



Town of Eddington

906 Main Road Eddington, Maine 04428

PLANNING BOARD

February 23, 2016

6:00 pm

MINUTES

CALL TO ORDER: Susan Dunham-Shane called the Public Hearing to order at 6:01 pm.

PUBLIC HEARING

The Public Hearing is for the proposed Verizon Wireless Telecommunications Facility at 920 Main Road, Eddington, Maine began at 6:01 pm. Scott Anderson, Local Permitting for Verizon, and Keith Velanta, Radio Frequency Engineer were present for Verizon. Mr. Anderson explained the project for the Planning Board and audience using maps from the application. The property is owned by Mrs. Carol Grover. The proposed site will be off an existing gravel road on the Grover land that is off of Rt. 9. The site will be about 700' from the right property line, about 850' from the front property line, about 1800' from the back and about 2600 ft from the property line to the left. The tower will be in an area that is relatively forested. They will be clearing a spot at the location and maintaining the rest of the vegetation in that area. Verizon is leasing a 100 sq ft area and will locate the equipment inside a 75 sq ft fenced in area.

The two main components are the monopole design tower and a slab that will contain two equipment cabinets for the wiring and an emergency backup generator under an ice canopy with a roof and no walls. An ice bridge will run from the bottom of the tower where the wires come out to the roof over the equipment. When compared to the previous pre-fabed buildings that Verizon used, this setup is smaller and quieter. About once a month someone from Verizon will check the tower. There will be two motion-detected down-directional lights. The tower is not lit. The side view map shows the single piece mono pole with antennas on the top at 190 ft. The compound will be inside a locked fence. Police and emergency personnel will have a key to the gate.

During the last meeting, the Planning Board had a couple questions. One had to do with the Beginning of Habitat areas. They did not find anything, but their report was unclear. They provided the Board with a new map. The second was the sound from the generator. It is in a sound enclosure. The predicted sound from the generator is based on it being on tar and is taken at 23' away so they did a worse case scenario because they won't have tar and it was 64 dba. Sound drops 6 dba when you double the distance. They ran that out to the closest property line, at 704 ft, and it would be about 34 dba. He said the fans make no more noise than leaves rustling on site. The test was done assuming the generator would run at full capacity, which will not be needed at this site.

Keith Valente, from C Square Systems, then spoke about how this tower fits in with the Verizon wireless network. As part of the application they prepared a radio frequency report along with 6 maps explaining the project. Mr. Valente reviewed the maps showing the current towers in the area. There is currently one tower on Riverside Drive and one at 79 Main Road. Verizon is planning to collocate on the tower at 79 Main Road. The proposed site is 4 1.2 miles from the Rt. 178 tower and 4 miles from the Rt. 9 tower. The next map showed the current coverage in town and the area along Rt. 9 that needs coverage. He then showed the new coverage area from the new tower. Mr. Anderson said that one of the things that is important for the town is that when someone proposed to build a new tower in Eddington, the first thing you have to do is search for any existing towers that meet the coverage objective. There is one tower in

Eddington that they are already on and another one that they will be going on. The new tower is needed to improve the coverage area shown on the maps.

They then took questions from the audience:

George Mayo, Pond Road, asked if the new tower would be an improvement of service at his location? They located him on their maps and said that close to the pond will be an improvement in service.

Rusty Gagnon, 1359 Main Road, she is also on the pond and service should improve. She is concerned because it is her only communication when she loses power.

Craig Kosobud, Chemo Pond Road, asked if they reserve the right to piggy back other companies on their tower? Mr. Anderson said that carriers work together and it is required by the FCC. They all make existing towers available for collocation. SBA is a tower company and then other carriers will try to use that tower.

Mr. Anderson also stated that the Town's Ordinance requires that they submit a letter saying they will make their tower available to others. So as part of their application they have provided this letter.

Public Hearing closed at 6:32 pm.

CALL TO ORDER: The Regular Meeting was called to order at 6:32 pm by Susan Dunham-Shane

ROLL CALL: Members present were Susan Dunham-Shane, Gretchen Heldmann, Craig Knight, David Peppard, David Johnson, Charles Norburg, CEO, Charles Gilbert, Town Counsel and Russell Smith. David McCluskey has an excused absence.

