

**LAND USE REVIEW COMMITTEE MINUTES  
TOWN OF UNITY  
WEDNESDAY, SEPTEMBER 11, 2013  
LOCATION: MASONIC LODGE, UNITY, MAINE**

**MEMBERS PRESENT:** Randy Reynolds, Jim Kenney, Barry McCormick, Tony Avilla, Charlie Porter, Mike Murch

**OBSERVERS:** Jean Bourg

**MODERATOR:** Jim Kenney

**REPORTER:** Sherry Powell-Wilson

18:31:29 Jim Kenney: Shall we start? You saw the very brief Minutes? Are there any modifications to the Minutes? Any questions?

18:31:46 Randy Reynolds: I make motion to accept as read. [Seconded]

18:31:51 Jim Kenney: Accepted. Next week Jo will be in Chicago, I need to pick her up at the airport. If we can't make it back in time I'll give you a call. Last week we were "wrapped around an axle" on registered farmland and we had a lengthy debate. Ken took an action item and we got the message that it does not currently exist.

18:33:25 Charlie Porter: I told you it was canned. The whole thing was canned. I've known that for quite a while. We don't need the State.

18:34:46 Jean Bourg: I e-mailed to everyone on the list this article in the Morning Sentinel, that's why I had the discussion about State law and local ordinance and what happens when they conflict. The Mount Vernon Selectmen are suing town's Board of Appeals because the Board of Appeals made a ruling contrary to State law. Who sorts a thing like that out? It's important to match up ordinances.

18:35:54 Randy Reynolds: At least as stringent as they are, you can go more stringent.

18:36:00 Barry McCormick: I think that's the premise we've been working under.

18:36:06 Jim Kenney: We have treated this document with the idea that if there is a conflict, we take guidance from it. We've been working for months and we've still got a lot of danglers out there.

18:36:23 Randy Reynolds: We're going to find more as we go along.

18:36:26 Jim Kenney: We really didn't set any item other than registered land to put in front of us this week.

18:36:35 Randy Reynolds: I want to know more about this before I proceed with anything. We do have to do something with this. We can bypass it for now. I don't see any need to bypass it. There's nothing for State guidelines.

18:36:55 Jim Kenney: I think we can develop proper wording that would do the proper intent to protect the farmers and the neighbors.

18:37:30 Barry McCormick: Where did we end up last week, at 100 feet?

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18:37:29 Jim Kenney: We were speaking to that. We all read that 10 pages or so in the guide and it says 100 feet. It only said it one time.

18:37:50 Randy Reynolds: If you look in the State guidelines, it mentions 30, 50, and up to 100 feet. You've got to define where your actual farmland is. If you have a piece in the middle here that doesn't touch other property, it's not. It has to physically touch the other property for the 100 feet to coming into effects. You can have corn or anything like that, if it's 100 feet on their property it doesn't count.

18:38:31 Charlie Porter: The farmland has got to abut it.

18:38:36 Randy Reynolds: It's got to be contiguous with the existing property line.

18:38:55 Barry McCormick: Wait, wouldn't it be anything that gets chemicals, even corn, could still be, that's farmland.

18:39:04 Randy Reynolds: Apple orchards and stuff like that that doesn't count.

18:39:11 Barry McCormick: The problem is fertilizers. Any part of that farmland that is fertilizer that abuts with another piece or property.

18:39:22 Charlie Porter: You're to have to define fertilizer. Cow manure is not going to affect a well.

18:39:34 Jim Kenney: I grew up on a farm in Unity. When I grew up it had one house on it and I lived in that house. On the exact same land, no borders changed, there are now five houses. Lands acquired out in the rural district was cleared and farmed to the fullest extent and I don't understand how anything would apply. It was all farmlands at one time.

18:40:19 Barry McCormick: What words would you put into this?

18:40:25 Jim Kenney: Be aware of what your water contains, find out what your neighbors well contain. Marie found bacteria in her well and we've never had bacteria on the farm. There has been a fire over that well or adjacent to that well but she never had that tested. That fire was 40 years ago or so. She had a house fire right next to it. The chicken house came down and then her house came down.

