

# TOWN OF EDDINGTON, MAINE

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## PLANNING BOARD

December 17, 2014

5:30 pm

## MINUTES

**CALL TO ORDER:** Tom Vanchieri called the meeting to order at 5:35 pm.

**ROLL CALL:** Members present were Tom Vanchieri, Craig Knight, Susan Dunham-Shane, Gretchen Heldmann and David McCluskey. Henry Hodges and Charles Norburg have excused absences.

Motion to make Craig a voting member for tonight. **By Susan/Gretchen 2<sup>nd</sup>. Vote 3-0**

### **MINUTES:**

**UNFINISHED BUSINESS:** Because this meeting is a review of the Draft Addendum and the public has been allowed to comment throughout the ordinance work, Susan suggested that this meeting will go back to a regular meeting format with Public Access at the end of the meeting.

The Board agreed with Tom that the presentation last week by Mark Stebbins was very good. He was a very good speaker and provided information that will be useful to them.

Tom read the Draft Gretchen had prepared dated December 4, 2014 and the Board reviewed each section. The following are items discussed:

Article III – OK

Article IV, Sect 2, A. Need new section number for protocols

B. 3.b. Remove “whether processing of materials will be brought on site from another location.”

B.5. Add “for burrows, clay and silt MEO’s. The distance is increased to 2640’ for rock quarry MEO’s.”

B. 10. Verify Section reference

B.12. Check the wording in Performance Guarantee Section for forms or surety to make sure they are the same.

Article IV, Sect 3. B.3. Capitalize “licensed”

B.3.a. Change “property” to “properties”

B.3.c. Remove “for” and second “contour”

B.4. Flag this and Section 2 B.3.b. Still need to decide if going to allow processing.

B.6. Leave in “including any proposed mitigation plan” to match Performance Standards.

B.10.i. Leave at 2’

B.11.iii. Verify Section number

All references to other sections of the Addendum will need to be verified.

Article IV, Sect 5.A. Change “2.” To “1.” In the numbering under this section.

B. Add: “Mineral extraction applications for new operations, expansion of previous operations, and active unpermitted operations of less than one acre may require a Public Hearing. (Per Gretchen, in 401.2 they are changing “shall”

to “may” and “7 days” to “10 days”. She does not have a note to change it to 1000', because that would affect every project.) Gretchen said that the Town Attorney can tell them if they need to add a reference to Section 401 of the Zoning Ordinance for notification procedures and time frame.

C. Removed this section. Number 3 of this section was added to Section 401: "Approval by the Planning Board of any project, does not show evidence of acceptance by the Town of Eddington of any road, easement or open space shown on the plan."

Article IV, Sect. 6. This section is highlighted because in the minutes it said to flag this section to revisit for rewording the compliance fee and third-party cost. Add "the" before operator and remove "These costs are borne by the MEO operator."

Chapter 2, Administration and Enforcement, addresses the CEO's authority in regards to any violations for any operation. A third party would be called in to inspect anything beyond his expertise for something out of compliance.

Article IV, Sect. 7. B. Reword this section from September 18 minutes. Remove current wording and add: "1. Mineral extraction initial permits shall expire 1 year from the date of issuance unless the construction of mineral extraction operation has commenced. and 2. There after, MEO operation permits shall expire if the MEO activity has ceased for a period of 2 years."

Article V. Sect. 1. C. Change "Ordinance" to "Addendum"

Sect. 1. F. Remove "s" from “applications”

Review the Application Review Process time frame in the Zoning Ordinance to make sure it addresses any extension needed, because further information is needed from outside sources, that will put it beyond the regular time frame.

Article V. Sect. 2. 1. Need the Section number referenced.

Sect. 2. 1.6. after "corridors" add " that have been identified by the Maine Department of Inland Fisheries and Wildlife;"

Sect. 2. 1.8. David verified the Maine Title referenced.

Sect. 2. 1.2. after professional add "such as a fisheries scientist, wild life scientist or botanist as appropriate."

