



# Town of Eddington

906 Main Road Eddington, Maine 04428

## PLANNING BOARD

August 22, 2017

6:00 pm

### MINUTES

**CALL TO ORDER:** Mark Perry called the meeting to order at 6:05 pm.

**ROLL CALL:** Members present were Mark Perry, Susan Dunham-Shane, David Peppard, David McCluskey and Craig Knight. James White, Alternate has an excused absence.

**MINUTES:** Motion that we accept the minutes of June 29, 2017 as presented

**By Susan DS/Mark P 2<sup>nd</sup>. Vote: Yes 5-0**

Motion that we accept the minutes of July 11, 2017 as presented.

**By Susan DS/David P 2<sup>nd</sup>. Vote: Yes 5-0**

**NEW BUSINESS:** The Selectmen asked that Mark P put Public Access on the Agenda for the Planning Board to reconsider putting it back into the Agenda of future meetings because residents have complained about it being removed. Mark P and David P are happy with it remaining removed.

Motion that we add Public Access back into the Agenda

**By David M/Susan DS 2<sup>nd</sup>.**

Discussion: David M suggested that if the motion passes, they should come up with a structure, like the 3 minute limit. He values the publics' input.

Susan DS said it gives people an opportunity to bring something to the Boards attention and a resident may have a question or comment that is helpful to the Board regarding an item discussed.

Mark P said the Ordinance says they go by Robert's Rules and Public Access is not included in that. When he was on the Board 20 years ago, there was no Public Access and the meetings were shorter and more civil.

David P feels that if someone has an issue they can submit it in writing to the Chairman and then it can be brought to the Board at the next meeting.

Craig K suggested a question and answer opportunity for residents, rather than an open comment period.

**Vote: Yes 2, No 2, 1 Abstained – Motion Fails**

Motion to add back in Public Access on the Agenda with the regulation that each individual be held to a 3-minute presentation on a particular agenda item.

**By David M/Susan DS**

Discussion: Friendly amendment of "restriction of 3 minutes per person per meeting." instead of "regulation that each individual be held to a 3-minute presentation on a particular agenda item.

**Vote: Yes 3, No 2**

**UNFINISHED BUSINESS:** Each of the Board members received a copy of proposed changes to the Zoning Ordinance from Mark P. They reviewed them and made the following changes:

1. Motion to add "108.2.4 After holding a public hearing, the municipal officers may amend the proposed changes as they see fit prior to submission to the Legislative Body."

**By Mark P/David P 2<sup>nd</sup>.**

Discussion: Susan DS recommends adding the definition for Legislative Body so it is clear that it means Town Meeting.

David M said that his concern is that the Planning Board spends a lot of time in research and considering the impact of any change and this would allow the Selectmen to just make a change and then

have it go to Town Meeting. David M would agree with the Selectmen voting to send the recommended changes back to the Planning Board for consideration before they go to vote. Mark P said that the Selectmen are elected officials and can make changes this way. Susan DS agrees with David M and said that is not how it has been done in the past. Russell S explained that in the instructions on how an Ordinance can be changed, it said by the Municipal Officers, through a request to the Planning Board, not that the Selectmen can do it on their own. Mark P said that because it has to go to a Public Hearing with the Select Board, it does not make sense that changes cannot be made then. Susan DS has always felt that after the Selectmen Public Hearing, they can send the recommended changes back to the Planning Board.

**Vote: Yes 2, No 3 - Fails**

203.2 The Planning Board shall consist of 5 primary members and 2 alternate members. ~~An alternate member shall become a voting member when so designated by the Chairperson.~~ When fewer than 5 primary members attend, the alternate members become voting members as vacancies permit, in order of seniority. Change recommended by Planning Board 7/11/17 vote 5-0. They will not specify which alternate is voting for which regular member.

Susan DS informed Mark P that there is a copy of the Ordinances in Word Format in the Town Office computer should he want a copy rather than working with a scanned in copy. Mark P thought all of the copies would be in PDF format after approved. Susan said the copies on the Website are in PDF.

Motion to add at the end of 402 "Applications subject to the Mineral Extraction Operation Addendum of the Zoning Ordinance or the Wind Energy Facility Ordinance shall be reviewed according to the requirements of those ordinances. Further review under this section is not required."