Motion to make Mr. Johnson a voting member for tonight.

By David P/Gretchen Heldmann 2nd. Vote 3-0

MINUTES: Gretchen asked that the David mentioned in the first paragraph on the last page be identified. It was David P. Motion to pass the minutes as presented.

By David P/Craig K 2nd. Vote 3-0

Gretchen abstained because she was not at that meeting.

NEW BUSINESS: Town Attorney, Charles Gilbert, is present speak to the Board about his letter regarding the Hughes Brothers Application. Susan reminded everyone that at the January 26, 2016 meeting the Board had received a copy of a letter dated January 14, 2016 from Attorney Gilbert to Russell attaching the Law Court's decision regarding the Hughes Brothers lawsuit. The Board wanted to review it before any discussion, because Mr. Gilbert had said in the letter that at some point the Planning Board will have to proceed on the pending application or take some other action with respect to it. They also have a letter dated February 9, 2016 from Attorney Gilbert outlining several things to think about. Mr. Gilbert has offered to come to the meeting to discuss these letters.

Charles Gilbert explained that they were dealing with the procedural questions not merits of the application. The new developments are that the Maine Supreme Judicial Court decided January 14, 2016 on the Hughes Brothers' lawsuit and ruled in favor of the Town and the Towns' position. The Court discussed mostly the Freedom of Access issues rather than the merits that were raised by Hughes Brothers in regards to the Moratorium, etc. He said that this may send a message to those people that work in that area of the law. The Hughes Bros. application is pending and has been partially reviewed under the old Ordinance, enacted in March of 2012. It was then put on hold by the moratorium. The lawsuit has been decided. On April 2, 2015 the new Ordinance was approved. Mr. Gilbert expressed his ideas for going forward and wanted to give the Planning Board an opportunity to discuss this. Mr. Gilbert said that it is fair to the applicant to let them know what the rules are going forward.

Susan feels that they need to go through point by point between the old ordinance and the Addendum and see how many places were changed because the applicant will need to meet any additional requirements. Mr. Gilbert has spoken with Hughes Bros. legal counsel, Mr. Hamilton and Mr. Pottle, and it is his understanding that Mr. Pottle has created a chart showing the changes between the new and old Ordinance. Mr. Gilbert is not sure if they will share that chart. Mr. Gilbert gave the example that if the Board had reviewed and voted on the effect of the watershed/ground water section of the application and if that section has not changed in the new Ordinance, they will not need to review that section. If there was a change, it will need to be reviewed under the new application.

Gretchen had a question for Hughes Bros. as to if they want to continue on with the current application or what they plan to do. Gretchen also asked Charles G. to expand on the change in the composition of the Planning Board as there are three people on the Board that have expressed opinions one way or the other through various citizen groups in town and three members who haven't. Mr. Gilbert explained (paraphrasing for explanation purposes) that in another case that was heard by the courts about two weeks ago, the court made clear that they did not want towns to send up a bunch of appeals on a piece meal basis. The court has made clear that they want parties to go through the entire administrative process at the municipal level before they go to court. If Hughes Brother's attorney had thought that they would bypass the Town and go to the Court level to get a permit, the court system has said they cannot do so without going through the administrative process. Even if there is one standard that Hughes Bros. cannot meet, they still have to go through the process to get to the court. They would then go to the court and say they have given us impossible standards to meet and ask the court to overturn the ordinance.

Gretchen was curious as to if Hughes Brothers wants to continue with the review under the new Ordinance or if they wanted to submit a new application. Mr. Gilbert said that if they submit a new application, the Board would have to review all of the standards all over again. Gretchen would like to hear from Hughes Bros. what they plan to do.

