

TOWN OF EDDINGTON, MAINE

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PLANNING BOARD

December 4, 2014

5:30 pm

MINUTES

CALL TO ORDER: Tom Vanchieri called the meeting to order at 5:32 pm.

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

Motion to make Craig a voting member for tonight.

By Henry/Susan 2nd. Vote 3-0

MINUTES: Motion to accept the minutes of the October 9, 2014 meeting as written

By Gretchen/Henry 2nd. Vote 3-0 (Susan abstained because she was not at meeting)

Motion to accept the minutes of the November 6, 2014 meeting as written.

By Susan/Gretchen 2nd. Vote 3-0 (Henry abstained because he was not at meeting)

UNFINISHED BUSINESS:

NEW BUSINESS:

OTHER BUSINESS: The Board continued their work on the Mineral Extraction Addendum. The following items were discussed:

1. 13. Reclamation,
 - a. Need a definition for Highwall/Quarry Face
 - b. change "2 ½ feet horizontal to 1 foot vertical" to "4 feet horizontal to 1 foot vertical.
 - a, c, e, f, ,h and j are ok.
 - g. David questioned why the affected lands must be reclaimed within 2 years and it was explained because it gives it time to grow and establish a vegetated cover.
 - i. David thought the 5 acres included the work area, stock-piles, etc. If the stockpile is not included in the permitted area, it could create a very large area and the site could continue to be expanded over the years. Susan said it was 5 acres in the State Regulations by MDEP which is when the permit by rule expires and an application needs to be done. Need to clarify what the active area includes. They would like to flag this section.
2. 14. Blasting – Per Janet, MDEP does not require the operator provide a blasting plan. They provide a blasting plan during the permit phase and then you have your ½ mile pre-blast survey and if you want to reduce that you have to show that your blast will be a certain velocity and certain sound levels and then they have to maintain their records on site so they are available for the MDEP inspection. If they are above any specific value, the operator and blasting company must submit this information to MDEP immediately. Add "Applicant must submit a copy of the blasting plan submitted to the MDEP." Gretchen pointed out that it needs to be added to the list for new MEO's application submission requirements. Gretchen also wanted noted that they need to do a side by side comparison for expansion and new MEO's submission requirements.
 - a. Remove "neither" and "nor unreasonable disturbances"

- c. This section gives the Planning Board, on a site specific basis, the leverage for adding a third party technical expert. Janet questioned how this would be done. Flag this section.
- d. 2) ii – Change “dated September 17, 2005” to “current edition” in the first paragraph and again in d, h and j. Janet said that the pre-blast survey is only done once at the beginning of the project. MDEP requires that the operator submit the blasting plan information to the municipality. Janet said that sometimes an operator would wait until after 3:00 pm if they are near a church or school. Add this as 2) ii) “If a previous owner rejected a pre-blast survey, the new owner has the right to request a survey.” Remove the paragraph in red “(from State standards: ...” in this section.
- h. is ok, Peak particle velocity refers to ground movement and vibration. This is measured by the operator and copies provided to the Town Office.
- i. Janet questioned the reference to 30 CFR 816.64. Gretchen looked it up and it is blasting regulations from the Federal Government. It is in Title 30, Mineral Resources, Performance Standards, for Surface Mining Activities, Use of Explosives, Blasting Schedule. The Board discussed whether to have pre-blast survey notifications be to abutters and residences within ½ or 1 mile. Janet said that #3, Dates and times when explosives are to be detonated, is not a requirement by MSHAW and it is also harmful because they cannot be pressured into a specific time of detonation. Tom said he could see a safety issue with this. Gretchen downloaded the newest edition and it says “time period” instead of “times”. The Board needs to decide how abutters are going to be notified; by certified mail, regular mail or call list. Janet said that a call list is used for notification of an upcoming blast. They call a week before and the day of and she feels it is more effective than mailing notifications. They will go with the call list for now. Flag this section.

Peter Lyford asked who the review authority was in reference to section d) 2) and was told the Planning Board.

3. 15. Hours of Operation

Crushing & Processing – Change from “6 am to 7 pm” to “7 am to 5 pm”

c. Remove: “unreasonably”

4. 16. Fencing and Security and 17. Signs and Lighting are ok.

5. Article VI, Performance Guarantee

Janet asked what a performance guarantee would look like for buffers and erosion and sedimentation control measures.

Section 1. C. Susan will add back in after expiration date. “If permittee cannot obtain a replacement,” and before “the municipality ... “

Sections 3 & 4, Susan will produce documents with the specific items that they wanted the Attorney, Charles Gilbert, to review.

