

# TOWN OF EDDINGTON, MAINE

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## PLANNING BOARD

November 6, 2014

5:30 pm

## MINUTES

**CALL TO ORDER:** Tom Vanchieri called the meeting to order at 5:33 pm.

**ROLL CALL:** Members present were Tom Vanchieri, Craig Knight, Susan Dunham-Shane, Gretchen Heldmann, David McCluskey and Charles Norburg. Frank Higgins and Henry Hodges have excused absences.

Motion to make Craig a voting member for tonight  
Motion to make David a voting member for tonight

**By Susan/Gretchen 2<sup>nd</sup>. Vote 3-0**  
**By Susan/Gretchen 2<sup>nd</sup>. Vote 3-0**

**MINUTES:** Tom said they will table the Minutes of October 9, 2014 until they have a full Board.

**NEW BUSINESS:** The Board welcomed new alternate member of the Planning Board, David McCluskey. He has been sworn in. Russell has talked with Charles Gilbert about Mr. McCluskey being on the Planning Board and said that he can work on the Ordinance, but when it is time to review the Hughes Application, he will have to recuse himself. Janet Hughes said that Hughes Brothers and their legal counsel have an issue with this based on the format of their application and how this Ordinance will affect their application. Janet asked if someone was involved in a legal process, how could they sit on a Board making decisions? Tom wants a legal opinion on the issue. Russell will talk with our attorney again and get something in writing. Janet Hughes stated that Mr. McCluskey is represented by an attorney opposing the proposed Hughes Quarry because of financial impact on him. He said that nothing is being decided tonight so Mr. McCluskey can participate in the discussion about the MEO. Janet Hughes wanted it noted in the minutes that she objects to David McCluskey being a voting member of the Board.

**UNFINISHED:** The Planning Board continued working on the Mineral Extraction Addendum. They will start with the 9/18/14 submission, 12. e. (the last page) and then move to the paperwork that Susan had prepared that contained a list of items that were flagged to be reviewed in previous minutes.

1. 12.e. Dust & Air Pollution, It was questioned at the previous meeting how this would be regulated if it cannot be measured. Susan said that the four items listed would be triggered by an abutter notifying the MEO and the Town and then the CEO would investigate. Tom said that NESHAP applies to visual admissions for construction and building and asked Gretchen to look online to see if it applies to mining also. Gretchen found it, but it will have to be researched further. David will research it. Janet said that MSHAW regulates the respiratory issues of employees and DEP regulates the environmental.

2. 12. f. This section will also require some research to determine some sort of boundary. The July 31, 2014 minutes stated that they wanted to add the smoke and odor sections from the Bucksport Ordinance to this section. Gretchen said that there are trained sniffers. David will also research odor regulating. David said that there may be ways of measuring the chemical producing the odor. (The Board would like to receive any research from other Board members 2 or 3 days before a meeting.) Charles N. said that they will need to address the concentration and duration of such odor.

3. Article IV, Section 2, A. Notes in the previous minutes say that this section should be flagged until they get to the reclamation section and Gretchen will send Susan a suggested sentence to deal with the 4/5's problem. Susan will type the Reclamation section next and then work on updating the original

ordinance with any changes. This section currently reads: “No MEO existing at the time of passage of this Addendum may expand without first obtaining approval from the Planning Board for an extension of existing MEO.” Replace the second sentence that starts “Once mineral...” with “Once mineral extraction has reached 5 acres in size, expansion is only allowed with approval by the Planning Board and Reclamation protocols in Article V, Section 13 have been met. Susan read what they have so far in the Reclamation Section of the Addendum.

4. Article IV, Section 2, B. 3. d. at the end add “ for sand and gravel or common burrows and 2640’ for quarries.” Gretchen asked if everyone in Eddington have their well in a bedrock aquifer or sand and gravel aquifers. There may be some in Town that they do not know about.

5. Article IV, Section 3, f Gretchen’s wording from the review draft needs to be added to this section. (Letters from the appropriate authoritative agencies shall be required as proof of compliance with performance standards for significant wildlife habitat, per Article V, Section 2.B.1.)

6. Article IV, Section 5, A. Should read: “Application forms for MEOs shall be provided by the Town of Eddington, and submitted pursuant to Chapter 4 of this Zoning Ordinance.” Remove A. 1. Change A. 2. to A. 1. And it will read: “The application shall be accompanied by a fee pursuant to Section 305.3 Fees of the Zoning Ordinance.”

7. Article IV, Section 5, B. First sentence should read: . . . “unpermitted operations, over 1 acre, require a Public Hearing.” Add this second sentence: “If the extraction area is less than 1 acre, the Planning Board may hold a Public Hearing”. (In the Zoning Ordinance, under Public Hearings, it should be changed from 7 days to 10 days in advance for notification of a Public Hearing.) The Board will need to review Chapter 4 of the Zoning Ordinance. When working on this refer to the minutes of the 9/11/14 meeting, items 13 through 17.