In regards to the issue raised about the composition of the Board, Mr. Gilbert will leave a copy of the Pelkey case, with Russell to copy for the Board. This is a 26 year old case involving the city of Presque Isle. In the middle of this case, the composition of the Planning Board changed and they had new members. The question became who could vote on an application that the new members were not a member of the Board on when part of the application was presented. The Pelkey case made it clear that new members cannot vote unless they can make all of the necessary determinations of credibility of the applicant. Ordinances set standards and through the evaluation process, the Board reviews the application and votes on whether or not to issue a permit by determining if all of the items are met or not. If a member is absent when the evidence of credibility is determined, he cannot vote. In a case Mr. Gilbert was involved in in Bangor a couple years ago, the member that was absent went back and listened to all of the recordings of all of the meetings and under that circumstance the Planning Board allowed that person to vote. It went as far as the Superior Court and the judge held that it was ok under the Pelkey case, if someone had gone back and listened to all of the tapes and reviewed all of the evidence in the case. Mr. Gilbert cannot indicate 100% that the new members will not be allowed to vote, but there is a narrow set of circumstances that have to be considered. Mr. Gilbert said that the other alternative is that they do have three members, a quorum, that have been on the Board through the entire process. Also, the new members were not alternates that attended all of the meetings and heard all of the discussion.

Susan said that Gretchen's point is quite important regarding applicants due process being violated when a person who previously had been a vocal opponents of the application came on the Board and wanted to vote. Susan said that they do have three members with various leanings in town. Charles N. questioned if when it came to a vote and it was 2 to 1 vote, would it be a legitimate vote or would all three have to vote the same way.

Gretchen read from the Bylaws regarding this issue:

4.3 Conduct of Meetings and Workshops,

4.3.2 A quorum is required in order to conduct a meeting in all cases except for postponement and adjournment. A quorum shall consist of three regular members or alternate members for the transaction of all official business.

4.3.6 All actions of the Board shall be determined by a vote. A majority vote of the quorum present is needed to pass any motion and in no event shall a motion pass without a minimum of three votes in the affirmative. When a motion results in a tie, the motion fails.

Gretchen and Susan read from the Zoning Ordinance:

203.3 No meeting of the Planning Board shall be held without a quorum of at least 3 members.

203.4 A legal vote shall consist of a majority of the members present and voting.

Susan said the Ordinance says it is by majority vote, so if you have a quorum of three, it can pass by a vote of 2 to 1.

Susan asked Mr. or Mrs. Hughes what they plan to do. Janet Hughes, Professional Engineer and Environmental Engineer, works for Hughes Bros. with her husband, addressed the Board. She said they still want to go forward with the application. They went through every piece of the Ordinance and went through 13 criteria. The second criteria was dependent on all of the other 13 criteria. So it left them with the 13th criteria which was a little more difficult because it was a loose ordinance and hard to make a judgement and there was a lot of opposition. That one was: Noise, Vibration, Fumes, Odor, Dust and Glare. They went through this last one and got through Vibration, Fumes, Odor and Glare, leaving Noise and Dust. She continued that with Noise they went through evaluating the noise, whether Hughes Bros should be using the ordinance to develop the data, criteria for developing the methodology for measuring noise, should Hughes Bros be taking the measurements and should there be a third party consultant. It was left that there should be a third party consultant. Hughes Bros. hired a consultant and brought the information back, they knew that the Board would require some additional information. That left dust; with the new ordinance, under dust, the only thing they could provide was the industry standards and their MDEP permit that requires them to meet certain MDEP standards in accordance with an air emissions license along with their quarry permit. That leaves them with that one section not reviewed. The chart that Mr. Gilbert referred to is one that an attorney prepared and it goes section by section and is 2 pages long. Mrs. Hughes compared page by page the two Ordinances and has a 10 page document that may be easier to understand. She is willing to provide that to the Board as they have used it as part of the legal proceedings. The dust standards in the new Ordinance references MDEP air quality standards that were applied to them when they started and is not an issue. The Board identified more reclamation standards, however it made gravel pit standards more stringent but did not make quarry standards more stringent. It almost mimics the MDEP. The Board added a blasting standard which she thinks is a good thing. They added to bring the blasting standards in each time and reference the Mine Safety and Health Administration Act and MDEP. Then it comes to stock piling which has a two acre limitation which can be seen on their plan.