Article V, Sect. 2. 3. Revisit "processing" in first 2 paragraphs for final discussion

Article V, Sect. 2. 3. Remove Charlie's note in red in third paragraph. Remove "at least one test pit or monitoring well to be" and add "at least 3 test pits or monitoring wells to" At the end add: "These wells shall be located at 1 up-gradient and 2 down-gradient." Susan wants to flag this section to rethink it in regards to 2 up-gradient wells. Next paragraph, second sentence; after collected add "for one year." Gretchen felt that quantity testing should be done during the driest time of the year to check wells. Gretchen will send these questions to Mark Stebbins: There are some MEO's that mention that the operation may not withdraw more than 5000 GPD. Is this something the Board should include and how do we know 5000 GPD is acceptable? And why do you do biweekly tests during the wet season but only once per month during the dry season to check the impact on wells? Does this give an accurate indication of how it might affect nearby wells? Flag this section and get the answers to these questions. Susan had noted to reinsert Hancock Section 2. 3. d. here. "A mineral extraction activity must not withdraw more than 5,000 gallons of ground water per day, unless a hydro-geologist evaluation performed by a qualified professional, determines this will not represent an environmental hazard or threaten drinking water supplies."

Article V, Sect. 2. 7. Move the paragraph that starts "All buffers must..." to the beginning of this section and move "To minimize.." to the second paragraph.

Article V, Sect. 2. 8. Move "d. Grubbed areas..." down to its own line below c.

Article V, Sect. 2. 9. Between 9.4 and 9.5 remove "9. Surface Water Protection and

Stormwater Management (cont)"

9.7 At the end add : "If the municipality needs to perform this work it shall be at the operators expense."

9.8 Capitalize "Section" 9.3

9.9 Remove this section

Susan will work on some wording to put at the beginning of the Addendum so people will understand that all of the rules may not apply to everyone because of the size of their project. The Board will flag this section.

Article V, Sect 2.10. Gretchen had a note to possibly use MDOT or Hancock wording in this section. Leave the first section "Objective...one hour period." and the next paragraph that starts "A traffic study... mineral extraction operation." and the last 2 paragraphs after 13). Remove the rest of it and insert the "Hancock Traffic Section".

Article V, Sect.2.11.a. Add: "sound at a project property boundary." David feels that there will be complaints from residents because of noise from equipment running and dumping rock into trucks for 9 hours a day for 30 years on the project site. Gretchen suggested adding: "All equipment shall be operated in the forward facing manner.", to reduce back-up beeping.

Article V, Sect. 2.11.a.iii. Remove "and 55 dBA between 7 a.m. and 7 p.m. in the Industrial Zone;" Susan questioned "The applicant is responsible for measuring noise levels" and if it should be more restrictive of who does the testing and who pays for it. Susan will review the Wind Ordinance and submit the information to the Board.

David will look for the MDOT access management item and compare it to the Bucksport Ordinance.

### **NEW BUSINESS:**

**OTHER BUSINESS:** Susan will send a list of questions for Kenneth Libby, MDEP Stormwater management, to Russell and have him forward it to Mr. Libby.

Meeting Dates for December and January: They will meet on January 8, January 13 and January 22, 2015 at 5:30 pm. Gretchen will not be here for the December 30, 2014 and January 22, 2015 meetings. David will be out of town the week of February 16, 2015. An Ordinance Time Line was included on the Agenda: Attorney Review, Planning Board Public Hearing Advertised and Notification at least 7 days in advance. Selectmen must have it by February 24, 2015 to schedule a Public Hearing and Special Town Meeting which would be March 31, 2015.

### **STAFF REPORTS:**

**PLANNING BOARD COMMENTS:** The Board clarified that the vote on the Addendum will be at a Special Town Meeting and will not be a referendum vote. If they don't approve it, then it goes back to the current ordinance and they pick up where they were April 3, 2014 in reviewing the application.

**NEXT MEETING:** The next meeting will be Thursday, December 30, 2014 at 5:30 pm.

**PUBLIC ACCESS:** Ralph McLeod questioned that metallic mining is not included in the Addendum. He has tested some of his son's property and it seems to contain magnetic material. He would like the property tested to see how much will be an iron product. If the rocks contain iron, it will create a pool with iron, which is toxic. He thanked the Board for their diligent service.

