

Town of Tamworth

Planning Board

*** draft GROUNDWATER PROTECTION ORDINANCE

HEARING MINUTES ***

December 29, 2010

Hearing opened at 7:00 pm at the Brett School Cafeteria

Members Present: Dom Bergen Chairman, David Little, Steve Gray, Becca Boyden, John Roberts, Skip Nason (7:30 pm)

Members Absent: Nicole Maher-Whiteside

Alternates Present:

Alternates Absent: David Cluff, Peter Vanderlaan, Pat Farley, Tom Peters

This is the second public hearing on this proposed ordinance.

Section 1 – Authority

John Mersfelder spoke of RSA 674:16 II – including 674:21 – makes this an innovative land use ordinance. Any appeals go to superior court, then to Section XIV – Board of Adjustment. How are these reconciled? David replied that this is required language, inserted on the advice of Atty Sager, speaking to the Planning Board’s interpretation of the ordinance, and appealable to the ZBA

Section 2 – Purpose – no comments

Section 3 – Groundwater Protection District

Paul King – applaud for removal of map. Minutes said David will make a new map. Where is this?

David – map has been done but could not be printed on a large scale for this meeting. David stated that the language defines the district. The map will be a reference tool, available with Town Clerk. Paul would like the language removed from the ordinance. David replied that DES recommends having the defining language in the ordinance. Becca stated that the map is a representation of the district defined by the language. Paul stated that the language speaks of 2 different maps. David replied that the wellhead protection and aquifer can not be shown on the same map. Peggy Johnson is comfortable with the verbal definitions and would like to keep the words in the ordinance. Ned Beecher, Conservation Commission, states that the map would be a guideline, but that actual measurements would need to be done. Words mean more than the map. David Gaudet points out that definition “s” is missing from the appendix. David replied that this was an oversight, which happened because the definition of snow dump was removed. He will double check all references in the document to be sure that these are corrected. Paul states that gridlines were requested, and he does not want the NH coordinates system used. Why was this chosen? David replied that the data comes in that format, and re-projecting could introduce error. Paul feels that the public would not be able to use this system.. Ned states that the map is a

representation and should be made as user friendly as possible. Field work will need to be done. He recommends that professional help should be used for producing the maps. Peggy Johnson would like to use whatever system other towns are using. Ned recommends ending the sentence before “on the map”, then add a sentence “This district.....defined by characteristics on the ground”. If the map is wrong, the landowner has the ability to have the map changed. Becca would like to adjust the wording referencing the map. Scott Aspinall would like to know if there is a better system. Paul wants UTM or Latitude/Longitude. David states that he used the NH state projection with latitude and longitude. Paul encourages to modify, define by the map, have an out for those that are not in the stratified drift...an automatic out. Peggy stated that maps can be changed. Claes Telemark feels that maps are dynamic, like the language. Paul feels that the last sentence implies that a public hearing allows the Planning Board to change without a vote of the town. Ned feels that we need to clarify what the base maps referenced in 1 and 2 are, call them reference 1 and reference 2

Section IV – Applicability – no comments

Section V – Allowable – no comments

Section VI – Prohibited Uses

Ned stated that snow dump was removed, as this is not an issue in this town.

Section VIII – Enforcement

Ernie Mills – How are you exempt if you must comply?

Becca stated that there are other local, state and federal requirements that must be met.

Ned recommends that we either insert the word “other” in front of applicable, or delete that part of the sentence. Steve recommends moving “local” to the end. Ernie wants it to say “private residents are exempt from this ordinance”. Ned recommends ending the first sentence at “provisions of this ordinance”.

Section IX – Conditional Uses

Paul applauds the Planning Board for elimination of B- protecting surface water. Ned states that the original ordinance did address surface water, which is linked to groundwater. Storm water considerations are important. Under agricultural – manure management still applies. NH Department of Agriculture has best management practices.

Section X – Performance Standards

Paul King, concerning (I) – agriculture and forestry is exempted, but commercial will have to refuel equipment with 5 gal containers. Ned asks for someone who is experienced to give feedback, how often does this happen on a jobsite? Impervious portable containment systems are available. Agriculture and Forestry are covered in the State’s Best Management Practices.

