**Fryeburg Planning Board**

**April Meeting Minutes**

**April 27, 2021 – David and Doris Hastings Community Center**

**Members in Attendance**

Patrick Emery, Ed Price, Tom Rebmann, Edy Kizaki

**Call to Order**

Emery called the meeting to order at 6:00 p.m. It was determined that there was a quorum.

**Approval of November Minutes**

Emery made a motion to accept the March minutes. Kizaki seconded. Vote 4-0 in favor.

**East Coast Growers, LLC Continued Review of Land Use Authorization Application opened at 6:02 p.m.**

Tara Felice showed a large format of the proposed site layout, noting the distance from the proposed cultivation area to the property line. She also indicated that non-marijuana species that flower at the same time will be planted as a buffer to mitigate some odors. She also pointed out that the entire parcel is owned by Mountain Valley Farms, LLC and East Coast Growers, LLC and Mountain Valley Cultivation, LLC will be leasing land from Mountain Valley Farms. Price suggested tabling the application to give the board more time to review. Rebmann asked what additional review would be needed. Kizaki disagreed with the idea of tabling the application at this time. Price made a motion to table the application. Emery seconded. Vote: two yes (Price and Emery), one no (Kizaki), and one abstain (Rebmann). The Board agreed to have a special meeting on May 10, 2021 at 6:30 p.m. to discuss the application again.

**Fish Street Properties, LLC Continued Review of Land Use Authorization Application opened at 6:32 p.m.**

Seth Field noted that he did submit the documents requested by the Planning Board at the March meeting, except for the photometric plan and the final storm water drainage design. He did subsequently provide a copy of the photometric plan and lighting plan to the Board. Jon Bliss spoke about the storm water design and permitting requirements. He stated that the Department of Transportation (DOT) driveway entrance permits are conditional pending a final storm water drainage design that minimizes the amount of runoff from the property into the roadway. In addition, the Maine Department of Environmental Protection (DEP) storm water rules allow a permit-by-rule option to be utilized for this development. Field referred to the photometric plan and said he would use motion sensors and put the flood lights on an as needed basis only. Kizaki wondered how the sign would be illuminated and Field agreed to use external illumination. Price asked about the building height and Field stated it would be less than 30 feet. Price asked about the color and Field said it would be beige or light green. Price made a motion to find the application complete. Rebmann seconded. Vote all in favor. Price made a motion not to have a public hearing. Rebmann seconded. Vote: Three yes (Rebmann, Price, Emery) and one abstain (Kizaki). Emery detailed the code review. Price asked if the exit and entrance signs would be illuminated. Field said no. Price made a motion to approve the application with the following conditions: the storm water design and erosion control plan would be submitted before a building permit is issued, the sign has external, downward illumination, the security lighting is on motion sensors, and the dumpsters are screened such that they are not visible from the road. Emery seconded. Vote all in favor.

**Bear Claw Property Services Land Use Authorization Application Review opened at 6:59 p.m.**

The applicant Mr. Hermanson, explained the proposed home occupation would be simple. He owns an excavator, bobcat, and dump truck and wishes to provide dirt work and landscaping services. No buildings are planned. No refuse will be stored on site. No materials will be stored on site. Price noted that no more than two commercial vehicles may be stored on the property if not inside. Hermanson stated that he had land in Conway where the equipment could be stored. Price noted that if the business is successful and grows, the impacts to the neighbors might become significant. He reminded the applicant of the performance standards in the Land Use Ordinance that pertain to Home Occupations. Price made a motion to find the application complete. Seconded by Kizaki. Vote all in favor. Rebmann made a motion to not have a public hearing. Price seconded. Vote all in favor. Emery detailed the code review. Price made a motion to approve the application. Emery seconded. Vote all in favor.

