

The Board reviewed the minutes from 12/21/16. Mr. Snyder made a motion to approve the minutes dated 12/21/16 as presented; Ms. Richter seconded the motion. Motion approved, 5-0-1. Mr. Snyder abstained from the vote.

**Comments regarding Bittersweet Blessings variance from Mr. Snyder**

Mr. Snyder discussed the Bittersweet Blessings variance issue with the Board. He noted that this was a complicated process with Bittersweet Blessings and the ZBA. Mr. Snyder said he had received from Ms. Boyden, the administrative assistant for the ZBA, a detailed chronology of all the events in the process, including correspondence with the attorneys, and the Planning Board minutes. Mr. Snyder explained that the minutes clearly explained what each Board did during the process. He stated that he thought it would be beneficial for the Planning Board to receive and review the ZBA minutes regularly. Mr. Buckley said he disagreed with receiving the minutes because receiving emailed minutes doesn't mean that they will be read. He noted that Board members are often reading the Planning Board minutes at the meeting because they didn't have time to read them when they are received via email. Ms. Richter said she thought it would be beneficial to have more information for various projects. She suggested that Mr. Hadik might add the notice of decisions and other appropriate ZBA information to the files for the Planning Board members to review. Mr. Hadik said he was already emailing Planning Board minutes to Ms. Boyden, and would now email her copies of the Board's public hearing notices and meeting agendas.

**Discuss & approve substitution of reformatted Potter conditions of approval.**

Mr. Hadik distributed a packet of information to the Board that included an email from Mr. Stephen M. Bennett, Wadleigh, Starr & Peters, PLLC, and the reformatted conditional site plan approval of Ms. Lori Potter. Mr. Hadik referenced the email from the attorney, pointing out Mr. Bennet had verified there are

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no substantive changes to the reformatted approval form, and that therefore the new form could be substituted for the old form.

Mr. Snyder made a motion per Attorney Bennett's letter of Friday, December 16, 2016, to substitute the old approval form for Ms. Potter with the new approval form as presented tonight; Mr. Buckley seconded the motion. Motion approved, 6-0-0.

**Discuss the concerns about the renewal and scope of the Southwoods LOC.**

Mr. Hadik created a basic drawing on the white board in the meeting room of the three phases of the Southwoods to explain to the Board the different phases and the bonding history of the Southwoods project. He reviewed the three phases of the project, the first two phases that were bonded, and their corresponding bond reductions, with the Board. He noted that the Brady Sullivan Southwoods, LLC Irrevocable Standby Letter of Credit (LOC) in the amount of eighty-nine thousand, five hundred dollars (\$89,500) for Phases I & II expired on October 28, 2016. He also noted the LOC was based on outdated bond estimates dating back to 2007 and 2008.

Mr. Hadik presented the Board with the letter he wrote informing Brady Sullivan of the expiration of the LOC and informing them that the bond for Phase I and II needed to be increased to one hundred sixty-one thousand, five hundred dollars (\$161,500) per the updated bond estimates by Town engineer Jeffrey Adler, at DuBois & King, Inc.

Mr. Hadik also informed the Board that he had asked the Building Inspector to order a cease and desist on any new building permits for Southwoods, until a bond is received for Phases I & II. Mr. Hadik requested that the Board allow the builder to continue working on the units that were already under construction. The Board agreed.

Mr. Buckley noted a typo in the wording on a section of the letter from Mr. Hadik to Brady Sullivan Southwoods, LLC.

**Discuss the substitution of the revised School Impact Fee report.**

Mr. Hadik informed the Board of the updated Chester School Impact Fee Report dated December 2016 which properly references the school's impact fee methodology developed by BCM Planning, LLC as outlined in the School Impact Fee Update Report prepared for the Town of Barrington, NH dated January 19, 2016. Because there were no substantive changes to the fees and calculations in the report, only the additions of the two references, he suggested the Board could just vote to substitute the amended report at the next regular meeting.

The Board agreed to add the item to the agenda for the next meeting.

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**Update on proposed 10-unit expansion of Villages of Chester, Phase II**

Mr. Hadik informed the Board of a request to get the Board's approval and signature on the final document of a recent agreement between Lifestyle Homes and the Chester Villages Homeowners Association. The agreement allows Lifestyle Homes to build another 10 units.

