

# TOWN OF EDDINGTON, MAINE

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## PLANNING BOARD

April 24, 2014

6:30 pm

MINUTES

**CALL TO ORDER:** Tom Vanchieri called Meeting to order at 6:30 pm.

**ROLL CALL:** Members present were Tom Vanchieri, Henry Hodges, Frank Higgins, Susan Dunham-Shane, Gretchen Heldmann, Craig Knight, Charles Norburg, CEO and Charles Gilbert, Town Attorney. Michael Shepherd has an excused absence.

**MINUTES:** Motion to accept the minutes of April 3, 2014 as amended by Gretchen to read: First motion under Unfinished Business should be a vote of 3 in favor, 1 opposed and on page 2, the following should be added to the end of the paragraph that starts "Sally Mills", "Board Chair moved on. Mrs. Mills registered a standing objection."

**By Susan/Henry 2<sup>nd</sup>. Vote 4-0 in favor**

The Board will table the April 10, 2014 minutes because they have not had time to review them. Russell will call tomorrow to check on the stenographer copy for the March 27, 2014 minutes to find out why we do not have a copy yet.

**UNFINISHED BUSINESS:** The Board has a copy of a letter in front of them from Ms. Dennison of Lake and Dennison LLP, Winthrop, Maine, attorney for Frank Arisimeek. Ms. Dennison is unable to attend tonight's meeting and requests that there not be any discussion regarding Mr. Arisimeek until she can be present. Charles Gilbert spoke with Ms. Dennison earlier today and told her that he did not think they would discuss anything of any substance or anything that would directly or indirectly impact the rights of Mr. Arisimeek and the Board's action to table it is totally consistent to that. But he did indicate to her that the Board may speak generally about hypothetical procedures that may occur in the future.

Susan said that at the last meeting she brought up concerns she thought that the Board should address and now Mr. Arisimeek felt that he needed to retain legal council rather than come and speak to the Board. Because they have the letter from his attorney now, they will have to move to table any discussion of the Arisimeek/Butterfield Quarry. The Board is concerned what this means in regard to the letter to DEP regarding the Intent to Comply. Mr. Gilbert explained that they could write to DEP regarding a, b or c, that do not represent a decision by this Board that affects any previous application.

Mr. Gilbert said there are two items of which they cannot discuss the merits tonight, but can discuss the procedure to handle them. They are:

1. Are there grounds to proceed with revocation of prior approval
2. There is the question as to whether the applicant thinks that based on if he has a permit, he can crush on the site. The applicant may not think he can crush, in which case it would not be an issue.

If there is an issue that the Board needs to discuss, they will decide what notice is to be given to Mr. Arisimeek and his attorney to invite them to the meeting to discuss it and give them the opportunity to present their side of the story.

Gretchen asked what the Planning Board could put in a letter to the DEP. Mr. Gilbert said that he has written a letter to DEP stating that even though there is an application for a Permit By Rule, that because of the failure of the applicant to get a permit within 90 days, as stated in the Ordinance, there may be an issue there. The second issue is that the site plan submitted to DEP is not the one that was approved for Frank Arisimeek on August 8, 2013. The photomaps are the same, however the site plan is

the layout from a subsequent application and was actually the second drawing submitted for the Hughes Bros., application. Mr. Gilbert said that a letter to DEP that sets forth historic facts is different than addressing and taking action. Some matters may circle back to the Board and they will have to stay pure in regards to the merits of the application.

They could authorize Charles Gilbert to write a letter to the DEP. Frank Higgins feels that it is not up to the Planning Board to enforce this permit to the DEP. He feels they are going beyond their jurisdiction. Susan said that upon review of the paperwork from Charlie of the Intent to Comply, the Planning Board found it to be different than the approved application. Frank thinks Charles Norburg should send the letter to DEP regarding the area being different than the approval. Mr. Norburg said that this is what the Planning Board approved and this is what he will be enforcing. The differences have been brought to the CEO's attention and he will send them an informational letter regarding the differences. Frank said the following two issues should not be mentioned in the letter: 1. Has Arisimeek permit lapsed? 2. What about the issue with the crusher?

**NEW BUSINESS:** The Board will start working on the Quarry & Mineral Extraction Ordinance within the regular meetings to start with and see how it progresses. Everyone should look for samples of ordinances from other Towns to share and work from. Henry recommended getting information from Hughes or Lanes during the process. Drafts will be done in public sessions so it will be open to input from the audience. Mr. Cicone, 361 Main Road said that asking Hughes Bros., to help did not make sense to him. Rusty Gagnon suggested that when gathering Ordinances, that they could contact towns that have a quarry now and ask them if there is anything they would have done differently now that they are in effect.

**OTHER BUSINESS:**

**STAFF REPORTS:** Charles Gilbert said that Ms. Dennison and Frank will be contacted by Russell to let them know that the Planning Board will be discussing the two issues noted by Frank. Ms. Mills and Hughes Bros, and their attorney should all be notified. Hughes Bros. filed a suit, before the moratorium vote. They allege that there was a violation of FOA and meetings pertaining to the moratorium before the vote. In a conference call, Mr. Gilbert was told that the Judge will try to get this on the docket as soon as he can and it will be heard in Superior Court.

**PLANNING BOARD COMMENTS:**

**PUBLIC ACCESS:**

**NEXT MEETING:** The next meeting would be on Thursday, May 8, 2014 at 6:30 pm.

**ADJOURNMENT:** Motion to adjourn at 7:05 pm. **By Frank/Henry 2<sup>nd</sup>. Vote: 4-0 in favor**

Respectfully Submitted,

Denise M. Knowles