

TOWN OF EDDINGTON, MAINE

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PLANNING BOARD

April 10, 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, Frank Higgins, Susan Dunham-Shane, Gretchen Heldmann, Craig Knight, Charles Norburg, CEO and Russell Smith, Town Manager. Henry Hodges and Michael Shepherd have excused absences.

Motion to make Craig a voting member for tonight's meeting.

By Frank/Gretchen 2nd Vote 3-0

MINUTES: Motion to accept the minutes of February 27, 2014 as corrected by Gretchen and Susan.

By Susan/Gretchen 2nd Vote 4-0

UNFINISHED BUSINESS: John Pottle, Attorney for Hughes Bros., has a brief procedural question. At the last meeting, a Special Town Meeting, a Moratorium Ordinance was approved. He would like some clarity for Hughes Bros., as at to the status on their application and whether or not they will be processing it. Frank said he has a motion that will address that.

Motion that the Board tables the Hughes application until one of three things happen:

1. Either applicant requests to have their application withdrawn
2. Until the Town formally enacts a new Quarry Ordinance
3. Until a court of jurisdiction orders us to continue our review under the existing Ordinance.

By Frank/Susan 2nd Vote 4-0

NEW BUSINESS: Charlie has given the Board members a copy of plans for AT&T Collocation on the Wireless Tower at 63 Main Road. The plan includes the following changes:

1. They plan to remove 3 of the current six antennas and install 9 new ones attached to the existing pipe mast, for a total of 12 antennas.
2. They will install 3 surge suppressors mounted to new monopole ring mounts on the existing monopole.
3. They will add a GPS antenna on the existing ice bridge.
4. They will install 12 RRH's (remote radio heads) behind antenna
5. A DC power plant cabinet, equipment rack and modules, which will be stored in the existing shed.

Susan noticed that per the drawing on A2, the new antennas are further from the tower than the old ones. Per a conversation Charles had with their consultant, the new antennas will not extend beyond what is currently there. Charlie has not received any notice of additional work since the original application, but it looks like other antennas have been installed since then that added antennas.

Motion that we approve information submitted to us by Smartlink Media and prepared by EBI Consulting regarding additional collocation of equipment by AT&T on existing wireless tower above the intersection of Rt. 178 and Rt. 9.

By Susan/Gretchen 2nd Vote 4-0

The Board agreed that only new construction of towers required a Public Hearing.

Frank Arisimeek Quarry: Susan asked that it be put on the agenda as she feels the Board needs to address a mistake they made on Frank's permit. His 3rd application included crushing and they have found since then that it is not allowed. She would like them to draft a letter to Mr. Arisimeek and Hughes Bros. explaining that the crusher is not allowed. She feels the Board made an error by not catching the word crusher.

Susan also noticed that the Intent to Comply sent to DEP was a copy of the Hughes Bros. drawing from their 1st application, which was declined. It was the drawing submitted October 1, 2013 and then revised on January 12, 2014. The Arisimeek drawing dated July 17, 2013 shows 5 acres square only. The map that went to DEP shows 5 acres, a stockpile area and a crusher, which is not the same map as the one that was with Frank's application. This additional layer is from the September application from Hughes Bros. The first time the word crusher appears in the written applications is in the third application he brought, but that is the only place that it shows. It was never stated in the minutes. The only representation of a crusher is in the written application, not on the map with the Arisimeek application.

Susan would like the Board to send a letter to MDEP stating that the drawing dated 07/17/13 is the drawing they and the one MDEP received is not the same one. She would also like a written notice sent to Mr. Arisimeek and Hughes Bros. stating that the Board messed up and the crusher is not allowed per the Ordinance. The Town or Board has 30 days from the day MDEP received the Intent to Comply to respond to MDEP regarding it. Frank is not sure they can change their decision. He suggests that they table it until they contact legal council. The minutes of October 24, 2013 showed that Charles Gilbert, Town Attorney read the description from the Ordinance and he said that crushing and stockpiling were not allowed. Hughes Bros. was told about this and they decided they would continue with their application without a crusher. Frank said there is a difference between a use that is not permitted and a use that is not allowed per the Ordinance.

Motion that Susan Dunham-Shane drafts a letter to DEP regarding the approved Site Plan versus the submitted Site Plan and prepare it for the Board review. The Board will meet at 6:30 pm on April 16, 2014 to accept the letter or make revisions, which will be done, at that meeting and for members to sign it. That will be the only business at that meeting.