8. Section 6, Annual Inspections, Note on Flagged items sheet: When section is rewritten, we revisit the compliance fee and third party costs.

9. Article V, Section 1. F, Susan still has to send this to Charles Gilbert for attorney review along with some other sections noted in the minutes.

10. Section 2. 1. Note on Flagged items sheet: Gretchen should have insertion under “Application Requirements” Section 3. B. f replacing f original wording. This is the same sentence from the prior Section 3, Mineral Extraction Operations.

11. Section 3, Groundwater protection, flagged for further discussion of the 3<sup>rd</sup> and 4<sup>th</sup> paragraphs. After discussion, it was decided to leave “within 5 feet of the seasonal high water table” in paragraph 3. Gretchen pointed out that having a hydrogeological study is not contingent on gallons per day. In the application procedures it states that ”For new MEO’s 5 acres or more, the following additional submissions are required: A hydrogeological evaluation, prepared by a qualified professional, which shows the depth of ground water throughout the site and establishes that the MEO will not cause any pollution to ground water and/or surface water.” Gretchen will research the 5000 GPD and standards for groundwater impacts section. Mr. Wood asked what the impact zone is for water around a quarry as it could vary because of the terrain and was told the Ordinance has 1000’. Mr. Wood then stated that he thought that was too light. Janet Hughes said that the state has 300’ for private and 1000’ for public. Mr. Wood further asked what happens if you are 1001’ to 2000’ and the well goes dry? He was told that the performance guarantee and the insurance of the operator would cover this. Tom said he will need to see some reasoning to go further than 1000’. Mr. Wood will research it and bring the information to a meeting.

12. Section 7, a, The Board will review the Setback Chart from the Bucksport Ordinance. Gretchen will add this chart with the changes. The Board reviewed the changes: 2<sup>nd</sup> chart, 4. Wells are all 250 except topsoil excavation, 5. Water Source A,B, and C, are removed and 1000’ is added for all, [8] Further discussion needed on the minimum setback being increased to 500’ or 1000’ when Frank returns, 17, 10, Susan noted that this is too open ended.

13. Section 7, d. This section regarding physical barrier was discussed by the Board in regards to the effect on the immediate area and for long distance viewing. They do not know how they could determine a barrier for long distance viewing. Gretchen said that it could be added that they must provide a specific minimum amount of screening for the residents surrounding the property. And Gretchen said that they could go back to consultation with independent third parties and ask a landscape

architect if it is sufficient to the greatest practical extent. They will leave this section for now

14. Section 2, 9, Surface Water, Flag this section to revisit. Everyone should review page 1 of the 9/18/14 Draft from Susan. Mrs. Hughes questioned b. Structures such as detention ponds, retention ponds and undersized culverts may not be used to meet the standards in this subsection.

15. Section 10, Traffic, table the discussion on the section until Frank is present. (Review Minutes of 10/9/14 for discussion thread on this subject.)

16. Section 11, Noise, Susan has the comparisons between the Ordinances. Denise will include a copy with the minutes. In the Zoning Ordinance, the time was set to 9:30 so as not to hamper working during daylight hours in the summer as requested by residents. The state rules say that sound levels should not exceed those set by the Board, but it was questioned what Board. They will table discussion on the Noise section until they have a full Board. Susan stressed that dBA and dBC should both be considered. The Board wants consistency throughout all of the Ordinances regarding noise. James McLeod said that property at a lower level will have noise travel more than the sound at a higher level like a windmill. Mr. Wood said that the common thread of problems is the setback for everything and that a proper setback will solve most of the issues. Ralph McLeod stated that they will not know the actual affect for noise or blasting until it actually starts. James also said that Maine Title 101 does not allow emergency vehicles within 1 mile of explosions. Gretchen said that a lot of work was done on the Wind Ordinance and questioned if any of these thresholds can be used for a MEO. The Board will revisit this section.

17. The Board will stop here and start with #12, Dust and Air Pollution on the Flagged Items sheet and revisit items that need attention.

**NEW BUSINESS:**

**OTHER BUSINESS:**

**STAFF REPORTS:**

**PLANNING BOARD COMMENTS:** Susan informed everyone that “The Turn of the Screw” will be performed this Sunday at Comins Hall at 7:00 pm for \$5.00 because their last performance was canceled.

**PUBLIC ACCESS:** James McLeod said that the CDC has permissible limit levels and studies for smell. Ralph McLeod thanked the Board for their dedicated work.

**NEXT MEETING:** The next meeting will be Thursday, November 13, 2014 at 5:30 pm. They will plan to have 3-hour meetings on December 4, 11 and January 8. They will decide at the December 11 meeting if they will meet on December 18. (Charles cannot be here November 13, and Tom is not available November 20 or December 18)

**ADJOURNMENT:** Motion to adjourn at 8:25 pm. **By Gretchen/Susan 2<sup>nd</sup>. All in favor**

Respectfully Submitted,

Denise M. Knowles