

SELECTMEN'S MEETING MINUTES

March 16, 2000

PRESENT: Brenda Charland, Millard Genthner, Willis Lord, Pam Witman, Lisa Morse, Steve Foglio, Wendy Carter, Don Day, Tim Neill, Roland Denby, Everett Whitten, Bob Gobeil, Dean & Denise Waterhouse, Ken Cole, Beth Cyr, Eric herrle, Todd Morey, Paul Kussman, Mike Roullard, Dave Benton, Don Scouler, Bob Fay, Dwayne Woodsome, Dave Charland, Doug Foglio, Jr., Doug Foglio, Sr., Glenn & Debby Dyer, Fred Fay, Les Leighton, Paul Verrell Sr., Ron Dearborn, Cliff Moran, John Jewett and Woody Owen.

Brenda opened meeting at 7:05 p.m.

Brenda stated that this meeting was called with the attorney to help the staff to implement the new ordinance. Ken Cole reviewed the questions and answers that were previously prepared (attached). Ken explained that with regard to grandfathering, if they were in existence prior to zoning they will have to comply and proved they have remained active during the last three years. There are three existing pits which are legally permitted and they are Northeastern, Dyers and Foglio's new pit. The operational criteria within the new ordinance applies to all pits. Opened up for questions from the audience. Doug Foglio Jr. stated that their Conditional Use Permit includes hours of operation and questioned if the new ordinance overrides the permit. Also questioned what effect this has on setbacks for permitted gravel pits. Ken recommended that they first go to the Zoning Board of Appeals for an interpretation. Ron Dearborn questioned if the ZBA has the right to change the zoning requirements and Ken explained that he can only determine at face value while the Zoning Board has the authority to interpret. Les Leighton questioned if the new ordinance could take away what they are already permitted to do? Ken again stated that it would be up to the Zoning Board to interpret that. Les stated that if the town is asking the CEO to enforce this then doesn't the town have to pay to make sure it's correct? Why should the gravel pit owners have to pay to take it to the ZBA. Ken stated that it is up to the ZBA to tell the CEO what to do. Doug Foglio Jr. questioned who would be legal advisor to the ZBA? Ken stated that he would but he will tell them he doesn't know what it means and leave it up to them to interpret. Stated that the ordinance is not black and white. He is suggesting that it go to the ZBA before enforcement. Dwayne Woodsome questioned if the three permitted pits still have to provide proof of active status within the 60 days and Ken stated that only those three do not. Dwayne then questioned if it is not done within the 60 days will they lose all rights to operate as a gravel pit and Ken stated that they would. Dwayne also questioned if they would have enough time to comply with the requirements of the ordinance and Ken was not sure. The Planning Board does not have the authority to grant an extension but the Planning Board does have to approve the rehabilitation plan. The only time constraints are on the pit owner. They are required to provide the information to the Planning Board within certain time frames but there is not requirement for the Planning Board to reply. In this manner the Planning Board is not actually granting an extension but it could possibly take months to complete the process. Doug Foglio Sr. expressed concern with who Ken will be representing based on a recent incident. Ken stated that this is why the CEO and himself will not make any interpretations. They don't know what this means so they need the ZBA to make determinations. Doug also stated that with everything going on right now there is not enough time for the Planning Board to comply with this ordinance. Ken again stated that the only time frame is in submitted not acting on. Doug then stated that the Planning Board will probably send the rehabilitation plans out for review because of all the controversy surrounding the Planning Board at this time. Questioned how this will affect the pit owner because it could take months or even years. Doug Foglio Jr. questioned if the Planning Board will be jumping back and forth between the old ordinance and the new one and Ken stated that in some instances they will have to. Les Leighton questioned if it has ever occurred where a permit is granted then revoked and the owner come back and sued the town. Ken stated that it very well could happen. Ron Dearborn questioned who pays if property is simply abandoned who pays for the reclamation. Ken felt it would probably not be reclaimed. Todd questioned which ordinance applies on a new pit. Ken stated that both apply. They still need a Conditional Use Permit and the new ordinance basically only covers operation. John Jewett questioned if even though he has been operating his pit if he still has to prove active. Ken stated that he is still required to prove that during the last three years he actively extracted gravel for at least six months. Ken stated that the new ordinance does not define active it only states the extraction of gravel for remuneration. Brenda Charland questioned who

determines the cost of reclamation? Ken stated that it usually comes with the plan but the Planning Board would make that determination. Willis stated that the towns own pit is not in a zone allowing for gravel pits according to the new ordinance. Ken suggested holding a special town meeting and amend the zoning to allow municipal uses such as a gravel pit within a residential zone. Dwayne Woodsome stated that in Section 16.3 it appears that the town can have a gravel pit anywhere in town without a permit. Ken stated that the pit is still not licensed and that has nothing to do with the zoning issue. Doug Foglio Jr. questioned if this ordinance is to abolish grandfathered status. Cliff Moran questioned how the town can take his land away from him because that is exactly what they are doing by making the setback 500' when it has been 100'. He paid good money for that land and now he can't use it. Ken explained that the increased buffer is because the people who wrote this ordinance didn't feel the original buffer was sufficient. Millard questioned how a pit owner maintains active status after the adoption of the ordinance? Ken explained that the ordinance appears to only apply to existing pits. Willis questioned if DEP takes over above 5 acres. Ken stated that they are in addition to town regulations. Dwayne Woodsome stated that they have always been told to go with DEP regulations over 5 acres and let them take it over but it appears now that the town is being asked to enforce.

Ken explained the reasons for appealing the court case brought by the Herrle's. Explained that according to the judge the Zoning Board of Appeals made the right determination for the wrong reasons. The appeal has nothing to do with gravel pits but with the definition of Conditional Use.

ADJOURNMENT

Motion by Millard and seconded by Willis to adjourn at 8:35 p.m. Vote 3-0-0.

APPROVED

Date: _____

Brenda Chuland
