

TOWN OF LAMOINE

**Minutes of Planning Board Meeting**

**November 12, 2013**

**Lamoine Town Hall**

Planning Board Members

Present: Holt, Bamman, Gallagher, Donaldson, Tadema-Wielandt

Code Enforcement Officer

Present: M. Jordan

Members of the Public: P. Roy, S. Salisbury, G. McFarland

Members of the Press: J. Weaver, Ellsworth American

1. Chair Holt called the meeting to order at 7:00 p.m.

2. Consideration of Minutes

The [minutes of the October 1, 2013](#) meeting were amended (first sentence of next-to-last paragraph) to indicate that the October 15 meeting was moved to the 22<sup>nd</sup> to accommodate Board member schedules. The minutes were then approved as amended. Approved by Vote of 5 – 0.

3. [Code Enforcement Officer's](#) Report

- a. [Permits Issued](#): report reviewed
- b. [Enforcement Actions](#): report reviewed

Concerning Complaint #2 (9 gravel pit permits expired October 31, 21013), Holt asked the Code Enforcement Officer if any formal action has been taken. CEO Jordan reported that he had written and hand delivered on November 8 a Notice of Violation to Steve Salisbury, the representative of the 3 gravel operators (Harold MacQuinn, Inc., R.F. Jordan & Sons Construction, Inc., and John Goodwin Jr. et al., Inc.).

Holt also reported that gravel operator Doug Gott & Sons, Inc. has removed a substantial amount of soil/gravel on the Stephens property which abuts the "B&H" pit as well as nearly 100 feet of the buffer zone separating the Stephens property from the "B&H" pit. He asked if Gott had a permit for this work and received no response. Bamman asked S. Salisbury to explain what was happening. Salisbury indicated that Gott had removed topsoil to establish a site for "the placement of dumpsters" and had "found clay". His intention is to submit a commercial structure permit application to place such a structure on this clay base. Donaldson asked how much soil/gravel had been moved. Salisbury opined that 300 cubic yards had been moved. Holt estimated the disturbed area was at least 30 yd X 30 yd. and more than

18" deep, amounting to over 500 cubic yards. In this respect, Holt noted, this action constitutes a violation of town ordinances.

Salsbury indicated that no further activity will occur until Gott has obtained a permit for a commercial structure.

4. [Conservation Commission](#): No report

5. Old Business

a. Request from attorney James Collier to sign a waiver of participation in a joint meeting with the planning boards of Hancock and Ellsworth regarding the subdivision of Morrison Chevrolet Property (affirming decision of August 9, 2011). Attorney Peter Roy explained Collier's request. As the Planning Board had decided in past meetings not to participate in the subdivision reviews in 1993, 2011, and 2011, Donaldson (Gallagher) moved to approve signing the waiver. Approved by Vote 5-0.

b. Completeness review of the following Gravel Permit Applications (continued from September 17, 2013 meeting). The Planning Board reviewed additional application materials submitted by S. Salsbury on behalf of the three gravel operators. The Board used the summary of missing information included in the September 17, 2013 minutes to determine if the additional information now constituted a "complete" application in each case.

i. John W. Goodwin, Jr. "East Lamoine Pit" Map 1 Lot 75 (47 acres). Additional information reviewed. Tadema-Wielandt (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

ii. John W. Goodwin, Jr. "Davis Pit" Map 4 Lot 41-1; Map 5 Lot 15 (13.7 acres) Additional information reviewed. Donaldson (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

iii. R.F. Jordan & Sons Construction, Inc. "McDevitt Pit" Map 3 Lot 4 (5 acres) Additional information reviewed. Donaldson (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

iv. Harold MacQuinn, Inc. "Higgins Pit" Map 9 Lot 13 (8 acres) Additional information reviewed. Gallagher (Bamman) moved to find the application complete. Approved by Vote, 5-0.

v. Harold MacQuinn, Inc. "Higgins Pit" (sometimes referred to as "Sand Pit") Map 20 Lot 12 (10 acres) Additional information reviewed. Gallagher (Bamman) moved to find the application complete. Approved by Vote, 5-0.

vi. Harold MacQuinn, Inc. "Kittredge" Pit Map 3 Lots 31 & 33. (22 acres)  
Additional information reviewed. Donaldson (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

NOTE: The outline of the pit on the tax map is still incorrect

vii. Harold MacQuinn, Inc. "Jones Pit" Map 7 Lot 7 (3 acres) Additional information reviewed. Donaldson (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

viii. Harold MacQuinn, Inc. "Beal Pit" Map 7 Lot 9 (3.8 acres) Additional information reviewed. Donaldson (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

ix. Harold MacQuinn, Inc. "Asher" Pit Map 3 Lots 42 and 43-1 (5 acres)  
Additional information reviewed. Donaldson (Gallagher) moved to find the application complete. Approved by Vote, 5-0.

Site Walk Schedules:

Saturday Nov. 16, 2013 9 a.m. Convene at Higgins Pit on MacQuinn Rd., proceed to Higgins (#2), Jones, Beal, Asher, and Kittredge.

Wednesday Nov. 20, 2013 9 a.m. Convene at McDevitt Pit, proceed to East Lamoine and Davis.