**CDL, LLC Green Acres Minor Subdivision Application Review opened at 7:17 p.m.**

Jon Bliss described the proposed subdivision, which consists of two lots of approximately six acres each and one remaining (undevelopable) parcel of approximately 24 acres. Each lot extends from Route 5 (Main Street) to the Saco River. Don T noted that the deed and covenants require any development of the 24 acres parcel to be approved by the Planning Board. Jon pointed out that the two building lots are able to choose between public water or on-site wells. Don also pointed out the proposed plan has not been approved by the Saco River Corridor Commission. There was a brief discussion about the existing well on the adjacent (Frost) lot, which is less than 100 feet from the property boundary. The septic design for that lot must consider that fact. Price made a motion to find the application complete. Emery seconded. Vote all in favor. Price made a motion to have a public hearing at the next regularly scheduled planning board meeting in May. Kizaki seconded. Vote all in favor.

**Review of Aquifer Status for Reporting at Annual Town Meeting** **opened at 7:35 p.m.**

There was discussion at length about the water level in Round Pond. It is apparently very low for April. Rebmann wondered if we could use the level of Round Pond to ascertain the level in the Ward’s Brook Aquifer. He also noted that a careful review of the levels in the monitoring wells reveals a slight downward trend. Kizaki noted that the State of Maine has already activated its drought task force for 2021. She asked if there was a drought-related trigger that is used by the water extraction company to reduce withdrawals. She also stated that the withdrawal limit is an annual limit and not a monthly limit. Rebmann did not think there was a mechanism available to the Town to limit the amount of water withdrawn during drought periods. The Town’s hydrogeologist, Emery and Garrett, has never offered guidance in this area. There was significant discussion about what actions the Planning Board should take. Rebmann noted that there is limited expertise on the Planning Board and on the Water District Board. He suggested that the Planning Board meet with the Water District Board. Kizaki made a motion to plan a workshop with the Water District Board. Price seconded. Vote all in favor. The Board agreed to propose a date of September 14, 2021.

**Public Forum opened at 8:32 p.m.**

Daymond Steer from the Conway Daily Sun recalled a survey regarding the status of private wells in Town. He also recalled a public hearing in which Nestle stated that they would respect the Town’s request to reduce withdrawals during periods of drought.

**Other Business opened at 8:34 p.m.**

Price noted that the tree removal for the Walden Renewables Solar Project seems to be extremely close to the residences adjacent to the development. He wondered if there was anything the Board could do to remedy the situation after the fact. He suggested that the Code Officer ask Maine Municipal Association for guidance.

**CEO’s Monthly Report**

A motion was made by Price to accept the report. Emery seconded. Vote all in favor.

**Meeting Adjourn**

Rebmann made a motion to adjourn. Seconded by Price. Vote all in favor at 8:53 p.m.

**Attachments**

**2021 Aquifer Review Fryeburg Planning Board**

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**Statement from Secretary of the Fryeburg Water District:**

Regarding the Aquifer Status, it is time, NOW, to prioritize our water. The Planning Board should be seeking support and leading a collaborative effort, with the Selectboard, FCC, Fryeburg Parks, Open Space, Beautification Committee, and the FWD. Last Thursday 4/22 MEMA and the USGS commenced a preliminary activation of the Drought Task Force for the 2021 season. US Drought Monitor currently shows extensive abnormally dry conditions across the State which exceed the the threshhold required for activating the Task Force!

<https://www.maine.gov/tools/whatsnew/index.php?topic=Portal+News&id=4519973&v=article-2017>

I have reached out, as a FWD Trustee, SRCC Commissioner, and SHA Board Member to Heather Dumais State Hazard Mitigation Officer and Maine Emergency Management Agent to pursue information and involvement. I am not comforted by the possible representation offered by Nathan Wadsworth and hope that there are more objective ears to hear our concerns.

An email dated 4/15/’21 to the FWD from Maine Water’s President Rick Knowlton included this remark; “…even with the below average precipitation in 2020, there were no adverse effects on the Ward’s Brook aquifer as a result of the FWC operation, inclusive of the withdrawals by Poland Spring.” Aside from this remark striking me as rather cavalier, it should be noted that the precipitation decrease was at least 9 inches and last Spring we were not where we are now drought wise.