Mrs. Hughes said that it leaves them back at hiring a third-party consultant. They changed the methodology of which they evaluated the noise which is more definitive and accurate way of measuring the noise. Some of which applies to them in construction and some of which doesn't. The only thing that was changed in noise that would apply to them, because those standards were set based on the property boundary, is that they changed it to identify other protected locations beyond the property boundary, a home. Those homes are even further away from the property boundary. She said that under the best case scenario there would be no change, under the worst case scenario it decreases it by 5 decibels. They feel their data is correct and there is no reason why it wouldn't be correct. Having a consultant would only help them and if the Board decides to move forward Hughes Bros. would request the list of consultants and they would work in tandem to show that the data will meet the criteria.

Mrs. Hughes said that the elephant in the room is that the Board added a setback chart and the setback chart added a criteria of a 1500' setback from the nearest home, wells and a number of other things. This setback is 15 times greater than the standard of the MDEP and 10 times greater than most municipalities. She said she will go back and review the whole application that will take weeks and months and everyone will be on the same page. Or the Board can stop right now and figure out what they are going to do with the 1500' so as not to waste everyone's time if they are not going to approve their application based on the 1500'. They have spent time waiting on the decision by the courts on the Moratorium because they couldn't do anything else. They are locked in an agreement with Mr. Arisimeek, until you make a decision and they can't move on with the legal process until they make a decision. They have spent a lot of time and a lot of money and they are ready for the next step.

Susan asked if the bottom line is that at this point, having reviewed with her staff the different changes in the addendum, they do not want to abandon their application, that they want to continue but if it stays at a 1500' setback then she cannot deal with that. Mrs. Hughes said the setback drew a line through the center of their quarry and she is not sure if it has any possible use any more. She said it has also changed the value of the property and they would have no interest in the property based on the current purchase and sale agreement with Mr. Arisimeek and Mr. Butterfield. Not only that, but they have \$250,000 into this application process and they do not want to add another \$50,000.00

Mr. Gilbert said it would be easier to do what Mrs. Hughes is suggesting, but the recent decision involving Camden says they have to do the complete review and only after all of that has been done can it go to court. They have to go through the sound standards and any changes in the other standards. The Board does not have the authority to change the Ordinance, they can only apply the Ordinance. If the 1500' setback is the deal breaker and the Board votes that they cannot meet that standard that is going to be the decision that they are going to go further with. Mr. Gilbert said that if hypothetically Hughes Bros could meet all of the standards of the new ordinance except the setback, that is what they call a clean legal issue. He then asked can that be overturned by the courts because it is arbitrary, capricious or whatever? Susan asked if it has to be overturned by the courts. Mr. Gilbert said that as a Board they have to review the application as the Ordinance is written. The only way to change the Ordinance is through the Town Meeting process, because the Towns people voted.

Mr. Gilbert said that if they want to go forward, the Board will need to identify the changes between the new and old Ordinance. Then they would have to figure out anything additional that Hughes Bros would have to do to meet the new Ordinance. The Board had suspended review of the application on April 3, 2015 at the Sound Section, needing a sound study. Mr. Gilbert further clarified that if the 1500 ft setback remains, and the Board does not issue a permit because they do not meet the setback requirements, Hughes Bros. can go forward with their legal appeal. Mr. Gilbert said that if Hughes Bros. meets all of the standards except the 1500 ft setback, they can then go to court and seek to overturn that setback.

David P asked if the Law Court, in reference to the original application, that was accepted and in the process of being reviewed prior to the moratorium, say anything about it being grandfathered. Mr. Gilbert explained that in case number 1, Hughes Bros. did not ask the court to review the Planning Board decision because they had not made a decision yet. Normally cases that go to the court process are review of a grant or denial of a permit. They did not choose to litigate that issue. They chose to litigate the moratorium issue, the freedom of access issue and the vested rights issue, all of which the law court has rejected in terms of their position. They are now back to the middle of the review and they have the right, subject to the latest law court teaching making it all one appeal, if there is a denial, to have that reviewed by the court system. Mr. Gilbert presumes, that Hughes Bros thinks they can meet everything but the setback. He continued that the Board will have to decide that and they should not assume anything. If they can meet everything but the setback and the Board has to say no to them because they can't meet the setback, he thinks they have a clean legal issue. He said it doesn't mean they have a winning legal issue, but they can go to the court and say they would have had the permit except for this one thing. David P.

said "Which we met originally." David P thanked Mr. Gilbert for the homework assignment because he will make it a point to sit down and listen to every tape.