Mr. Hadik informed the Board that Dana Redmond will be attending the January 25<sup>th</sup> Planning Board meeting for a conceptual discussion regarding the proposed of the additional 10 units, as originally approved by the court's consent decree. He presented the Board with an email from Mr. Redmond.

Mr. Hadik and the Board discussed the history related to the project. The Board gave its consent for Mr. Redmond's attorney to contact Attorney Bennet to revisit and discuss the consent decree and the agreement between Lifestyle Homes and the Chester Villages Homeowners Association.

**7:15 Appointments**

**Steve Cotran (Realtor/Owner) & Will Lambert (Builder) – Southwoods Subdivision**

The appointment did not take place, no one representing Southwoods Subdivision attended the meeting.

**7:45 Public Hearings**

**Application by the G.B.N. Properties, LLC, property owner on Dump Road (Map 13 Lot 1,) to amend the Site Plan for the G.B.N. Properties, LLC Composting Facility, for the addition of the processing of wood pallets and siting of recycling containers for materials removed from yard waste, as allowed by a ZBA variance granted May 17, 2016.**

The Board reviewed the application.

Mr. Snyder made a motion to accept the application by the G.B.N. Properties, LLC, property owner on Dump Road (Map 13 Lot 1,) to amend the Site Plan for the G.B.N. Properties, LLC Composting Facility, for the addition of the processing of wood pallets and siting of recycling containers for materials removed from yard waste, as allowed by a ZBA variance granted May 17, 2016 and open the Public hearing; Ms. Richter seconded the motion. Motion approved, 6-0-0.

The Public Hearing was opened at 7:52 pm.

Mr. Hatch, licensed land surveyor and owner of Cornerstone Survey Associates, Inc., came to the meeting table at 7:52 pm representing G.B.N. Properties.

Mr. Hatch began reviewing the site plan with the Board. He stated that the intent of this plan is to depict the existing compost facility located on Town Dump Road, and the addition of recycling containers and wood pallet processing to the existing facility. He noted that all the Board is looking at tonight is the pallet and stump staging area and the location of the containers for the recycling of products of which come out of the yard waste.

Mr. Snyder asked where the recycling products go once they have been separated. Mr. Hatch said that Pinard removes the recycling products once they have accumulated.

Mr. Hatch answered questions from the Board and explained the process, he stated that the recycling containers are new. He said that the wood pallets are untreated wood, containing no chemicals that are ground up into mulch. Mr. Hatch noted that the nails are separated out from the pallets and go into metal recycling. He said that the mulch from the wood pallets gets reused for erosion control and other projects.

Mr. Hadik noted that the word “pallet” was misspelled in Note 3 on the plans. He asked if a water well had been drilled, and if yes, for the well to be added to the plans as an additional water source. Mr. Hatch said that a water well had been installed and he would add a reference to it in Note 13 on the plans.

Mr. Buckley noted that the hours of operation listed on the plans (Note 17) do not match the hours listed in the original Condition of Approval.

Mr. Hadik explained the packet of information he had distributed, stating it included a copy of the originally recorded conditions, the new conditions, with the new conditions being the same as the original conditions, with the two additional permitted uses added to condition “3.j” which includes the recycling of the pallets by chipping and the siting of the recycling containers. He said he included copies of the original conditions to allow everyone to see that the language of the new conditions is the same as the old. Mr. Hadik said that he also included a list of questions regarding non-compliance to certain conditions in the original Conditions of Approval, created with some input by Mr. Chuck Myette, Chairman of the Conservation Commission, needed to be discussed with Mr. Hatch and Mr. Remillard.

The Board and Mr. Hatch reviewed the list of questions.

Mr. Hatch asked about the water testing question (Condition 3.e.) Mr. Hadik stated that Mr. Myette had asked if the quarterly monitoring had been done per the Conditions of Approval, and why it was tested only three times in the first year and then, without the Planning Board’s approval as required by the Conditions of Approval, tested only once a year with no annual report reviewing the testing results.

Mr. Hadik noted that he himself, as well as, other Town residents, have noticed work going on after 5 pm during the summer (Condition 3.n.) He suggested a compromise to amend the hours of operation

from 5 pm to 6 pm, Monday through Saturday, with the operation no longer turning or processing compost during the hours the Transfer Station is open to the public (6 pm – 8 pm on Wednesdays and 7am to 2 pm Saturdays.