18:40:53 Barry McCormick: I understand what you're saying but it's our job to put together, if we choose to put something in there as an ordinance, for new developers or homeowners for a guide. Either we've got to leave it out completely or put something in there and have it specify what to do.

18:41:16 Jim Kenney: There are machines out there now that can take water and bring it out quite clean at the end of it.

21:20:02 Randy Reynolds: The only thing that applies in that 100 feet is well or anything to do with water. You can build right up to whatever guidelines says is a property, line you can put buildings...

18:41:45 Jim Kenney: Exactly, it's the well.

18:41:50 Randy Reynolds: Let's read down through. Top of page 20. Most of this came out of one of these yellow books if you look at it real close.

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18:42:32 Jim Kenney: I want to bring up something. The Murches said something, and they voiced it quite well, they don't want to do something that leads them to the courthouse steps.

18:42:47 Randy Reynolds: You've got people who would like to take you there.

18:42:54 Jim Kenney: That's where it's important that we have something to protect both the person, the family developing a new structure as well as the land owners adjacent to it.

18:43:10 Randy Reynolds: I think it's only common sense to anyone building a house not to build within 100 feet of farmland anyway for their own protection, I mean the well.

18:43:22 Charlie Porter: 50 feet.

18:43:27 Barry McCormick: Let's make it 100 feet and move on. If the State is using 100, why don't we?

18:44:14 Mike Murch: Winslow does have a couple of places that they have tied implementing.

18:45:17 Jean Bourg: At some point in the future, the registry will be implemented. I think if we put it into the Ordinance that if there is a registry, how you determine what farmland is, it is the designation of the code enforcement officer at the time.

18:45:45 Charlie Porter: Even to this day, if you buy a piece of land abutting farmland, I go out and measure where you put that well.

18:46:02 Barry McCormick: I'm thinking if we put in this ordinance that currently there is no State or local governance setbacks on farmlands. However, at time of States updates or registration is mandated, the Town will have to update this. That just gets us out from doing all this speculating.

18:46:45 Randy Reynolds: What we need to do is go through now and create our own ordinance from this this and at the end, this takes effect unless the State registry has started up and is running and everything will have to adhere to that standard.

18:47:56 Jim Kenney: The town would have to respond to that standard. It's not going to be up to the landowner to chase down a book. We want our ordinance to be encompassing enough they can do it. If it comes to pass, I would say an amendment to our Land Use Ordinance in the future.

18:48:38 Jean Bourg: Suppose Charlie goes to do a building permit on a piece of land and maybe he doesn't know that the adjoining piece of land has been bought to be used as a farm, how would you know?

18:49:14 Charlie Porter: It could be a piece of woods back there.

18:49:36 Charlie Porter: Have to be there when this guy built. That plowed ground has to be there and being used when this guy builds to make him fall into it. What a guy's going to do next year, the guy builds his house, drills his well, and now the farmer has decided that he wants to plow the ground and plant corn.

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18:50:08 Jim Kenney: Case in point, what I do in the field between me and I'm going to call it Marie's house, that's now generating hay but we do crop rotation there and we do dress the field with manure. Buddy is holding an organic certification on that land. We use the field.

18:50:40 Barry McCormick: Of all the things I thought we were going to get stuck on it, this wasn't one of them.

18:50:47 Jim Kenney: I think we can address it so it can be successful for both parties, the farm owner and the landowner adjacent to the farm.

18:51:00 Charlie Porter: But you can't put the landowner out of business because he built when nothing was there.

18:51:11 Randy Reynolds: You're talking if somebody builds a house and then a farmer comes in next to it.

18:51:15 Jim Kenney: Currently, if that house is being built today, it has to be in accordance with the current Land Use Ordinance. This has not yet been modified or adopted by the citizens of the Town of Unity. Right now, they have to abide by this.

18:51:33 Randy Reynolds: This says up to 300 feet.

18:51:40 Jim Kenney: Exactly. We can only go forward, and we've got to go forward and have it accepted.

18:51:45 Randy Reynolds: We've got to date it April 2014.

18:51:54 Jim Kenney: If that early. That's the right thing to do but we'll be told later on.