Public Hearings Schedule:

Tuesday Dec. 3, 2013 at 6:30 at Lamoine Town Hall (Goodwin and Jordan pits)

Tuesday December 10, 2013 at Lamoine Town Hall (MacQuinn pits)

c. Harold MacQuinn, Inc. Gravel Permit application (expansion of Kittredge to "Miro"; Map 3, Lots 31 and 33).

Holt inquired about the status of the applicant's schedule for the delivery of information required by the Planning Board. Salsbury reported that the drilling of the additional test wells was under way and that he thought the fieldwork would be done by Thanksgiving. He estimated that the report of this work would be in the Board's hands by February. The Board requested that the report be submitted to the Board by the two-week deadline prior to the meeting in which it will be discussed.

6. New Business

a. Request from Harold MacQuinn, Inc., R.F. Jordan, Inc., and John Goodwin, Inc. to extend Gravel Permits that expired October 31, 2013. The Board discussed whether it had the authority to grant this request. It was noted

that in the past, the Board has not explicitly extended permits while an applicant was in the process of applying for a renewal.

Tadema-Wielandt (Bamman) moved to temporarily extend the current gravel pit permits for the nine pits in question. After discussion about the motion, Bamman withdrew his "second" and Tadema-Wielandt withdrew the motion.

Tadema-Wielandt (Bamman) moved that the Planning Board does not have the authority to rule on this request. Approved by Vote of 5-0.

7. Other Public Matters: None

8. Ordinance Matters

a. Request from Town Administrator/Board of Selectmen to review proposed revisions to [Lamoine Gravel Ordinance](#) submitted to the Board of Selectmen by Attorney E. Bearor, representing gravel operators Harold MacQuinn, Inc., John Goodwin, Inc., and R.F. Jordan, Inc.

Holt stated that he did not regard this as a matter that falls within the Planning Board's purview. Donaldson asked if the Board of Selectmen were aware that the Planning Board had submitted two revised sections of the ordinance September 17 with a recommendation that these revisions be put to the town. In his opinion, these should take precedence over other proposed revisions.

G. McFarland (a member of the Board of Selectmen) indicated that the Selectmen were interested in the Planning Board's opinion of Mr. Bearor's draft. Holt summarized his own opinion by stating that Mr. Bearor's revisions "undo the major changes" that the Town voted to put in place in March and that "there's nothing in Bearor's proposal that appears to conform with what the Town adopted."

Tadema-Wielandt suggested that any citizen of Lamoine could put any revisions forward for the Town Meeting to consider. The Planning Board has already made its recommendations in this regard to the Board of Selectmen.

Holt indicated that he would attend the next Select Board meeting to ensure that they understood that the Planning Board had made these recommendations to them on September 17, 2013.

b. [Gravel Ordinance](#) Revision. The Board reviewed the draft text for Section 8 Performance Standards: D. Restoration (dated 9/30/13). After some discussion regarding the handling and accounting of deposits, Donaldson (Holt) moved to recommend this revision to the Board of Selectmen for adoption by the Town Meeting. Approved by Vote of 4-0-1 (Bamman). SEE ATTACHED PAGE 6 for the text of this revision.

The Planning Board has now recommended three revisions to the Gravel Ordinance.

c. [Building and Land Use Ordinance](#): MUBEC revisions. The Board agreed to review the ideas advanced in our October 1 meeting and come to the December 3 meeting at 6:00 p.m. to make final decisions about this matter.

9. Next Meetings: (see above)

10. Adjourned at 8:52 p.m.

Respectfully Submitted,

Gordon Donaldson, Secretary

**Section 8. Performance Standards D. Restoration**

3. Performance Guarantee

- a. Each permit holder shall pay to the Town of Lamoine \$0.05 (5 cents) for every cubic yard of material excavated and removed from the permitted area. Such payment shall be made annually in an amount based on the number of cubic yards excavated and removed in the previous 12 months as disclosed in the Annual Report made to the CEO (see paragraph H. below). Such payment shall accompany the Annual Report.
- b. The amount paid to the Town shall be held in a Gravel Pit Restoration account, the sole purpose of which shall be to accumulate and provide funds to pay the costs of required Restoration activities specified in the reclamation plan. The account shall keep record of which permit holder made payments and for which Gravel Pit the payments were made.
- c. Money shall be withdrawn by the Town Treasurer from the Gravel Pit Restoration account to pay for restoration work only after such work is completed to the satisfaction of the CEO. The CEO shall submit a written request to the Town Treasurer, noting the amount of payment to be made, the payee, and the Gravel Pit where restoration took place, and describing the work performed. A copy of the report shall be placed in the appropriate Gravel Pit permit file. The amount withdrawn may not exceed the amount credited to the Gravel Pit on which the Restoration work is undertaken.
- d. The permit holder is liable for all additional costs associated with reclamation if the accumulated funds available are insufficient to cover the actual costs of reclamation.
- e. Should funds remain after a Gravel Pit is fully restored as required by this Ordinance, such funds shall be paid to the permit holder at the time such reclamation is completed.
- f. Should the owner/operator fail to complete required Restoration work, a lien in an amount three times the estimated cost to complete required Restoration shall be recorded against the Parcel.