



# Town of Eddington

906 Main Road Eddington, Maine 04428

**PLANNING BOARD**  
**September 27, 2016**  
**6:00 pm**  
**MINUTES**

**CALL TO ORDER:** Susan called the meeting to order at 6:00 pm.

**ROLL CALL:** Members present were Susan Dunham-Shane, Mark Perry, David McCluskey, Pam Chapman (alternate), and Russell Smith. David Peppard, Craig Knight and Charles Norburg have excused absences. Russell has not heard from Jim White.

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

**By Susan DS/Mark P 2<sup>nd</sup>. Vote 3-0**

**MINUTES:** Motion to accept the minutes of September 6, 2016.

**By Mark P/David M 2<sup>nd</sup>. Vote 4-0**

Minutes of September 13, 2016; Mark P said that the minutes should be a record of what happened and not a verbatim transcript and thus they wouldn't have to change "president" to "precedent". Susan thought it was an important statement. Susan would like to speak to Craig K regarding his comments about the blasting in the minutes.

Motion to table the minutes of September 13, 2016 until the next regular meeting.

**By Mark P/David M 2<sup>nd</sup>. Vote 4-0**

**UNFINISHED BUSINESS:** Janet H requested that her presenting a choice of Acoustical Consultant for the Board's review be postponed to the next meeting. Mark P said that if Susan DS cannot attend that meeting, the vice chair could run the meeting. This item will be put on the Agenda for the next meeting.

The Board discussed whether David McCluskey has to recuse himself from the Hughes Bros. Application review. Susan said the Planning Board Bylaws and Zoning Ordinance say it is a decision of the Board. David McCluskey said that a statement was made at the last meeting that he has a financial interest in the application. He is not sure what that means because he is not making any money from the applicant or the partners, so unless it is going to cost him money being in the vicinity of a quarry then he does not see how he has financial interest. They have been reassured by the applicant that there has never been a situation that an abutting owner has lost money in their property values. Susan DS said that she agrees with Ray Wood Jr's comments during Public Access at the last meeting in that everyone on the Board is dedicated to following the ordinance and equally competent to do so.

The following is from the Planning Board Bylaws:

#### 4.1 Conflict of Interest

Conflict of Interest means direct or indirect pecuniary interest.

- 4.1.1 Direct pecuniary interest shall be when the applicant is a member of the Board or an owner of abutting or other property that is the subject of the application or directly affected by the Board's decision.

- 4.1.2 Indirect pecuniary interest shall be when the Board member has an interest in the application due to being an officer, director, partner, associate, employee or stockholder of a corporate applicant, or other business entity. Also included shall be when a Board member is a part of the applicant's immediate family, an employer or employee of the applicant or the applicant's immediate family. Immediate family shall mean spouse, parents, siblings, children, and grandchildren.
- 4.1.3 Pecuniary interest shall also include a situation where the Board member, by reason of his/her interest is placed in a situation that may be viewed as temptation to serve his/her own personal interest instead of the public's interest
- 4.1.4 The decision of whether a member shall be disqualified from voting on a particular matter shall be made by a majority vote of the remaining members present. For the Board to decide that pecuniary interest exists, a significant impact on the Board member, his/her family, employee and/or employer must exist.
- 4.1.5 The Board member shall make full disclosure of his/her interest, on the record, prior to any action being taken and shall abstain from voting and from other wise attempting to influence a decision in his/her capacity as a Board member.
- 4.1.6 If a Board member abstains, he/she has the right to participate as a member of the public.

Mark P said that because of the broad wording of 4.1.3 he will make the following motion:

Motion that Mr. McCluskey be disqualified from hearing the Hughes Application.

**By Mark P/Pam C 2<sup>nd</sup>.**

Discussion:

David M said that they do not know where the site plan is, so there is nothing to base that determining factor on. Also, that they have been reassured that there is no danger during these various activities, so where is his interest. Janet H asked "But do you believe that?" She continued that he was part of a group that hired attorneys to fight the Hughes application. David M explained that he was part of the group Friends of Eddington that hired an attorney to advocate for the moratorium. His understanding is that the group dissolved once the moratorium was passed. When he became a member of the Board, he disconnected himself from the group. David M continued that a new group was formed called Citizens for Fair Ordinances which sent a document to the Board to overturn the MEO because it was too restrictive and Board members Pam C and David P are part of this group. David M thinks they can all follow the Addendum to review the application. Susan DS feels all members can follow the Ordinance, but that if one is disqualified, the other two should be too. Pam C said that the group she was in wasn't because they wanted to see the quarry, but rather that the way it was done was not for the good of the whole town.

Janet H is upset because the Planning Board made a decision once that David M would work on the MEO, but would not review the application and now they are discussing again allowing him to review the application. Janet H wants David M to say "that he and his family do not believe that he has any financial impact based on the quarry." Mark P believes that with the language of the Bylaws, if Mr. McCluskey

were allowed to review the application and it was defeated, that that will be a basis for it to be overturned on appeal. Susan DS read from the letter of February 26, 2013 from Charles Gilbert regarding Planning Board Bias and Conflict Issue. (A copy of the letter will be attached to the minutes) Susan asked David M if he can be impartial and not prejudging the case and he said yes.