18:51:55 Randy Reynolds: See, this all goes back to 1995.

18:52:08 Jim Kenney: See, in my case I didn't create a new lot. I owned all the land. I monitored the wells.

18:52:18 Barry McCormick: We've got to come up with something for wordage here.

18:52:23 Jean Bourg: It goes both ways. We need an article that addresses someone who builds next to farm. We need an article that addresses someone who begins to farm land that wasn't farmland before and is next to farmland. We need a way to determine what is farmland and what is not.

18:52:50 Randy Reynolds: I think we could cover them both ways. If the lot is already developed and the farmer comes in afterwards, he can't develop within 100 feet of the property line.

18:53:11 Jim Kenney: We are proposing 100 feet.

18:53:12 Barry McCormick: So basically, what Jean and everyone else is proposing, if I build a house they would have it written up that that I can't put a well within 100 feet of his farm, if it's an existing farm. And if I've got a house existing, he come in and puts a farm beside me, he can't put it fertilizer or chemicals within 100 feet of my property.

18:53:37 Jim Kenney: He can't put certain chemicals. He can put manure but not chemicals.

18:53:41 Charlie Porter: It should be everything except with permission of the homeowner.

18:53:49 Jean Bourg: And that leaves the one thing, how do we determine what's farmland?

18:53:58 Jim Kenney: We can adopt what's there in the State.

18:54:02 Mike Murch: My question is when I'm reading about registering farmland, and you register your farmland it's from the field and not your property. My field is 100 feet from the property line, well, there's 100 feet right there. That needs to be taken into consideration. I could have pasture for a couple of years, that's not classified as farmland, then somebody builds next to me, well I decide I want to rotate every 3-4 years, I'm going to be screwed the next I get ready to come around and rotate my crop. That may be an issue depending on the definitions of what is farmland. As Charlie pointed out, if it's not plowed or used or anything and someone comes in there to build, if it's pasture and that's not classified as farmland because it's technically not generating an income, they be alright to drill their well, when I got to plow it I can't.

18:55:07 Barry McCormick: To me, it's not income that's the problem, it is what is put in and on the land next to the well. It has nothing to do with how much money you're making off the property.

18:55:19 Mike Murch: It depends on how you define it.

18:55:20 Barry McCormick: To me, it's as simple as stating any land that is considered farmland that gets fertilizer or some type of chemicals on that piece of property. To me, that's the only issue.

18:55:36 Jim Kenney: I believe this team can write the proper words that makes it right for both parties.

18:55:55 Tony Avila: We need to go with the commonsense clause, first come first served. If the house comes first, if anything, the farm should be at least 300 feet.

18:56:26 Charlie Porter: The State has what's called a Best Practices Act that spells out the rights and one of them is he can throw manure on his land. You might not like the smell for a couple days but he's got a right to do it.

18:56:49 Tony Avila: Can we get a copy of that?

18:56:50 Randy Reynolds: It's probably on the internet.

18:56:51 Tony Avila: We're going to run into issues. In a couple years we're going to have issues with housing developments in farming areas with the issue of people complaining.

18:57:26 Mike Murch: It's no different with having a gun club.

18:57:37 Jean Bourg: The farmer would be protected by the ordinance. And 300 feet to a small farm seems like a lot of land to give up.

18:57:52 Tony Avila: I'm talking about livestock. Nobody puts cattle in five acres. A milking farm, who's going to milk cows in five acres.

18:58:18 Charlie Porter: He can have 50 acres for his milk cow and you still want to regulate him 300 feet back from the well?

18:58:23 Mike Murch: That's one of those things where you set it for the well or the property line.

18:59:10 Randy Reynolds: My take on handling the setback when you rotate your crops, 100 feet is 100 feet. If somebody comes in and builds, you have to stay back 100 feet.

18:59:24 Barry McCormick: Fair for the farmer, fair for the home owner.

18:59:32 Charlie Porter: 100 to 100.

18:59:35 Jean Bourg: The smart farmer would always have a crop going because he knows...

18:59:48 Barry McCormick: That solves a lot of problems. The only thing we have to define is what can't go on within that 100 feet.