**By Mark P/Susan DS 2<sup>nd</sup>. Vote: Yes 4, Abstention 1**

Motion to change the parentheses' sentence of 402 to read (In making their determination they shall be guided by the performance standards in Chapter 7 General, Chapter 8 Environmental, Chapter 9 Roads and Traffic and Chapter 10 Special Activity, as appropriate.)

**By Susan DS/David M 2<sup>nd</sup>. Vote 5-0**

402.2 Motion to add "significant" before "soil erosion"

402.3 Motion to add "a significant" before "adverse impact"

402.8 Motion to remove "adversely" and add "significantly" before "affect"

402.9 Motion to add "unreasonable" before "road congestion"

402.10 Motion to remove "an" and add "a significant" before "adverse impact"

402.11 Motion to remove "an" and add "a significant" before "adverse impact"

**By Mark P/David P 2<sup>nd</sup>.**

Discussion: Susan DS questioned who determines what is significant or reasonable and Mark P said there has to be a reasonable standard. David P said the wording is a benchmark and common sense is then used. David M said it comes down to 5 votes and the risk is where it is not measurable, it is appealable.

**Vote: Yes 4, No 1**

404.1.3 Motion to remove "as allowed in the review process, the 90 day time frame is suspended until the Board receives and reviews the requested information" at the end and add ", or if, during review, it becomes apparent that additional information is required and the applicant agrees to provide it, the 90 days is suspended until the additional information is provided."

**By Mark P/Susan DS 2<sup>nd</sup>. Vote 5-0**

404.1.3 Motion to remove "Unless" and add "When" before "extenuating circumstances" in the earlier sentence.

**By Mark P/David P 2<sup>nd</sup>. Vote 5-0**

404.1.3 Motion to add "deemed" before "complete" in the third sentence. And after the forth sentence add "This review will commence at the first meeting following a Public Hearing."

**By Susan DS/Mark P 2<sup>nd</sup>. Vote 5-0**

606 District Use Chart, Motion to add a new listed use in each district called Accessory Uses with Code C for each zone. And add the following definition for accessory uses: Uses of structures that are essential for the exercise of a permitted use. **By Mark P/David P 2<sup>nd</sup>.**

Discussion: David M questioned whether doing this will make is possible for someone to avoid coming to the Planning Board when they should have. He also asked what stops a CEO from approving an accessory structure that should have gone to the Planning Board. Mark P felt that this would be a time and money saving procedure for the CEO. It can be changed back is there is a problem. David M said that once the CEO approves a structure, it could not be revoked.

Motion that we table 606, Accessory Uses to the next meeting **By Mark P/Craig K 2<sup>nd</sup>. Vote 5-0**  
David M will work on wording for this section.

2001.6 Motion to remove “, except the operation must register in accordance with 2002.1 below.”  
**By Mark P/David P 2<sup>nd</sup>.**

Discussion: 2002.1 Application, Existing Operations, Mark will also suggest removing this section completely because it is overstepping. David M said anything that would require Chapter 20 would be involved. They are beyond the period to register. Susan questioned what it means for someone that is digging and didn't register. Mark P said if there is someone out there that fell into the definition and did not register, they are illegal now and the CEO should file a cease and desist. David M wants to keep the sentence in 2001.6 because it could potentially mean a large operation being unregulated. Susan suggested keeping the sentence in 2001.6 and then rewording 2002.1. Susan DS doesn't think it can be removed just because no one registered within 180 days. Russell S questioned why they should register with the Planning Board and not the CEO. Russell S said Wilbur Libby Jr has a small pit at the end of Maple Lane near his fathers and Frank Arisimeek and David Butterfield have hauled gravel off the hill in the past also. He does not know if it falls under the 300 cubic yard rule. David M verified with Mark P that if this section is removed it has the potential of having a MEO that is only regulated by what was in affect prior to the MEO Addendum being adopted in April of 2015. David P verified that if someone had potential for extraction they would have to meet MDEP conditions and then we can impose restrictions above these. David P suggested coming up with a parameter for existing operations for import and export that would require approval. David M expressed concern that someone could reopen a pit now and have to only follow the old regulations. Mark P said that if they have pit slips from 2014 to 2015 they are good to go.

Motion to table this motion **By Craig K/Mark P 2<sup>nd</sup>. Vote 5-0**  
They will also skip 2002.1, Existing Operations.