Some Board members questioned why non-compliance issues were being discussed, and whether this was an issue for the Town's Code Enforcement Officer? Chairman Sullivan explained that the Planning Board has not seen the G.B.N. Properties representatives in three years, so they have been unable to discuss the lack of compliance to certain conditions. He said it was fair to discuss these those conditions today because G.B.N. is looking to amend the conditions, and although they do not seem to be a major concern with the products, the Board needs to discuss the lack of compliance with certain conditions.

Chairman Sullivan said that it was expected that a summary was going to be provided to explain to the Board what the results of the testing showed. Mr. Remillard said he recollected that he had agreed to do the testing, but that what the Planning Board did with the results was up to the Planning Board. Mr. Buckley and Ms. Richter discussed the water testing and the different concerns created by receiving raw data versus an analysis of the water testing results and what that report would mean. Mr. Hatch and Mr. Buckley agreed that they don't know what benchmarks to use to compare the water testing results, noting it was originally intended to measure baseline groundwater conditions and monitor for increases from those conditions. Mr. Hadik noted that there is a spreadsheet of the values summarizing the testing so far. He stated Mr. Myette was concerned the conditions requiring the testing for phosphorus, pesticides and herbicides were not being done (Condition 3.f.) Chairman Sullivan reiterated that the testing for those three items had never been done.

There was discussion about the water testing supposed to being done quarterly had been discontinued without permission of the Planning Board (Condition 3.g.) and whether permission from the Board was necessary for G.B.N. to move to annual testing after the first year. Chairman Sullivan asked Mr. Remillard if they are currently testing annually. Mr. Remillard responded that they were testing annually.

Chairman Sullivan said he would have no issue with the testing being done annually, if they were testing for the three items that are important environmentally. Mr. Hume stated that he has a concern with the testing of the water being done only annually and at different times during the year. He said that tests two months apart can reflect a drastic effect on water chemistry. Mr. Hume noted that having only a single test done annually is not going to give them much information of a trend.

Chairman Sullivan moved the discussion to other questions on the list, asking why the business is not complying with the hours of operation (Condition 3.n.) Mr. Snyder asked if this issue is more of a code enforcement issue. The Board briefly discussed the code enforcement of the Town.

Mr. Brian Remillard said that he disagrees with what the Board is saying, stating that he has no record by the Building Inspector or anyone else of any non-compliance and that he is not non-compliant.

Chairman Sullivan stated that the simple fact is that the Planning Board is being asked to approve an amendment that will be based on individual decisions that they feel they have everything that they need. Chairman Sullivan said that they are being asked to allow the business to bring in more items, but, the Conditions of Approval required a barrier fence based on the concerns they had three years ago, and there is no barrier fence. Mr. Remillard said that the barrier fence was installed three weeks after they received their approval. Mr. Hadik stated that the Conditions of Approval required a barrier fence along the east and north sides of the property (Condition 3.s.) He noted that the fence only goes along a portion of the east side. Mr. Hadik noted that Google Earth pictures show the property with bags blowing off the site. Mr. Hatch stated that he didn't remember any mention of a fence along the north side of the property. Mr. Remillard said that if the Planning Board wants a fence along the north side, he will put up a fence along the north side. Mr. Remillard said there is an existing barb-wire fence all along the property line from the Raymond Sportsman Club, and they clean up along the fence once a year. He said that if the Board wants another fence, then he will build a fence. Mr. Hatch asked if the fence is something the Board wants, now. Mr. Buckley stated the fence is part of the Conditions, and that he would like to see all the current conditions complied with prior to adding or modifying or expanding the existing conditions. Ms. Richter agreed with Mr. Buckley stating that although compliance of Conditions is a code enforcement issue, but that in the context of being asked to expand a business, an applicant should come in good faith, not flout the Conditions.

Mr. Hatch suggested going through the list of questions from the first question, one by one. The Board agreed.

*The following includes the questions copied and italicized directly from the packet of information compiled and distributed to the Board, Mr. Hatch and Mr. Remillard by Mr. Hadik.*

*3f. – Why was the initial frequency of GW & SW testing set by the conditions never complied with?*

Mr. Hatch stated that he wasn't involved, but he reads that initially they are to be done quarterly and then the testing would be done annually. He said that was simple to have done. Mr. Hatch said he would find out what was done. Chairman Sullivan asked that in the next round of annual testing, all the items, including phosphates, pesticides and herbicides, need to be tested for in the water samples.

