

Planning Board Summary  
March 29, 2016

Members: Jim Bowers, Jesse Casas, Mitch Garnett, Steve Ocean, Dave Studer, Bob Temple, Dave Williams. Public in attendance: Nancy Linscott, Jon Whitten, Jr., David Martucci, Rosemary Fowles, Wesley Daniel, Bruce Fowles, Debbie Bocko, Suzanne White

Mitch Garnett called the meeting to order with roll call at 7pm stating both alternates, Steve Ocean and Jesse Casas be voting members.

Mitch Garnett stated there was a change in order of this meeting. David Martucci, per town meeting, was here to request the Planning Board hold a Public Hearing for the proposed Solar and Other Arrays amendments to the Land Use Ordinance. Our Ordinance states the Selectmen have to hold a public hearing at least ten days before the town meeting which was done in February. When amending a Land Use Ordinance the State Law requires a public hearing has to be held by the Planning Board. If the Planning Board is willing to call a public hearing for April 12 we need to have the notice posted no later than tomorrow. The ad in the newspaper has been arranged but can be cancelled if needed. The Selectmen have set up a warrant to hold a Special Town Meeting for April 14. **Steve Ocean made a motion to hold the public hearing on April 12, David Studer seconded, all in favor.**

David Martucci stated that the Planning Board needs to call the public hearing to order and he would be there to introduce the amendments.

**Mitch Garnett made a motion to accept the Summary from 3/8/16 with requested changes, David Williams seconded, all in favor.**

Mitch Garnett opened up the discussion and deliberation of the Linscott application. David Studer said he would like the applicant to get a letter of credit from the bank, like a bond, stating that they will be loaned money if necessary if the town calls it in. The town would be listed as the beneficiary of the loan. This is an alternative to a waiver. Jon Whitten stated that the letter he had put together offered the value of the land. Mitch read from MMA, 'the Board doesn't have the right to grant the waiver'. Steve Ocean explained that we don't want to do anything to cause the town to hire a lawyer to get the money back. "Irrevocable letter of credit from a financial institution establishing funding for the construction or reclamation of mineral extraction activity from which the town may draw if reclamation or construction is inadequate approved by the Selectmen..." Mining Ordinance, pg 19 under Performance Guarantees. This will be a condition so the Board receives it in a timely fashion prior to the start of operation.

Mitch Garnett asked if there was any more discussion on the information given out at the last meeting. The cost that the applicant gave the Board which was \$8,700.00 from the engineer costs which could be the amount of the letter of guarantee. Bob Temple reminded the Board about a letter from MMA about participation and deliberation. If you have a report from one side the other side may report or not allow anyone to report.

David Williams brought it to the Board's attention that the conditions listed on the back of this Findings of Fact need to be corrected. Bob Temple will double check the conditions, change the numbering as well as the condition numbers throughout this Findings of Facts so they match.

Steve Ocean asked if the Consent Decree agrees with the reclamation plan. If the application is approved do the owners need to reclaim the property before more mining? Bob Temple explained, the letter from Fred Newcomb, stating the applicant needed to reclaim or come back to the Planning Board to file an application. The Planning Board needs to make sure the application meets the ordinance. The question is, does the buffer need to be reclaimed to meet the buffer requirements? Jon Whitten stated the reclamation plan would match both the ordinance and consent decree. Jesse Casas verified that if we approve the gravel pit and reclamation plan with the gravel pit then that satisfies the requirements of the consent decree? Bob Temple said yes due to Fred Newcomb's letter. Jesse asked if we approve the reclamation plan, in issuing this permit, where does the buffer language, in the ordinance, falls in with the fact that they are creating a buffer tied into the reclamation plan which is a secondary issue. Bob explained that the ordinance says it needs a buffer. The Board needs to determine if the buffer is adequate for this pit or a plan to establish or enhance it. The reclamation proposal is after a 3 acre parcel is done it will be reclaimed as they move to another 3 acre parcel. Bob stated that the buffer is not site impervious. After this discussion it was decided that the Consent Decree has nothing to do with the decision.