**-Nora Schwartz, mpschwarz@gmail.com**

**Request from Fryeburg Water District Board Member:**

While a review of data from monitoring is probably what the Planning Board will look at first, I would ask them to review the steps necessary for the PB to take in the case of low water levels. Is the PB willing to call for a moratorium on private withdrawals when levels drop quickly or below the standards set? Since the contract between FWC and Nestle specifically states that the public water service has priority, what is the trigger point for a pause or halt to withdrawals and protect public water access in the village?

In recent communications between FWD and FWC, Maine Water president Rick Knowlton has stepped in as spokesperson. Is the PB also talking to Mr. Knowlton when concerns arise? Or EGGI? Or directly to the shareholders and trustees of the Fryeburg Water Company who are community members and neighbors?

Low water level trends and drought conditions which have become the norm over the last several years as well as a downward trajectory indicated by monitoring data in EGGI's 2019 analysis should cause us to review the health of WBA on a regular basis. I would recommend the PB cooperate with the Water District in an effort to oversee public resource extraction and use. It seems a logical answer to easing the burden on the PB while recognizing the expertise and role the Water District has been charged with since its founding in 2007.

**A Question:**

"I took part in a Water Resources Planning Meeting at the state level last week where they gave a presentation on how very low the snowpack was this winter and how dry we are going into this summer season this year. In the meeting, we discussed different drought scales that scientists use to determine drought levels, and which one would be most appropriate for measuring the drought effects on groundwater.

The state has no regulations in place imposing which drought scale is used (ex: US Drought Monitor, Palmer Index, etc) so I'm looking to collect information about what scale Fryeburg or Nestle (now doing business as BlueTriton Brands) uses as part of determining the "actionable levels" of scaling back groundwater withdrawals for export to protect our aquifer and local supply for the community. For example, the Town of Denmark uses the Palmer Index as baseline information.

I'm looking for any physical documentation (electronic or otherwise) that you may have access to, to see if there is any information about this in any agreement for actionable groundwater levels. I called our Code Enforcement Officer Christopher Walton today, who did not have the answer, but unfortunately our call got cut off.

Thank you so very much for looking into this and please let me know if you have any questions."

* **Nickie Sekera, nickiesekera@gmail.com**

**Round Pond level alert taken Mar 29, 2021:**

The water level in Round Pond is lower than I have ever seen it. Doesn't seem right at the end of snowmelt and after a day of rain.-- Tom Rebmann

**Round Pond 2**

Historically Round Pond has indicated the water levels quite well. It is fed by an underground spring so it's not just a collection pond. When the level goes down it's because the water flow goes down. Residents tell me that 30 years ago you could never even walk around it because the water level was so high, even in August.

Recently, during the rezoning process, residents are asking why the huge extended aquifer under North Fryeburg and running all the way North has not been monitored or part of any study. It is connected and recharges the studied part of the aquifer and it is being depleted not just by water pumping but also by the efforts to stop flooding in North Fryeburg, first by changing the course of the Saco (which didn't stop the flooding) and later by some dams constructed.

This kind of flooding does recharge aquifers. But it will take decades to notice the effects with this much water, so by the time we can see the effects the depletion of the aquifer is well advanced.

**--Edy Kizaki, note**

**Who Was Howard Dearborn? From 2017**

*Water Waves* was originally published by Fryeburg citizen, Howard Dearborn from 2007 to 2008. Dearborn, who died in 2013 at the age of 95, was a resident of Lovewell’s Pond. After Nestle began large-scale water extraction from the Ward’s Brook Aquifer, changes to the lake’s water quality concerned him deeply, and Water Waves was the result. In a letter dated October 4, 2006, Dearborn explained that because groundwater no longer flowed freely into the lake and out into the Saco River keeping the bottom clean and sandy, the lake bottom became covered with “slimy green” aquatic growth that “discourages swimming and water activities as well as decreasing property values.” Nine issues of Water Waves were published and mailed free to residents of Fryeburg. I rediscovered my copies while going through old files on Nestle/Poland Spring, and shared them with a group of concerned Fryeburg residents.

Although the newsletters are over 10 years old, several things amazed us. The main one being how little has changed - except for the fact that Nestle now has a 45 year contract that was fought all the way to the Maine Supreme Court. No new studies have been done on the health of the aquifer or the surrounding above and below ground ecosystems even though virtually everyone agrees it’s a necessity. The town is now in the process of raising the funds to update the Emery and Garrett Report, but so far it appears an update may not include expanding the scope of the report beyond the Ward’s Brook Aquifer, which was one of Dearborn’s concerns.