Mr. Gilbert would like to suggest that, taking into consideration Hughes scheduling issues, to begin to think about the time table that would give anyone that wants to enough time to get up to speed with everything and then a time table to begin looking at the merits, which would include an analysis of the changes between the two ordinances.

Mrs. Hughes said that repeatedly she has asked that Mr. McCluskey be recused from developing ordinances relating to the quarry as he was the opposition and then became a Planning Board member. Susan replied that she understands her position and to cut to the chase, she would also say that Mr. Johnson and Mr. Peppard should also be recused as they are on record as being part of a group of citizens that feel strongly that the setbacks were incorrect. Mr. Arisimeek and Mrs. Hughes said that they didn't hire a lawyer and they don't have land adjacent to it. Mr. Gilbert will leave a copy of the Pelkey case for the Board to review because the law court has made it very clear that you cannot take one hat off and put a different hat on and make everything that happened before go away. Susan suggested that the Board do a point by point comparison of the old Mineral Extraction section of the Zoning Ordinance and the New Mineral Extraction Addendum. She also said that if Mrs. Hughes or her legal team could share the document she mentioned, it would be appreciated. Mrs. Hughes said that she can give the Board a summary. Mr. Gilbert wanted to make it clear that his recommendation is that if the Board finds that a particular standard has not changed and they have voted on it, it does not have to be reviewed again. Only if they find that a standard has changed Hughes Bros. can bring in additional information showing that they have met the changed standard.

Susan reviewed: 1. Distribute Pelkey case to the Board. 2. Board members review point by point comparison between 2012 Zoning Ordinance and 2015 Addendum. 2.a. If Mrs. Hughes would share her comparison with the Board by sending it to Russell and he will forward it to the Board. They will table this issue until they process all of this information. Mr. Gilbert said that they may want to make clear what they are doing with the noise standard. His recollection from the last vote taken, before the moratorium, was to hire a sound consultant. Susan said before they did that they would want to compare the new and old noise standards because they have been changed.

David P. wanted to ask Charles G a question: It has been suggested that he be recused because he spoke in opposition to the moratorium and he finds it not pleasant that because he spoke his mind that people think he be recused. Mr. Gilbert said he does not have a firm opinion on this matter yet because he does not know all of the facts. He continued that the point in the Pelkey case, was that the one that the law court said should not have voted, had been an opponent of this specific project, not a generic ordinance. If someone has a position on the Ordinance, by taking the oath of office, they have to apply the Ordinance whether they like it or not. Susan said that that is why the Board should review the Pelkey case. Mr. Gilbert said that the unanswered question is how this application will be voted on. Mr. Gilbert does not have the authority to tell him he cannot vote so this is another issue the Board will have to decide. Mrs. Hughes said that she will not be here in March and she asked that they take the month to review everything and the first meeting in April they come back together. She offered to come in and review the changes with them. Mrs. Hughes asked to be notified of any meetings that will contain a discussion of their application.

Susan suggested that the Board review the items she listed and they table this discussion for the night to move on to the Verizon Application Review. Gretchen said in regards to all of the David's participating or not, she would like Charles G. to review the citizen letters so they can review that once and for all. Susan Agreed. David J. said that the letter he sent and when he spoke at the Public meeting, it was about procedure rather than about this pending application. His speaking was in opposition to the Moratorium. Susan asked Russell to forward the Concerned Citizen letters to Mr. Gilbert.

Motion that they have met the requirements set forth in 402.10 **By David J/David P 2nd.**

Craig K asked what they do about osprey or eagle nesting. Mr. Anderson said he has never seen them nesting because he doesn't think there is enough surface area without a platform. He thinks that they would have to deal with it if it came up and they would check with IFWL regarding removing or not removing the nest. **Vote 4-0**

Motion that the application meets the review criteria of 402.11.**By Gretchen H/Craig K 2nd. Vote 4-0**

Motion that they have met the requirements of 402.12. **By David P/David J 2nd. Vote 4-0**

402.13, Gretchen asked if they should have someone review the figures and is \$14,500 going to be enough for removal costs in 10 years. Mr. Anderson said that is usually something that Charles N. would review to see if it was adequate. He continued that the construction cost for this project is \$100,000, the removal cost estimates that he has seen over the last 10 years usually run between \$12,000 and \$18,000. The decommissioning costs are exclusively related to the tower.