2002.2.2.18 Motion to remove “which demonstrates compliance with” and add “to be reviewed”  
**By Mark P/Craig K 2<sup>nd</sup>. Vote 5-0**

2008.2.1 Motion to add “unreasonable” before “detrimental effect”  
**By Mark P/David P 2<sup>nd</sup>. Vote 5-0**

2008.2.3.10 – Standards for Ground Water Impacts – Mark P said this section asked them to gage the effect on ground water based on Federal Drinking Water Standards. He feels it is unworkable in the application and unnecessary because other sections require that it does not affect quantity and quality of ground water. Susan DS feels that if they strike this section something else needs to be added. She has more information on this and would like to come back with new wording. Mark P said they will table this for now.

2008.2.13.1 – Minimum Setbacks – Motion that in the stone excavation column, setback from structures be reduced from 1500' to 1000', from gravel and sand and other three columns be reduced from 1000' to 600' and then the setbacks from wells get the same treatment; 1500' to 1000' and 1000' to 600'.  
**By Mark P/David P 2<sup>nd</sup>.**

Discussion: Mark P explained that if they tell someone they can't do something on their land, it is a taking and he feels they need to be reasonable. Craig K feels the topsoil setback should be a lot less. Susan DS said the clay, peat, silt or topsoil was brought up in the past. Craig K suggested a 50' setback for topsoil and Susan DS would like to see 100'. Susan DS said that sand or gravel should have the 1500' setback. Janet Hughes had said that this was more detrimental than stone. David M asked if sand and gravel excavation were allowed to go below the water table and no one knew the answer. David M said that some residents had requested a 2500' setback and the Board compromised with a 1500' setback.

Motion to table and think about a workshop on setbacks      **By Craig K/Mark P 2<sup>nd</sup>. Vote 3-2**

Discussion: David M is concerned with the setbacks for wells. He would suggest that they keep stone excavation as it is and come back to work on the others. Susan DS suggests that the Board review the MDEP regulations and the minutes from late 2014 or January or February of 2015 for setbacks. She will forward the Board members a copy of a document regarding the 1500' setback from Janet Hughes.

2008.2.14.11 – Motion to remove “The deeds for subject property/properties must note that the land is operated as a MEO by either the owner or an entity other than the owner (must specify which), and further, the property/properties is/are subject to a reclamation plan fulfillment as a condition of permit approval. The deed/s shall be filed at the Penobscot County Registry of Deeds.” and add “A notice must be recorded at the Registry of Deeds, indexed to the current record owner, that states that the property is a mineral extraction operation and is subject to reclamation provision.”

**By Mark P/ David P 2<sup>nd</sup>. Vote 5-0**

David P did his homework on Street Openings and driveways entrances. He found that the City of Brewer has no regulations. Susan DS emailed the Street Opening Ordinance that Frank Higgins had provided the Board regarding Brewer. Holden requires that residents make out a form that is given to the Road Foreman to review. They do not have an Ordinance for it.

David P also spoke with the Animal Welfare Department regarding registering cows, pigs, etc. and was told towns could do it if they want, but they should be aware that the numbers fluctuate and will be hard to keep track of. They said very few towns have regulations for this. If a town has a problem their Animal Control Officer can contact them for help with the situation.

Motion that we do not pursue regulating agricultural livestock      **By David P/Craig K 2<sup>nd</sup>.**

Motion that there is no further regulations for livestock.      **By David P/David M 2<sup>nd</sup>. Vote 5-0**

They will discuss David M's homework at the next meeting.

Susan DS reviewed page 7, items dated May 30, 2013, from the paperwork Denise provided them regarding items to review when working on the ordinances and found that the items listed have not been changed in the ordinance yet. They will discuss it at the next meeting.

**NEW BUSINESS:** Mark P informed the Board that there is a Board of Appeals Meeting, Thursday, September 7, 2017 at 6:30 pm. Russell S said Charles Gilbert will be present to represent the Planning Board and the Chair of the Planning Board can be present to answer questions.

**AGENDA FOR FUTURE MEETINGS – HOUSEKEEPING:** The Board members would like Denise to provide them with the newest copy of the Bylaws adopted on April 25, 2017 and to incorporate Public Access back into them that was voted on tonight.

**DATE OF NEXT MEETING:** The next scheduled meeting will be on September 12, 2017.

**ADJOURNMENT:** Motion to adjourn at 8:09 pm.      **By Mark P/Craig K 2<sup>nd</sup>. Vote 5-0**

Respectfully Submitted, Denise M. Knowles,