At the same time, Nestle/Poland Spring is in the process of expanding their pumping into surrounding towns, and has proposed building a bottling plant, perhaps in Fryeburg, perhaps with special tax increment financing (TIF). (See accompanying article). While there has always been concern and opposition to Nestle/Poland Spring’s water extraction, the record drought of 2016 that caused many wells to go dry and depleted ponds, rivers, lakes, and wetlands to previously unheard of levels, reinvigorated citizens’ concerns. Though the drought is over for now, given climate change and strange weather patterns, the future, especially 45 years down the road, is unpredictable. In the letter mentioned previously, Dearborn wrote: “[What many don’t understand is], groundwater and surface water are all the same water. It is the surface of the earth that differentiates the two.” Impacts from last year’s drought were clearly visible to anyone - the Saco River was reduced to a trickle. Small farm ponds dried up, larger ponds were severely depleted. Lake levels were low. In addition, water quality was compromised, water temperatures rose, fish and other aquatic life forms suffered, and it will be several years before they have completely recovered. And, of course, many wells ran dry. For families who lost their water, the drought of 2016 won’t be forgotten any time soon. Nor should it be.

Meanwhile, questions abound and are not being adequately addressed by town officials or Nestle/Poland Spring. For example: How is the quality of water affected by extraction and drought? What is the relationship between changes in the surface water we can see and groundwater conditions below? How can Fryeburg residents, in and outside of the Water District, have legal representation and a voice in the decisions made regarding our water resources? It is important to remember that Fryeburg (or Brownfield or Denmark) is not on a level playing field with a multinational corporation with deep pockets. Admitting this does not mean we are stupid or unable to understand complex situations. It’s simply a fact. My research on the impacts of large-scale water extraction, especially during droughts, shows that it absolutely has a negative impact on groundwater and aquifers, particularly during droughts. Impacts include nearby wells going dry as well as harm to ecosystems as a whole. Negative impacts were most apparent when the water was extracted for consumption (where it is removed completely from the area, like Nestle does), as opposed to irrigation. It is clear that concerned citizens of Fryeburg and surrounding towns, all of which are impacted by Nestle/Poland Spring’s current and proposed future water extraction plans, have a good deal of work to do. The condition of Lovewell’s Pond after massive pumping began is what alerted Howard Dearborn to the damages being done that were ignored by town officials, by the focus of the two surveys that were completed (the Emery & Garrett Report, and the Normandeau Associates Report), and certainly by Nestle/Poland Spring. It is what caused him to become a water protector. We are grateful to him for his efforts. The goal of Water Waves is to take Howard Dearborn’s work to the next level, to get the answers we need, and to reclaim our water for the citizens of the region, and for the larger ecosystem of which we are a part.

**-Susan Meeker-Lowry, Long time FB resident**

**A few questions:**

Is the hydro-geologist’s twice yearly review of water flow a new requirement? If so, please explain why it has been deemed necessary. Over the past 20 years, have there been any changes in the quality of the water being pumped from any or all of the wells? (If this is unknown, would not this be a basic question to be answered before extraction continues to take place?)

If the water quality has changed, please describe those changes…or if not, please provide evidence that the quality has not gone down. There is an old mill dam on Ward’s Brook which could be the reason for the spring Fryeburg Water Co. is using for Wells 1 and 2 being so viable.

a. How does this mill pond dam affect the brook flow below the dam?

B. Who controls the flow from the dam?

Isn’t it possible that Well 3 (on Porter Rd) would have far more effect on the flow of Ward’s Brook than wells 1 and 2? Has this been studied?

Was the installation of Well 3 fully investigated before being allowed use (localized impact studies, etc.)? If not, why not? It is incumbent on the commercial enterprise seeking profit to prove to the local community that no damage is being done to community resources, without costing that community money.

**William Harriman II, 32 Ice House Rd. Fryeburg, Me. 04037**