Ray Wood Sr. said that property value has not been addressed in the Addendum work and from what he has read, there could be a reduction of 20% of tax within a mile 2 radius of the site. If you take a 2 mile circle out of this town you are taking about 25% of the town. The town is currently valued at about \$174 million, if you take 25% away, you are knocking it down to around 74.5 million and then 20% of that would be about 8.5 million of taxable revenue that they will not be able to tax. This happens over 15 or 20 years due to depreciation in the value of property because of the lack of ability to sell the property within a 2-mile radius. For a town the size of Eddington it could mean a 2 mil increase. Tom asked how they would incorporate this into the Addendum. Mr. Wood feels that it should be taken into consideration to protect the value of the property of the Town and the residents. He feels they have addressed the small operations but need to look at this for the large operations and the negative impact on valuations.

Janet met with our Tax Assessor and Town Attorney and he said it is dependent on the type of quarry and its size and location.

Janet questioned the following items:

1. In the regards to processing, if they don't allow material to be brought in, that would make it impossible for a sizeable project to bring in loam to screen it. Also the town won't be able to process gravel and sand for the roads.

2. Page 2, #5, The 1000' setback from residences and wells from a pit and 1.5 mile for a rock quarry, is opposite from current regulations. You need to have greater protection for a gravel pit with the 5-foot separation, because of spills going into the ground, where below the water table you are sifting everything into the pit.

3. The testing of water quantity is not for the water flow rate, but the ground-water table level. In the ordinance, quantity is misused and actually should be elevation or level. The hydrogeological study is what determines quantity flow rates. Some of the wording is misleading in this section.

4. Page 4, 11.ii The wording of this section states that for MEO's over 5 acres, a hydrogeological study is required, but MEO's under 5 acres are not required to and would then not have any testing and would not be regulated.

5. Page 4, 11.iii She questioned why there is no mention of standards for quarries under 5 acres and only mentions 5 acres or more.

6. Page 5, 7.B. This section says the permit shall expire 1 year from the date of issuance, but later it says you require 1 year of water testing data. There is a difference between below and above the ground water table testing. Susan thanked her for bringing that to their attention. The hydrogeologic study gets approved first and then the 1 year of water testing will start.

7. Page 6, Sect. 1.F. Janet questioned if the Planning Board has the authority to deny, modify or revoke its approval of the application. Susan said that this has been sent to the attorney.

8. Page 6, Article V, Sect. 2.B. Says existing operations register but don't have to apply to the standards. Wording needs to be added back in.

9. Page 7, Secondary documentation, It does not identify when this is required. The intent is when they are showing something on a map.

10. Page 7, Last paragraph, This is again confusing with the reference to ground water quantity and quality. Quantity should be level of water.

11. Page 8, What determines secondary documentation and why don't quarries under 5 acres have to do this.

12. Page 8, Standards of Ground Water Impacts. Janet questions what the Federal Primary Drinking Water Standards are and how they can require that water be a drinking water level, but a well may not be at the FDW Standards to begin with. David will review this and bring information to the next meeting. David said this is from the EPA and talking about the

property boundary. (Title 40, CFR) Gretchen said that section a, b and c were flagged as to if they should include this, so they will look into it further.

13. Page 11, 9. Storm water management, first paragraph and b, Janet said that on their site this would be impossible and they couldn't meet stormwater practices. She also asked why detention or retention ponds cannot be used. 9.4.1 conflicts with b. 9.4.1 makes sense to her. You would put it in sheet flow and a 5% slope and your stormwater flow would go into engineered ponds to drop out the sediment. This is another question for Ken Libby.

14. Page 13, Traffic, It will be addressed later

15. Page 15, Sound, It will be addressed later, If you lower the noise level within a development to less than what you have now, you will not be able to run a bulldozer on a loam site. Distance and topography are the best methods for noise reduction.

Frank Arisimeek did not agree that there would be extra traffic flow if processing were allowed on a site. If he can't process the product on site he will have to make two trips to get the amount of material he needs. They back haul a lot more now to the pit to reuse. The Board was referring to bringing product to the site to process and thus creating more traffic.

James McLeod said that sound does travel faster and easier at higher levels. So if they are working lower, the sound will travel easier from point A to point B. Engineered storage facilities are sometimes used. They require extra work but some have to use them because of the location they are in. On the issue of notification of abutting owners, he would again like to suggest possibly using certified mail for stone extraction to eliminate the problem they ran into before.

Janet recommended a definition for engineered storage facility because in the stormwater world it means something different than in the regular world.

**ADJOURNMENT:** Motion to adjourn at 8:55 pm. **By Gretchen/Craig 2<sup>nd</sup>. All in favor**

Respectfully Submitted,

Denise M. Knowles