Steve Ocean asked about calcium chloride which was brought up in one of the abutters letters used to control dust. Is it typically used in pits? Yes but most use water or stone at the entrance. How often would it be used? Jon Whitten stated that the applicant would not be against using magnesium chloride or water as a substitute. Jon also stated there will be no more than 3 acres open at a time, low dust.

Rosemary Fowles asked if calcium chloride is used when houses are so close. She said the last time they dug there they couldn't open their windows because of the dust. Her concern is after the calcium chloride is put down the pit will be dug the next day sending it into the air we breathe. Water might help but how often would they do it?

Suzanne White wanted to clarify if a reclamation plan submitted and approved by Bob Temple. If it was approved, was it executed? Also, the final consent decree by the court, Newcomb's letter is an opinion. She believes this is a matter of consistency operating a mining operation. Bob said a reclamation plan was submitted at the conclusion of the consent decree where nothing else was going to take place. Bob wrote deficiencies which were included in the packet. The attorney's said that once you apply for it the reclamation of the pit is up to the Planning Board to review. Mitch Garnet said the Planning Board has no authority to agree with the consent decree that it's between the courts, the applicant and Selectmen. The Board is reviewing this as a new application. Part of the Boards review is to look into any previous violations, which is where the consent decree came up and is now part of the record for the Board. Jesse Casas feels that the consent decree should have been dealt with long before it came back to the Planning Board. He doesn't like the fact the Board is even dealing with this though it is tied together. Jim Bowers stated that the first 4 pages of the consent decree is from the court, the rest is back and forth between the other parties involved; at this point, it has not been done. If the reclamation plan is

included in the application it will take care of it. David Williams asked how the Board can go against the consent decree. The court ordered the Code Enforcement Office has to approve the plan. David Studer said the Board needs to approve and then leave it to the other parties of the consent decree. In the approval we have to acknowledge that the consent decree was looked over. Bob reiterated that the Planning Board's job is to look at the application and make sure it is in compliance with the ordinance. The reclamation plan and buffer needs to comply with two ordinances – Site Plan Provision of the Land Use Ordinance and the Mining Ordinance. The consent decree was only to settle a potential court case which is behind us.

Jim Bowers has gone by the pit and wanted to know how to understand what a reclamation plan is going to accomplish. Bob Temple suggested going by other pits and look at their buffers. David Williams has gone by and finds that it is not site impervious. David Studer made a motion to not use the consent decree at this point, we will see if the application meets the ordinance, Mitch Garnett seconded, all in favor.

Mitch Garnett explained that the Board will review the Findings of Fact Order Section by Section starting on page 11 of 70.

David Studer read Section 1 Environmental by subsection. To make the findings positive by changing 'not applicable' to 'are/have been met'. Changes made:

#### Section 1 G

##### Natural Resource Protection

take out condition 18

The Planning Board finds that the provisions of this section have been met based on letters from Critical Natural Area and Maine Department of Inland Fisheries & Wildlife stating there are no identified, threatened, or endangered species of plants or animals.

#### Section 1 H

##### Erosion Control

The Planning Board finds that the provisions of this section have been met (take out the second been) based on the Board reviewing and approving the erosion control plan and finding it's naturally and internally drained.

#### Section 1 J

##### Material Storage

The Board finds that this provision has been met based on the fact that there will be no outdoor storage other than equipment and stockpiles related to the extraction operation. **NEW CONDITION #34** No equipment or sand and gravel stockpile will not be visible from public right of ways. Operator will comply on CEO notification to move equipment or stockpile.

Section 1 K  
Air Pollution  
#2 & #3

The Board finds that the proposed extraction will not produce any emissions other than the emission generated from vehicles and equipment which must meet standards established for said equipment and not allow any offensive or harmful odors beyond the property lines.

NEW CONDITION #35 - The owner and operator shall take measures to keep the dust within the bounds of the property and shall take measures to correct or cease operation until conditions change to retain dust in bounds of property.

**Motion by David Williams second by Steve Ocean that the provisions of Section 1 have been met based on the findings made herein with changes and/or conditions.**

The next meeting is scheduled for April 12, 2016

Jim Bowers moved to adjourn at 9:15PM.

Respectfully submitted,

Mary Anderson