*3g. – Why was no permission obtained from the Board to reduce the frequency of the testing?*

Mr. Snyder said that he thought the language was somewhat ambiguous, noting he could understand how this could be misunderstood. Mr. Hatch said that his recollection was that Mr. Remillard had asked how long they would have to do quarterly testing. Mr. Snyder asked if they agreed that they would keep the annual testing and include all items required, phosphorous, pesticides and herbicides, to be tested. Mr. Hatch said he would look at that personally and talk to the water company directly to make sure they are testing for what they need. Mr. Hadik mentioned Mr. Myette was recommending that the "standard list" should be used to determine which pesticides and herbicides to test for.

287

288 Mr. Buckley asked Mr. Hadik from where he gathered the information regarding the water testing  
289 included on the spreadsheet. Mr. Hadik said some of the test results was already in the files, and he  
290 requested the 2015 and 2016 water tests from Mr. Jonathon Remillard, who emailed the information.  
291 Mr. Snyder asked if the water testing company could provide a report on the results of the water  
292 testing, and what it meant. The Board discussed the issue of water testing and the problems associated  
293 with this issue. Mr. Hadik said he believed the testing company might not have someone who could  
294 write such a report, and an outside consultant might be required.

295

296 Mr. Hume pointed out that it is good to have the historical data in the event of a future problem.

297

298 Chairman Sullivan stated that the discussion of the analysis of the water testing needs to be followed up  
299 with at a different meeting. Mr. Hatch agreed to research obtaining an analysis of the water testing and  
300 report back to the Planning Board, as a Town resident.

301

302 *3n. – Why are the hours of operation not being complied with? (Example: Turning or processing of*  
303 *compost piles after 5:00 pm during weekdays. The odor is a complaint by residents using the Transfer*  
304 *Station. The same issue odor issue on Saturdays. ALH Note: Consider a compromise amendment to the*  
305 *hours of operation – allow operations until 6 pm Monday through Saturday, however, no turning or*  
306 *processing of compost during the hours of operation of the Transfer Station.)*

307

308 When asked by Chairman Sullivan if residents had concerns about the odor, Mr. Hadik stated that they  
309 had, that the odor has been bad on some Wednesday nights. Mr. Buckley said that he goes to the  
310 Transfer Station often and he has never smelled anything. When asked Ms. Richter if the smell was a  
311 typical compost smell, Mr. Remillard said that the “really bad” odor is caused by the grass clippings that  
312 come in during the summer, but, that he usually doesn’t turn the compost piles on Saturday. Everyone  
313 agreed that the hours of operation would be amended 6:00 am to 6:00 pm Monday through Saturday,  
314 with no turning or processing of the compost piles on Saturday or after hours.

315

316 *3q. – Is the being kept locked during hours of non-operation? It has been seen unlocked after hours*  
317 *numerous times.*

318

319 Mr. Remillard said that he has relatives that go there on Sundays to shoot, and that if the gate is  
320 unlocked it is because someone is at the facility. He noted that there is 24-hour surveillance of the site.

321

322 Chairman Sullivan said that they have discussed question 3s., dealing with the fencing.

323

324 *Q – Why weren’t the two U-shaped earth berms shown on the original plan intended to control the*  
325 *runoff from the manure and waste receiving areas ever installed?*

326



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Mr. Hatch said that he knows that the food waste berm has not been installed because Mr. Remillard has the food waste “turned in” as soon as the food waste arrives. Mr. Hatch said that the food waste is being dumped in between the piles of compost which act like a berm would, absorbing any leakage.

Mr. Buckley asked about the storage of tractors and other items on the property (Condition 3.k.) Mr. Remillard said that everything on the site is part of the operation.

Mr. Hadik asked about the need for a berm for the manure pile that is directly uphill of a monitoring well and wetlands. Mr. Remillard said he hasn’t seen anything in the water testing numbers yet to make him worry about it. Mr. Buckley noted that they would have to put parameters around the numbers to control this. Ms. Richter explained that what they don’t want is runoff. Mr. Hatch said that he thinks the lip of the swale is high enough to prevent runoff. Mr. Hadik said that the concerns are about the creation of oxygen-reducing conditions under the pile of manure causing the buildup of ammonia, and other problems that one wouldn’t know about until there was a large problem. He said by the time the problem is noticed by monitoring wells, it would be a lot harder to clean up the site. Mr. Hatch said that if the concern is runoff from the manure pile, then Mr. Remillard could build a containment berm. Mr. Hatch said that Mr. Remillard will build a two-foot-high earth berm with wood chips added along the top. He drew the berm on the plans.