19:00:01 Mike Murch: Is that going to include woodland? In my case, if Ron ever decides to sell down there, subdivided down in back, it's mostly woodland. As an example.

19:00:04 Barry McCormick: Personally, to me, I think the farmland is the whole farm. Why wouldn't it be the whole farm?

19:00:41 Jim Kenney: No.

19:00:49 Charlie Porter: Because you rotate crops.

19:00:49 Barry McCormick: What harm does it do to classify the whole farm?

19:01:14 Randy Reynolds: We're only talking 100 feet both ways so it doesn't matter that much.

19:02:37 Barry McCormick: We're just putting restriction on 100 feet.

19:02:43 Jean Bourg: It's only for the well.

19:02:47 Barry McCormick: If I'm building a house and I know even though you've got 25 acres across the road behind Tony's house, you still hay it. I'm looking at it as a farm and I don't want to put my well within 100 feet of your property line. What difference does it make? I think we're trying to make it too complicated.

19:03:21 Randy Reynolds: [Randy marked out 100 feet to demonstrate - 68 feet]

19:03:21 Barry McCormick: Again, it doesn't mean you can't build within 15 feet of the property line, it just means your well can't be within 100 feet.

19:04:09 Mike Murch: An average set of light poles going down the road, as a reference, 300 feet. They're not all the same but going down the main road with no houses, about 300 feet every pole.

19:04:22 Randy Reynolds: I think we need to read through this to refresh everybody's memory of what's in here. Let's go through it one more time and hash it over again.

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19:06:19 Barry McCormick: On page 21, setbacks requirements, it says principal structures may not located within 100 feet of applicable farmland in the rural district, and within 50 feet in the downtown district.

19:06:35 Randy Reynolds: You read through the State's it say you can build anything up to whatever the setback limits are. A lot of this we can simplify greatly.

19:07:47 Jim Kenney: Let's talk applicable farmland.  
Charlie, you propose it been 100 feet in both places (rural and district).

19:08:34 Charlie Porter: There again, if the farmer wants to do something closer, if he can get an easement from the property owner, so be it.

19:08:42 Randy Reynolds: If he can get an easement, that's all he needs.

19:08:47 Barry McCormick: We need to put in what Jean said about the registry part of it.

19:08:57 Randy Reynolds: If the State gets registration going, then that takes president over the ordinance we create.

19:09:08 Charlie Porter: We could create a registry of our own.

19:09:14 Randy Reynolds: Why? Most of that is for tax purposes.

19:09:19 Charlie Porter: When a guy comes in thinking about buying a piece of property, he can go over to this registry and say, yeah, I'm going to be backing up to...

19:09:21 Barry McCormick: [To Mike] Would you want to register your property?

19:09:31 Mike Murch: It would depend what is involved.

19:09:31 Jean Bourg: Under our own registry, you could register the whole farm. Anything that puts a ruling into form where anyone can look it up in a public document if it is registered or not and not just the word of one code enforcement at the time goes, yeah, that's farmland or no.

19:10:38 Jean Bourg: As a principal in approaching this ordinance and enforcement, any time you can choose a written down rule of law over the judgment of one person who may not be in that position forever, I choose the rule.

19:11:24 Randy Reynolds: That's where we were headed with the registry, we were trying to get something as a law. I know what she's talking about.

19:11:45 Charlie Porter: Same thing, I know this is it and that's the only way it can be done.

19:11:52 Randy Reynolds: Like when a farmer goes to register, there'll be a note that states what farmland is and set back for the 100 foot setbacks on either side of the property line for well purposes.

19:12:08 Barry McCormick: I have two things. One, somebody has to oversee this registration of farmland. My other thought is if there is a one-time incentive for farmers to sign up for this, it might get them involved a little more.

19:12:25 Jim Kenney: And what might that incentive be?

19:12:30 Barry McCormick: A couple hundred bucks off their taxes. One time. Wouldn't it be nice to have documentation of all the farmland in town?

19:12:51 Charlie Porter: You're protecting his property.

19:13:11 Mike Murch: Soil conservation, if you were to register with the State through their process, the Soil Conservation is actually the one that approves it. I called down there and they don't know nothing about it.