Section 5, Return of Guarantees – The way it is written now, a performance guarantee will be required for any size or type of operation. Janet said that a gravel pit or quarry owner will have a performance guarantee to MDEP and she is not aware of any that have performance guarantees with a Town too. Susan said that if an operation does not require a performance guarantee with MDEP, the Town will still want one. The Board will revisit this section to discuss if we are asking people to have double guarantees or does there need to be a clause that in projects where there is a MDEP performance guarantee, the town is named as an additional. This may be a good question for Mark Stebbins. David also questions how easy the Town will be able to access these funds if something goes wrong and they are needed. Susan said that is another question for Mr. Stebbins. Janet is concerned with the second performance guarantee and does not see how it is possible on operations (erosion and sedimentation

control) and it would be quite burdensome for the operator. Janet said that if it is for as they develop it, you could implement a program that says they cannot start excavation until it is done and then you can inspect it. David is concerned that there would be a problem if some part of the operations failed and the operator has gone out of business. The Board will revisit this section and Susan said they need to decide whether it is for building them or for failure of them or both. Susan and Gretchen will compare the language in the Zoning Ordinance to reword the second sentence in this section.

Add: "What is left over, the permittee gets it back with interest."

6. Article VII, Miscellaneous

Section 1, Costs – The applicant can apply for the permit and have someone else be their operator. David asked if there was anything in the ordinance that would protect the Town from having to cover the expense of having to hire an expert for items that the CEO is not qualified to do once the application has been approved. Gretchen told him that this is covered in earlier sections.

Sections 2 and 3 are ok. Susan will also do documents for these sections for the Attorney to review.

Section 4, Right of Entry Onto Land – 80E refers to Administrative Inspection Warrants.

Remove "of \$500.00" and add "in an amount determined by the Select Board"

Section 5, Penalties – Change "Hancock" to "Eddington"

Sections 4 and 6 are ok

Section 7, Performance Record – Move to the Application Section.

Articles VIII, IX and X are ok

Janet Hughes questions when the noise restriction for continuous sound within a development was changed to 60 decibels. Gretchen explained that noise was a section they needed to come back to and that 60 decibels was in the original ordinance they started with. The Board is still in the process of looking at the Wind Ordinance, current Zoning and the chart Susan prepared. Tom state that he believed it should read at the property line. Janet said that if it is set at 60, no gravel pit or quarry would be able to operate. The Board will take this under advisement.

Janet also said that the 4 to 1 slope in reclamation is very stringent. Susan said she needs to look at these sections again because it is not in the Quarry Section, but is in the Variance Section.

Mark Stebbins from MDEP will be present at the December 11, 2014 meeting to answer the Board's questions. Russell will let him know that they would like him to come at 5:30 pm. The Board has submitted questions for him to Russell. Tom asked if anyone had looked at the Public Hearing meeting because there were a lot of questions asked at that by the residents. David said that a lot of the residents asked about ground water and what would happen if wells became contaminated. He spoke with someone in Air Quality at the state and he said there are devices that can be set up to measure ambient air quality and smell over a period of time. Some of the items mentioned to inquire about included:

1. Ask about Performance Guarantees from tonight's meeting
2. Also ask about the 2 to 1 and 4 to 1 slope.
3. Ask for information on particulate pollution and DEP regulations
4. Have there ever been wells that have been contaminated? And can they be repaired?
5. Gretchen did review the minutes and silica dust continued to come up.
6. Craig said radon has also been brought up by residents.
7. Everyone should review Gretchen's information regarding water to get more understanding of it for any questions.
8. Per Janet the storm water section still needs work and there is a local man, Ken Libby

- that works with this and may be a help to the Board. Russell should contact Mr. Libby and ask him to come on December 11 at 7:30 pm.
9. Ask about activity causing “unreasonable” soil erosion.
 10. Are operations allowed to go below the ground water table?
 11. Susan should email her questions to the Town and then Russell can send them all to Mr. Stebbins.

STAFF REPORTS:

PLANNING BOARD COMMENTS: Gretchen may miss the January 8, 2015 meeting and will definitely miss the January 22, 2015 meeting. . And Tom will miss the January 22, 2015 meeting also.

NEXT MEETING: The next meeting will be Thursday, December 11, 2014 at 5:30 pm. They may meet on Wednesday, December 17, 2014 of the next week.

PUBLIC ACCESS: Mr. McLeod explained to the Board that in his research of Native American burial sites, the Penobscot Indians said they had no interest in the location. They also said burials were in areas easy to dig and would be about 3 feet down with a mound over it and not high on mountains. There would not be anything found in the area of a quarry because they would be near rivers and streams. He thanked the Board for their diligent service.

ADJOURNMENT: Motion to adjourn at 8:07 pm. **By Gretchen/Susan 2nd. All in favor**

Respectfully Submitted,

Denise M. Knowles