By Susan/Frank 2nd Vote 3 in favor, 1 abstained (Gretchen)

Frank wants Charles Gilbert to be at the meeting on April 16 to discuss if the crushers are permitted or not. Gretchen would like to hear from Hughes Bros. about the date of their submission before deciding on the letter. Frank would like to take the next items out of order and go to Public Access to address the Attorney for Hughes Bros. to ask him if they intend to open a 5-acre quarry and use a crusher. Mr. Pottle said he is the attorney for Hughes and he cannot speak for Mr. Arisimeek. He thinks the Board may want to wait to discuss possible changes to the application until Mr. Arisimeek is here. He also thinks it is a good idea to talk to the Town Attorney in regards to what rights they have when it comes to contacting DEP, if they need to be authorized by the Select Board to do so and any rules about discussing a permit when the applicant is not here. Mr. Pottle also requested that his client, Hughes Bros., be contacted directly if they are going to discuss any application or permit pertaining to them.

Residents continued the discussion:

Amy Bogan said that when Frank put in his application she was not notified about the Public Hearing. She also said that the DEP received his Intent to Comply paperwork last Friday, which would have been April 4, 2014.

Ralph McLeod said that because of the angle of Fox Hill, DOT would not allow trucks to exit it onto Rt. 9. He also feels that some people were not notified and not as much detailed information was required regarding the Arisimeek permit. He also said that Mr. Arisimeek has been intimidating people saying he is going to start work on the site. He stated Mark Stebbins of MDEP said Frank could not move one inch until MDEP had inspected the site.

Robert Cicone stated that the proposed I395 extension was to keep traffic off this area.

Nicole McLeod said that she has spoken to Bruce Matheson and the DOT has not approved Hughes Bros., or Mr. Arisimeek Fox Lane entrance.

Brad Goodwin thanked the Board for all of their hard work and wanted to make sure he can speak about fees concerning agricultural livestock later in the meeting. He was told he would be able to.

Ray Wood Jr. asked Charles Norburg if he had issued a permit to Mr. Arisimeek, and Charles said no he had not.

Jessica McCluskey said that Section 305.5 of the Zoning Ordinance requires a permit and Charles said again he has not issued a permit. The Ordinance allows a 90-day window to get the permit.

Mr. Pottle again stated that if the Board is going to talk about someone's permit, they should be here and be notified. The Board will need the Town Attorney's advice on the Arisimeek permit. He said that the Planning Board does not deal with enforcement issues. Mr. Pottle also said that if it is stated within the Ordinance that the Planning Board can enforce such things as contacting DEP, they are fine, but it may be something that the municipal officers need to do. The Board will consult the attorney about this too. Susan stated she viewed the letter as a comment and statement of fact to MDEP, not an enforcement mechanism and did not intend for it to come across that way.

Charles Norburg explained that it would be the 3-part form that he would issue for a use. The Planning Board does not issue permits. Charles does not think he could issue a permit tomorrow if Frank came in and requested it. If someone does not get a permit within 90 days, they have to reapply per the Ordinance.

OTHER BUSINESS: Charles explained to the Board that the American's with Disabilities Organization has worked with the Legislature to pass an emergency ruling that would allow a CEO to issue a permit for handicap accessibility even if it does not meet the codes for setback. But the Town has to put it in the Ordinance. In the mean time, it has to go to the Appeals Board if it comes up before the Ordinance is amended. This will require an amendment to the Zoning Ordinance. The Board will add this to the list of things to change.

Charles talked to the Board about possible Land Use Fees concerning agricultural livestock. He has been contacted from a resident that wants to register his farm name because he has many other animals, and the resident asked if there were any fees. The national guideline requires 1 acre per 1000 lbs. The purpose was to regulate people that wanted to put animals onto too small of an area. Susan will check with surrounding Towns for examples of fees for livestock. Charles said that any Ordinances that are passed that have to do with agriculture have to be approved by the State Board. The Town will continue with no fee schedule for this now.

Russell will talk to Mr. Gilbert, Town's Attorney, tomorrow and ask him to come to the meeting on April 16, 2014. Susan suggested a list of things that need to be addressed at the next meeting.

Motion to rescind the original and make a replacement motion for the one made earlier this evening regarding the letter to DEP.

By Susan/Frank 2nd. Vote 4-0

Motion that Susan Dunham-Shane drafts a letter to DEP regarding the Site Plan drawing discrepancies for the Arisimeek quarry and prepare it for the Board review. The Board will have a special meeting at 6:30 pm on April 16, 2014 to accept or redraft the letter and sign it. And they will consult our attorney on issues of legality raised at this meeting.

By Susan/Frank 2nd. Vote 4-0

STAFF REPORTS:

PLANNING BOARD COMMENTS:

PUBLIC ACCESS:

NEXT MEETING: The next meeting would be on Thursday, April 10, 2014 at 6:30 pm.

ADJOURNMENT: Motion to adjourn at 8:25 pm.

By Craig/Susan 2nd. Vote: 4-0

Respectfully Submitted,

Denise M. Knowles