(Susan said that they will not be able to get through the entire review tonight. Mr. Anderson asked if they could go through any standards that deal with radio frequency while Keith is here tonight.)

When Charles N. returned, Susan asked him if Scott had showed the decommissioning cost to him and if he thought it was reasonable and Charles N. said that yes he went over it with him. Gretchen read from the Wireless Ordinance;

6.2.A.10.) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

A.) The amount of the surety will be determined by specifics of each site installation. The amount shall be determined by a registered Professional Engineer with certified experience in the field of tower construction and deconstruction and as approved by the Selectmen.

Gretchen asked if the Performance Bond had been approved by the Selectmen and if they needed the Town engineers to verify the figures. The paperwork that is provided is an estimate sheet, not a Bond. Mr. Anderson said that they can do a Performance Bond for whatever amount is approved and provide it to the Selectmen prior to any construction as a point of approval of the application. He said that if the number ultimately needs to go to the Selectmen for a final blessing, if they got to a final decision, as a condition of approval, before they get the building permit to construct, they could make whatever changes to the Surety Bond are needed and provide that to Charles before that in whatever amount Charles and the Selectmen agree on.

The Board will go to the Wireless Communications Ordinance 7.1 Planning Board Approval Standards and review the items relating to radio frequency that Keith can answer.

Motion that the application conforms with the Planning Board Approval Standards of 7.1.A.), 1), 2) and 3) of the Wireless Communications Facility Ordinance. **By Gretchen H/Craig K 2nd. Vote 4-0**

Motion that the application conforms with the requirements of 7.1.B.) 1), 2) and 3) of the Wireless Communications Ordinance. **By Gretchen H/David P 2nd. Vote 4-0**

Motion that the application conforms with the standards of 7.1.(C) and all subsections of C) 1,2,3,4 which includes the letter that is submitted in Section I. **By Gretchen H/Craig K 2nd. Vote 4-0**

UNFINISHED BUSINESS: The Board will move to the review of the Verizon Wireless Telecommunications Facility Application. Steve Anderson gave each of the Board members a copy of the information about the Beginning of Habitat maps and the sound information regarding the generator. Susan brought Gretchen up to speed because she was not at the last meeting. The Board needs to sign the waiver letter for the Boundary that David M. produced. The voting members from that meeting; Susan, Craig, David P, and David J; signed the letter. Gretchen was not at the meeting so she did not sign the letter. David P asked if Mr. Gilbert could be excused. Susan said he could be and thanked him for his service.

Mr. Anderson explained there was no Eddington Beginning of Habitat map, the closest is the Bangor regional map goes far enough to the east to catch the project site. Susan explained that the site is off the map. The EDR report has gone through other IFWL and DOC documents, both federal and state looking for any endangered species, mapped wetlands or designated habitat maps. The EDR report showed that none were located where the tower is going. Gretchen said that there are no PDF maps but there is a GIS data set that covers the entire town that would have that information. Mr. Anderson continued that when they had gone through the checklist of items at the last meeting Susan had mentioned it. Susan said she asked for the Beginning of Habitat maps.

The Board reviewed the criteria of the Zoning Ordinance:
Motion that 402.1 is complete. **By David J/Craig K 2nd. Vote 4-0**

Motion that 402.2 satisfies that **By David J/Craig K 2nd. Vote 4-0**

Motion that 402.3 satisfies that **By David J/Craig K 2nd.**
Discussion: Susan questioned wetlands and Mr. Anderson clarified that Map C-2 shows wetlands delineated in the upper left corner along the edge of the gravel drive and they will not be doing any work in that area. Gretchen asked and he said they did a wetland survey and there is no wetland delineation in the area of the tower site. **Vote 4-0**

Motion that they accept 402.4 **By David J/Craig K 2nd. Vote 4-0**

Motion that the application meets the review criteria of 402.5 **By Gretchen H/David P 2nd. Vote 4-0**