19:13:54 Barry McCormick: Say if Jean wanted to register her place up on the lake as farmland, Charlie would have to go inspect it and make sure there was farming going on? Somebody is going to have to verify it is a working farm.

19:14:11 Charlie Porter: We've got this problem right now, we have this guy in town here, he rents a piece of land and puts a big vegetable garden in. We've got some right out back here on Hodges.

19:14:26 Barry McCormick: The landowner would have to register it as a farm.

19:14:32 Jim Kenney: We're debating an issue that doesn't exist.

19:14:38 Randy Reynolds: All of these things we're talking about that don't exist, they're going to exist before we get done.

19:4:45 Barry McCormick: If I own a piece of property, what Charlie is getting at, that I don't do anything with and Randy wants to come in and grow carrots on it. I've got to register that land as farmland.

19:15:01 Jean Bourg: So what we're debating here is the desirability or not of the town having its own farmland registry? Pros and cons.

19:15:10 Mike Murch: If you did rent out a piece of land as we do, we rent some land out, they go in and they do their business, and the house next door was already there per se. The person goes in there and plows up an old pasture well, they're in wrong. Who's going to be responsible, the guy who turned it over or the landowner?

19:15:39 Charlie Porter: Everything reverts to the landowner.

19:15:43 Randy Reynolds: Who brought up another good point. If somebody rents a piece of land off you, say off Hodges for the vegetables out back, does that make all of Hodges land a farm?

19:16:02 Jean Bourg: Does designation go by plot of land?

19:16:09 Randy Reynolds: That's why we need a farmland description. What is it?

19:16:31 Barry McCormick: We've got to remember that it's the well that's the issue.

19:16:44 Jean Bourg: It sounds like we need some specialized help on this issue. Maybe an extension service. Is there any kind of farming organization that local people belong to?



19:17:03 Mike Murch: What would really make this simple is simply have 100 foot setbacks for everybody. Everywhere, everybody, every lot - you've got to be 100 feet from placement of the well.

19:17:03 Jean Bourg: Everywhere in the rural district.

19:17:40 Jim Kenney: How are we going to handle the farm in town?

19:18:16 Mike Murch: Does anyone know what the acreage is of Dalzell's property?

19:18:20 Randy Reynolds: Thirty acres in the ballpark.

19:18:56 Barry McCormick: Can we move forward on this issue?

19:19:10 Jim Kenney: Everything, by all things, woodland?

19:19:16 Randy Reynolds: Not so much getting into that but getting down to 100 foot setbacks both ways - that's where we're going to play around for the next eight months.

19:19:26 Jim Kenney: I was trying to clarify what Barry was saying by saying all.

19:19:34 Randy Reynolds: Give me a chance - we'll get back and talk about it some more.

19:19:54 Barry McCormick: We get almost there at 100 feet to protect the farmer and homeowner, and we get almost there and then some little thing comes up and we stop. Let's get to that point so we can move on and then at least have some of it done and behind us.

19:20:25 Randy Reynolds: We have a page and a half to go, let's keep going. Top of page 21, farmland protection incentive measure. Minimum lot size is two acres so that takes care of this, there is no minimum. I think we can get this all down to two or three paragraphs.

19:24:00 Barry McCormick: I met with a gentleman on another project and asked him if he would be interested in coming down to talk to us and he said, absolutely, he'll bring down some ordinances from other towns to help us.

19:24:00 Jim Kenney: When would we like to book that?

19:24:05 Randy Reynolds: I would like to get the farmland done, two weeks. Let's just get the farmland defined. Then we can jump right into the signs. I think we need one more week for the farm.

19:24:34 Jim Kenney: Barry, two weeks from today for the sign guy.

19:24:45 Mike Murch: We are meeting next week right?

19:24:57 Jim Kenney: Town meeting tomorrow night.

19:25:35 Barry McCormick: Let's give Randy a week to come back to this. Let's stop right here.

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19:27:57 Meeting adjourned.

**Respectfully submitted,**  
**Sherry E. Powell-Wilson, Notary Public**  
**Approved:**