



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD September 6, 2016 6:00 pm MINUTES

CALL TO ORDER: Susan called the meeting to order at 6:04 pm.

ROLL CALL: Members present were David Peppard, Craig Knight, Mark Perry, Susan Dunham-Shane, Pam Chapman, alternate and Russell Smith. David McCluskey and Charles Norburg have excused absences. Russell has not heard from Jim White. Mark Perry pointed out that the Bylaws say an alternate can be appointed at the Chair's discretion. Susan DS asked Pam C if she would like to serve as alternate for tonight's meeting and Pam C responded yes. Jim White arrived at 6:12 pm.

MINUTES: Motion to accept July 26, 2016 minutes as printed **By Pam C/Craig K 2nd. Vote 5-0**

Motion to accept the minutes of August 9, 2016 as written **By Craig K/David P 2nd.**
Discussion: Susan DS would like to not accept the minutes because the way Denise wrote the minutes, she does not understand them. **Motion and 2nd withdrawn**
August 9, 2016 Minutes will be tabled to the next meeting.

UNFINISHED BUSINESS: Each of the Board members received Mark P's document of the items marked for review with new submittals. Susan asked for comments on the document and Mark P said that he did not add 2002.2.2.2 to his proposed motion because the purchase and sale does not expire until 30 days after the permit is issued and the leases were for the purpose of exploration, which is mute now. Susan felt that it needed to be included because there is no proof of a lease currently. Mark P said they do not need a lease, they have standing under the Purchase and Sale Agreement to be an applicant. David P agreed with Mark P.

I move that the Hughes Brothers application be deemed complete upon receipt of additional submissions addressing the following sections of the 2015 ordinance as listed on the written motion that will be made part of the record. **By Mark P/David P 2nd.**

Discussion:

Susan listed each section on Mark's paperwork and brought up any section that she felt should be on the review list for the Board to discuss. (Only items added to the list or items with specific discussion of the requirements are listed. The complete list will be attached to the minutes.)

Susan noted that 2002.2.1. Requirements, was not included as a revised submittal. Mark P said that a revised Site Plan is required and he thought that a number of things would be included in that. Susan explained that the current application includes 10 acre phases and it needs to be changed to 5 acre phases to meet the standard. Janet H said it will take 30 seconds to add this. Susan said they will make that an addition.

The majority of the Board agreed to add 2002.2.2.6 to the list.

2008.2.3.10 – Janet H said the Board was going to provide her information regarding b) public drinking water a month ago and she has not received anything. Susan said she included it because the Town does have a public water drinking supply and the Addendum was written for everyone, not just Hughes Bros. Susan said that her personal feeling, in regards to the Hughes application, is that since

there is not public drinking water in the area of the application, that standard is not needed. Susan DS had hoped that Janet H would have the MDEP water quality testing restrictions with her tonight. Janet H needs something in writing and a motion that the Board understands that the water quality restrictions they have imposed in the Addendum, the Federal Secondary Drinking Water Standards, and that they are not going to apply Hughes Brothers to it. Susan said that because there are no wells within 1000', she feels the MDEP would seem adequate but she still does not understand what they test for. She is also wondering in this case where there are so many residential wells in the area if they should consider pre and post testing of the abutter wells, up-gradient and down-gradient. Mark P said he does not want to leave something unresolved because this is going back to court no matter which way it goes and he can see someone writing a brief and saying 2008.2.3.10 said "No mineral extraction activity shall increase any predevelopment contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards at the property boundary. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards at the property boundary." Mark continued that since this is new in the Ordinance, when the Board gets Hughes Bros submissions, and they say that the applicant has met this standard, they have to have something on record to point to. He said there is no requirement of testing, but there must be trade experience of what has happened in other areas and something in writing somewhere from a trade journal or a letter from a hydrologist that addresses whether this can possibly happen and what the chances are of it happening and the Board will need that in the Hughes Bros submission. Janet H said the Town of Eddington has pulled a standard out of the air and has told them they need to hire a consultant to evaluate that. She continued that she cannot do that and to get a baseline for this testing would cost over \$100,000.00. Janet wants the Board to recognize that and pull it out of their completeness. Mark P said they cannot write this out of the Ordinance and Hughes Bros needs to address it. Janet said the next step if for the Board to tell the courts why they put this in the Ordinance and right now they cannot tell her why they did. She does not want to spend \$20,000.00 to be told she does not meet the Federal Standard. Janet continued that she was told by the Planning Board and Selectmen that the new ordinance will not affect her application, so she does not trust what the Board is saying now. She needs this resolved and in writing. Mark said again, no one is suggesting any testing yet, but there has to be a good faith document that addresses this provision. Otherwise it goes to court, someone sees it as something that was not addressed and it is kicked back because of that. Janet said that as a professional Engineer she will write that and the Board will turn her down and then they will all be in trouble. Susan told the Board that she asked Gretchen H about this and she said the same thing Susan did, they are writing the ordinance for the entire town not a specific applicant. Janet H said that Gretchen H will be sitting in court with her professional experience. Susan would like to see the Board write a resolution that giving this application and its location, that they would accept the water testing standards from MDEP and suspend the Federal Drinking Water Standards because it is not near public drinking water source. Mark P said they can't do that. He does not believe the Board will be faulted for relying on what the applicant submits, but the applicant has to submit something. Susan questioned whether the Board got the Transcript from the Court Reporter with their copy of the minutes of March 27, 2014. Russell will look into it and get them copies. Mark P said the new submission from Hughes Bros should say that the activity will not increase the predevelopment contaminant concentration to more than 1/2 of the Federal Primary Drinking Water Standards. Janet H said that as a professional she cannot say that and has to say it is not applicable to our application because she has a professional license to uphold. Mark P said it is up the applicant what they want to submit. Jim White asked if it would suffice if, as a professional, she made a statement that there was not reasonable expectation of any increase of a contaminant based on other quarries with the same limitations. Mark P said that sounds reasonable, but they are deciding what sections need to be addressed. Janet H does not want someone from the Hill coming back afterwards and tell them to show them that they do not affect drinking water standards. Mark said it does not require testing. Susan said that throughout the Ordinance is says that the burden of proof is on the applicant. There has been testing done

on three wells addressing the worry that putting a pit in would lower the level of people's wells and there was no apparent problem. They tested one well for potability standards and it was fine. This test is not the same as the MDEP testing. Janet said the MDEP standards for water are under the quarry standards, MSRA 490W to 490EE and Variance 490CC.