402.6: Gretchen asked what the width is of the current driveway. She said the map scaled it to 12 ft, and the end shows it expanding to 16 ft. Mr. Anderson said that that was right and that it will be 16 ft coming off the turn of the driveway with a 20 x 20 parking space. He verified to Gretchen that the gate will be 14 ft wide. Gretchen then asked Russell if the Fire trucks will get through the 14 ft gate and is the 20 x 20 area is enough room for them to turn around. Russell said that the trucks will get through the gate and that log trucks have been traveling that road. Gretchen also verified with Mr. Anderson that he had said in his presentation that emergency personnel will have either the key or combination to the gate.

Motion that given the additional information regarding the lock on the gate and dimensional requirements verified by the Town Manager with regards to turn around access for vehicles, that the application meets the review criteria of 402.6. **By Gretchen H/Craig K 2nd. Vote 4-0**

Motion that they have met the standards of 402.7. **By David J/Gretchen H 2nd. Vote 4-0**

Motion that they have met the standards of 402.8. **By David J/David P 2nd. Vote 4-0**

Motion that with one vehicle a month, they have met the standard of 402.9. **By David J/Gretchen H 2nd. Vote 4-0**

7.1 (D) Gretchen confirmed with Mr. Anderson that they had verified that they are outside of the FAA rules for the Bangor and Brewer Airports.

Motion that the application conforms to all of the requirements of 7.1.(D) of the Wireless Telecommunications Ordinance. **By Gretchen H/David P 2nd. Vote 4-0**

Motion that the application conforms to the requirements of 7.1.(E) of the Wireless Communications Ordinance. **By Gretchen H/Craig K 2nd. Vote 4-0**

Motion that the application conforms with the requirements of 7.1.(F), Setbacks of the Wireless Communications Ordinance. **By Gretchen H/Craig K 2nd. Vote 4-0**

7.1(G) Gretchen asked what the roof material is on the shelter. Mr. Anderson said that it is metal and will be a flat gray galvanized surface. The equipment boxes will be less galvanized. The metal comes pre-painted from the factory with a 30 to 35 year life expectancy with the enamel coating.

Motion that given the information about the coating on the metal and the paint of the roof and the equipment boxes, that the application conforms with the requirements of 7.1.(G and all of the subsections of G of the Wireless Communications Ordinance. **By Gretchen H/Craig K 2nd. Vote 4-0**

Gretchen looked ahead at the other sections and does not see anything relating to radio frequency. She asked Mr. Anderson if there was something else he wanted them to address. He said he didn't think there was anything else relating to RF. Susan told him that he would be put on the Agenda for the first meeting in March and they should be able to finish the application.

Gretchen would like to discuss the Performance Guarantee further because it may affect the next meeting. She asked Charles N. if he called around for estimates and Charles N. said no he did not. He said the figures are standard. Gretchen then asked Russell what the next step will be to translate this estimate sheet to an actual binding document. Mr. Anderson asked if Russell will be referring to the Selectmen as to the amount of the Surety or will they go with the amount Charles N. approved. Russell said he will work with Scott on that document. Gretchen said that it does say in the Wireless Ordinance that it will be approved by the Selectmen. Mr. Anderson said that it will take a couple weeks to get the actual Bond. He thinks they are renewed yearly and they would give Charles N. another stamped copy. He will check into that. Susan will try to get the exact wording out to everyone after Russell talks to the Selectmen. Mr. Anderson was told there will be no more public notices. He will pay the Town for the notices. Mr. Anderson asked if there are any other issues that he should know about to address at the next meeting. Gretchen said she has expressed her concern that there is enough money in the surety.

Susan said they will put the review of the application on the Agenda for the March 8, 2016 meeting. Susan asked Denise to make a note for the office to send the signed copy of the waiver to Mr. Anderson.

OTHER BUSINESS:

Motion to table Shoreland Lot Size, Continue working on, to a future date.

By Gretchen H/Craig K 2nd. Vote 4-0

Motion to table Mixed Use District, Commercial Building sizes, until the next meeting.