Scott Aspinall asks where you get these impervious containers. John Roberts asked if the Board would like to come up and refill some equipment with 5 gallon containers. Scott states that this is not practical or easy, suggests having absorption materials with you on the job site. Ned referenced the Timber BMPs which recommend having materials on site, and recommends referencing this in (I). Peggy Johnson says that it sounds like using cans is more dangerous, and urges the Planning Board to do what they must with tonight’s input.

David Haskell – Ned suggested adding to (I), but it is in Section 8K, no needed here. Becca recommends referring to the BMP language to cover everything, rather than specifics.

Section XI – no comments

Section XII-

Ernie Mills would like to strike section C. Ned comments that the key word in this section is “may”. He urges leaving this in. Should taxpayers bear the cost, or should it be funded by the users. Ernie is totally opposed to this process, feels that it is wrong and should not be in there. Scott A. is nervous about the “might” require a fee, and wants to know the amount of the fee. Ned states that RSA 41-9a gives guidance on fees. It may be useful to state a limit on the fee, per year. Steve would like to know if the RSA gives the authority without this ordinance. Ned replies that the ordinance is needed to give the authority. David Gaudet speaks of a fee for inspections if a violation is found. Ned feels that this is a matter or trust. Other town items set a fee, put the limit in here. State groundwater rules allow the DES to inspect any facility using regulated substances, goes to the local level of the health officer having the same authority. Do we want to implement something locally? He doesn’t know if it has any purpose if you can’t have inspections. Doing the right thing costs a lot. We need the ability to enforce and inspect. David Gaudet would like to know why they should have to pay for inspections, but to have a fee if a violation is found. John Mersfelder stated that DES is overburdened, not always able to reply to complaints that have been made. DES says that the town needs to be their eyes and ears. It is a local responsibility to help the State with their mandate. Ned spoke of other towns who have implemented annual visits, in which they discuss, review and make suggestions. Belmont has made no enforcement actions in 3 years. Insurance companies give businesses a break. Suggests adding a sentence – the fee not to exceed \$80 per year. Ernie would like to know if the health officer is in a position to look at something and deal with it if he is called. Scott says that the State and Feds are not going to enforce. Small businesses are getting “fee’d” to death. He feels that we should see how it goes, add it in later if needed, put a limit on it. John Roberts feels that small businesses have done a good job. Ernie Mills said that he would not have wasted time in Tamworth as a business man. John again says that he feels his, and other small businesses, have done a good job. Ned recommends striking “c” altogether. Becca would like to change the language to allow the Selectmen to establish a program in which fees are levied for being out of compliance. Fees should be limited. If we do not protect the aquifer, we are liable to lawsuits from all towns below us. This is a regional water supply, there are impacts far beyond the town borders. Ned states that the next section gives the Selectmen the ability to enforce, which could include fines. This section speaks to “fees”, not “fines”. Scott feels that the landfill is a bigger problem in regards to polluting downstream. Ned states that the landfill is monitored regularly.

Section XIII

David – fees authorized by 12C

Peggy – timeline?

Section XIV – no comments

Section XV – no comments

Section XVI – no comments

APPENDIX –

Steve asked Ned about section J – Ned answers that this is direct state and federal language, and that he recommends not changing it. He will do some research.

Paul King would like to know the difference between (K) and (R) , Ned will research definitions. (K) is a radius, (R) is not just a radius, depends on the well location. Scott commends the planning board for bringing this to the public. All other towns in the Ossipee Watershed are working on the same thing. This is what is needed in a regional perspective. Ned states that the value of groundwater is considerable. NHDES has a petroleum cleanup fund. 3.5 million has been spent in the Ossipee Watershed since 1990. \$303000 in Tamworth, \$2.4 million in Ossipee. This ordinance brings awareness to the issue. He is pleased that the Planning Board brought this forward.

The hearing was closed at 8:39 pm.

There will be a work session for the Innovative Zoning Ordinance on January 12, 7 pm, town office.

Respectfully submitted,

Melissa Donaldson

Planning Board Clerk