2008.2.4 – revised site plan to show cleared area and show natural buffers

2008.2.5 – Susan said no wetlands were shown on the drawing but Mr. Moyses had said he would have to go back to double check if there were any. Janet said the wetlands that were identified were off-site and they have a 100' buffer.

2008.2.7.1 - Susan clarified that where it says new submittal, it does not necessarily mean a narrative. If it is better served on the Site Plan, a narrative is not necessary.

2008.2.7.6 – Susan questioned the buffer for the Chapman and Pooler properties and the Millett property which abuts the access road. Janet will take a look at the town's buffer rules along a road. This section will be added to the review list.

2008.2.7.9 – Something needs to be submitted indicating what the species of the vegetation is.

2008.2.11.6 – Mark said this section requires the acoustical study; 2.11.7 through 2.11.13 are the standards and 2.11.14 is the allowable limits. Susan asked if Mark P considered .15 through .18 as discussion and he said they are standards and no additional submissions are required. Susan asked if the other Board members agreed and David P said yes.

2008.2.12.2 – Janet will include MDEP Performance Standards

2008.2.12.5 – Janet said it was reviewed but never approved-submit for clarity

2008.2.8.14 – Mark P said this section requires a new Reclamation Plan and includes the entire section. 2.8.14.11, Mark P added: This particular application contemplates a transfer of title upon permit approval. In this case, then, a draft deed including language giving notice that the property is operated for mineral extraction and is subject to a reclamation obligation will work.

2008.2.15 – Revised Blasting Section, Add to the list; revised hours on blasting, misfires being reported, clarify Saturday and Sunday hours, identify holidays, notification standard is different now, pre-blast survey was skipped. (Mark P said they should look at all of the sections)

2008.2.16 – Hours of Operation, Add to the list

2008.2.20.1 and .3 – Susan said these were skipped.

2009 – Performance Guarantee, Add to list, Mark P said that the Ordinance requires that the applicant propose a performance guarantee which would be their estimated cost of the reclamation. They then get to choose what they are going to get a Performance Bond or put it into a savings account rather than pay for the cost of the bond. Susan read from the draft copy of the August 6, 2016 Minutes: "2009-Revised Submittal. Susan said they had talked about the Performance Guarantee being in the name of the Town and MDEP. 2009.1-The amount of the Performance Guarantee needs to be addressed. Susan said that Hughes B had submitted a request to waive the completion date requirements. Janet said the Board approved this request." (Janet said this was in the beginning completion phase, before the review. Susan said this would be in the minutes back before the Public Hearing at the School) Susan said that the amount of the Performance Guarantee needs to be addressed. "2009.2-Phased Guarantees - New Submission - what they plan to do and what it will cost." The rest of 2009 was considered ok.

Amended motion to add 2002.2.1, 2002.2.2.6, 2008.2.7.6, 2008.2.12.2 DEP Standards, 2008.2.12.5, 2008.2.15 and 16 and 2009 for applicant to propose a Performance Guarantee and amount and manner benefiting the Town and DEP. **(Voting on the amended motion) By Mark P, Craig K 2nd. Vote 5-0**

(He did not move to change 2008.2.3 sections as he believes they do not need to be added.)

Susan asked Mark P to produce a revised list and send it to the Board Members, the Town Office and Janet H and he said he will.

Susan would like to make calls tomorrow to qualified acoustical consultants. Janet H asked how you find them. Susan said the parameters seem to be that they have an affiliation with the Institute of Noise Control Engineering and Acoustical Society of America and a degree in Engineering in acoustics or environmental noise, how long they have been doing it and who they work for. Janet asked if she has talked with DEP. Susan will get this information by the end of day Thursday. Janet will discuss that information with her peers and then get back to her.

Susan reminded everyone about the expanded notification rules. Because this meeting is to make up for the August 30th meeting date, which the Selectmen needed, the next meeting will be in one week on Tuesday, September 13, 2016. Janet H said that if she needs any clarification she will send an email.

NEW BUSINESS:

OTHER BUSINESS:

STAFF REPORTS: Russell gave the Board a copy of a letter from Charles Norburg, CEO regarding someone wanting to place 2 duplex houses in the Rural Agricultural District. This letter is added to the record of the meeting. Susan said that because the District Use Chart allows 2 family dwellings but not multifamily dwellings in the Rural Agricultural District and multifamily density for Rural A says 4 acres for the first two units and 2 acres for each additional unit, the Board will need to review the Subdivision Ordinance and the Use Requirements for Rural Agricultural. They will put it under New Business for the next meeting.

PLANNING BOARD COMMENTS: David P will not be here the 4th Tuesday of September.

PUBLIC ACCESS: None

ADJOURNMENT: The next meeting will be next Tuesday, September 13, 2016.

Motion that we adjourn at 8:14 pm.

By Craig K/Mark P 2nd. All in favor.

Respectfully Submitted,

Denise M. Knowles
From the Recording