Mr. Hadik noted that the Conditions of Approval will now contain the amended hours of operation, as well as, the amended conditions set forth in “J”, stated as follows: *j. i) The recycling of wooden pallets by chipping. The processing of certain pallets including, but not limited to, painted, stained, pressure treated, glued, oil or chemically tainted pallets shall be prohibited. The processing of pallets shall be conducted according to the provisions of ENV-SW 305.04, Env-Sw 404.5 and Env-Sw 1503.09, and any other applicable state and federal regulations. No demolition materials may be processed as part of this additional use.*

*j. ii) The siting of recycling containers for plastic, paper, glass and metal products. The use of these recycling containers shall be restricted solely to the purpose of handling the materials brought to the site mixed in with the yard waste being composted.*

Mr. Hadik reviewed the corrections Mr. Hatch needed to make to the site plans: fix the word pallet in Note 3, reference the well as a water source in Note 13, and change the title on the cover sheet to be “Composting Facility.”

The Board confirmed that the cover sheet needs to be titled “Composting Facility”, not “Recycling Facility.”

Mr. Snyder made a motion to close the Public Hearing and deliberate; Ms. Richter seconded the motion. Motion approved, 6-0-0.

The Public Hearing closed at 8:56 pm.

Mr. Buckley said that he still had unanswered about specifics such as size of containers and number of waste streams. Mr. Remillard stated that he plans to come back before the Board to start recycling glass to mix it with earth. He said he is working with the State to learn the process to recycle glass. Mr. Buckley asked about the size of the containers and quantity those containers can hold. Mr. Hadik suggested amending the Conditions to qualify the number of containers to one per commodity. He said they could add a sentence to Condition j.ii stating: The number of recycling containers shall be limited to one container for each of commodities, container size shall not to exceed 30 cubic yards. Mr. Snyder said he agreed with Mr. Hadik.

Mr. Hadik reiterated that it was agreed that there would be no turning of the piles during the Transfer Station's hours of operation.

Mr. Snyder made a motion to approve the site plan amendment for the G.B.N. Properties, LLC Composting Facility as amended tonight, with the conditions as amended tonight; Mr. Buckley seconded the motion. Motion approved, 6-0-0.

Mr. Hatch and Mr. Remillard departed the meeting at 9:06 pm.

**Adopt the updated Capital Improvements Program (CIP) for the Town of Chester.**

Mr. Hadik presented the Board with the updated CIP for the Town of Chester.

The Board discussed the CIP. Mr. Hadik noted that there were no significant changes to the document other than the updates to the specific tables and figures discussed at the last meeting.

Ms. Richter made a motion to open the Public Hearing for the adopting of the CIP for the Town of Chester; Mr. Snyder seconded the motion. Motion approved, 6-0-0.

The Public hearing was opened at 9:08 pm.

Mr. Hadik pointed out that Table 3 will have the School's values for 2015-2016 capital expenditures (including debt service) added when he receives them. He also said there were a number of non-substantive "scriveners errors" he would fix. Ms. Richter said that was OK.

Mr. Hadik and the Board discussed the formatting and printing of the document.

Mr. Snyder made a motion to adopt the amended CIP subject to minor edits that will be addressed tomorrow; Vice Chairman Sederquest seconded the motion. Motion approved 5-1-0, Mr. Buckley opposed the motion.

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409 Mr. Buckley stated his reasons for opposing adopting the CIP, noting that he disagrees with publishing  
410 the CIP as written because not all the roads listed under the Highway section on Table 10 have gone  
411 through the scoring and approval process. He said he thought this inflated the CIP, and that there  
412 should not be “place holders” kept on the published CIP. He and the Board debated the issue.

413

414 **Adjournment**

415

416 Ms. Richter made a motion to adjourn the meeting; Mr. Buckley seconded the motion. Motion  
417 approved, 6-0-0. The Meeting was adjourned at 9:30 pm.

418

419 Respectfully submitted,

420 C. Molly Qualters

421 Recording Secretary