By Craig K/Gretchen H 2nd. Vote 4-0

STAFF REPORTS: Charles N. has been in contact with Mike Morse, Shoreland Zone, and Jim Jacobsen, Subsurface Waste Water Program in reference to smaller lot sizes in the case of community wells. Both have said there is no provisions for that. Mr. Jacobsen said the minimum lot size rules are

predicated upon use of onsite wastewater disposal systems. The potable water supply source is largely irrelevant. Mr. Morse said that from a Shoreland zoning standpoint they have worked with various municipalities with historically densely developed areas of shoreline and that have public sewer and water to allow a reduction of lot size. He said they are more than willing to discuss with you and areas in Eddington that you have in mind that might be similar. Charles N. said there are none because we do not have public sewer. He further said he cannot recall a situation where they have allowed a municipal ordinance amendment to reduce minimum lot size requirements in areas that don't have public sewer. It is not as much a public water supply issue as it is public sewer. Susan explained to Gretchen that it was in reference to David raising the question as to whether you could have smaller lots if there was a community well. Susan thanked Charles N. for looking into that.

PLANNING BOARD COMMENTS:

PUBLIC ACCESS:

Pamela Chapman, 50 Chapman Lane, In regards to the Hughes Bros. application, she doesn't care if they get a quarry or not, but she is upset with how the whole thing has gone. She said that it is on record at one of the meetings that Susan told them they did not have to worry about the moratorium that it wasn't going to affect them.

Susan said that that would be the first request for a moratorium made by the Planning Board. She explained that the Planning Board went to the Select Board with a request for a moratorium. Mrs. Hughes and some others spoke and the Select Board decided that they did not want the Planning Board to have a moratorium. At the following meeting a group of other citizens came and said they did want a moratorium and then the Select Board directed the Planning Board to draft a second moratorium.

Mrs. Chapman asked if they weren't going to do a moratorium why were they told it wouldn't affect them. Susan answered because the one that was put forth at the second request had the retroactive clause which did affect Hughes Bros... David P added that the first one didn't.

Frank Arisimeek, 1306 Main Road, Eddington, said it was very obvious that you two women are still very biased of the Hughes Bros. application by your actions tonight and he wants that on record. He thinks the two of them should be in jail because of their actions. He does not think it is a joke that a company comes in and looks at the ordinance to make sure something is allowed, then they encourage them to spend all that money and then they pull the rug out from under them. He thinks they should let the public know what regulatory taking means. And he thinks they should let people know what the estimate was that they asked from Hughes Bros. to present if you take their project away from them.

Ralph McLeod spoke saying he was representing his son James McLeod

Frank Arisimeek said it should stop right there. They asked for a document on his his right to speak on his sons behalf and they have not received anything yet.

Mr. McLeod said you do not need any documentation in public forum. Anybody can speak.

Mr. Arisimeek said that he should open it up that he is speaking for his son.

Mr. McLeod said he can say anything he wants.

Susan explained that conversation within this room is directed to the Chair of the Board not to any member of the public, not back and forth. She then stopped the conversation between people in the audience.

Mr. McLeod spoke again saying he was speaking for his son who was on active duty with the US Navy and in the South Pacific. Nichole McLeod said he is actually.

Mark DeRoche said he is not in the Navy. Nichole McLeod said he is actually. Mark said he is a military seaman and that is not the same thing. Mr. Deroche said they just ask that he not lie.

Susan informed the group that if there was one more person to person interaction, she was going to declare this meeting done.

Susan asked Mr. McLeod if he could just make a statement, that they understand his family background.

Mr. McLeod wanted to thank the Board for their good efforts. He said the 1500 ft setback was voted on by the people and votes of people do not get overturned by the courts. He thinks that Hughes Bros. should give this up right now. In the meantime, their appeals through the court system have cost this town \$50,000 in legal fees paid to Mr. Gilbert. He thinks that the Town should go through the process to recover that money from the Hughes Bros. Tax payers in town may be interested in \$50,000 spent out on a project that has no hope in proceeding.

ADJOURNMENT: Motion to adjourn at 8:40 pm.

By David P/Gretchen H 2nd. All in Favor

Respectfully Submitted,

Denise M. Knowles