**Vote: Yes 2/Opposed 1/Abstained 1**

David M asked that the reason for the motion be entered into the record.

Mark P withdrew the previous motion.

Motion that Mr. McCluskey be disqualified from voting on the Hughes Application because he is placed in a situation as contemplated by Bylaw 4.1.3, by being just over the hill from the proposed quarry and possible within the blast notification area (either in it or close to it) and has been involved in an organization that advocated for the moratorium on mine extractions in the town and he may be viewed as having a temptation to serve his personal interest instead of the public service.

**By Mark P/Pam C 2<sup>nd</sup>. Vote: Yes 2/Against 1/ Abstained 1**

The Board will table the information from MDEP.

Mark P sent everyone the current State Shoreland Zoning Ordinance. Susan suggested that the new members go back through the agendas and read any minutes regarding this. Gretchen Heldmann had taken what the state had sent and overlaid it onto our Zoning Ordinance and then the Board reviewed it and discussed the differences. The last changes were done in February 22, 2016. The latest copies with the red lines will be emailed to all members of the Board.

**NEW BUSINESS:**

**OTHER BUSINESS:**

**STAFF REPORTS:**

**PLANNING BOARD COMMENTS:** David M said that if he is being kept from reviewing the Hughes Application because he was part of a group requesting stronger quarry rules, then David P and Pam C should also be recused because they were also part of the group against the moratorium. David M requests that this be placed on the next agenda.

David M is concerned about the statement Janet H has made regarding his financial interest because previously they had been assured that the project would not affect property values. David M said that he believes that it is part of the Planning Boards responsibility to make sure that they do not approve something that is going to cause harm to other individuals. He feels that people had brought this up during the writing of the Addendum but because Hughes Bros said that it had never been an issue in any other quarry, the Planning Board did not consider financial gain when writing the Addendum. Susan read from the September 13, 2016 minutes. He would like clarification from the applicant regarding Mr. McCluskey having monetary interest in the application. Janet H said that her concern is David M's belief that the quarry will financial impact on his property.

Pam Chapman said that it just came to her attention that at the Selectmen meeting of November 19, 2013 Susan DS made a statement that the Hughes Bros application would not be affected by the moratorium. Susan DS said that at the November 19 meeting the proposed moratorium did not have a retroactive clause and thus Susan DS spoke the truth. At the next Selectmen meeting a large group of

residents attended saying that they felt a necessity for a moratorium. The Selectmen then sent word to the Planning Board to construct a moratorium ordinance. The second moratorium ordinance that was then presented at the Planning Board Public Hearing and at the Selectmen Public Hearing contained the 45 day retroactive clause, which fell within the timeframe of their application and was now therefore affected. Susan suggested that Pam C review the minutes of the Selectmen meetings following the November 19, 2013 meeting.

**PUBLIC ACCESS:** Hilma Adams, 263 Main Road, would like to clarify that the concerned citizen's letters were not a petition.

James McLeod, 87 Fox Lane, would like to point out that there are four members of the Planning Board now that have either been on a group or have written letters as a group stating that they either want the ordinance repealed or hardened and Jim White has never been mentioned. He was a member of Friends of Eddington and actually paid them money to help with attorney fees. He continued that if being part of a group was considered with recusing David M, they should take the same consideration for David P, Pam C, and Jim W, if the application passes.

Ray Wood Sr, Coffey Hill, asked what the letter that they had mentioned described. Susan DS answered that there were 6 or 8 letters from individuals and one of the documents was a letter to the town expressing that they were a group who were upset with the way the ordinance was changed and it was signed by 10 people. Mr. Wood asked if any of the current Board members wrote a letter and Mrs. Chapman had written a letter. He continued that they should read that letter and see if there is any bias in there. David M will send the letters to Russell for him to forward to the Board.

Hilma Adams, said that the letters should be attached to the Selectmen and Planning Board meetings and if they are not attached they should be so that everyone knows how people feel about the stringent setbacks that affect everybody in this town.

Frank Arisimeek, 1306 Main Road, said he has never heard Pam C or David P out giving their views on the quarry, or campaigning either for or against it. He has seen David M, his family, brother-in-law and wife out campaigning against it.

Janet H, Hughes Bros., hopes to have the packet of consultants to the Board by the end of next week. She continued that as it relates to financial interest, she wanted to caution everyone that they just voted for Mr. McCluskey to abstain and then he is making comments on what they should be looking for on the Hughes Bros application. That concerns her and she asks that it stop. She appreciates that someone in the audience identified that David M as well as others hired an attorney to fight the Hughes Bros application. They just want a fair chance to meet the Ordinance. She wants to remind everyone that there is already a 5-acre quarry there.

David M said that Mr. Norburg said there is no permit issued. Janet H said that is has been operating.

Next meeting will be Tuesday, October 11, 2016.

**ADJOURNMENT:** Motion that we adjourn at 7:24 pm. **By Mark P/Pam C 2<sup>nd</sup>. All in favor.**

Respectfully Submitted,

Denise M. Knowles