

March 21, 2016

Minutes

HUBBARDSTON PLANNING BOARD
Joined the Selectboard Meeting
in the Slade Building



Selectboard Meeting called to order at 6:30 pm by Dan Galante, Selectboard Chair
Planning Board members present: Thomas Bratko, Tom Robinson, Mark Dymek, Kendall Daly, and Vin Ritchie
Planning Board Staff: Janet Baczewski

Minutes: No Planning Board meeting minutes were reviewed and there were no Planning Board motions to accept.

There was no formal submittal of the new Hubbardston Reclamation LLC project to the Board of Selectmen this evening by owner, Norman Brown, of Pitcherville Sand & Gravel, which is located on the same site as the new land infill project.

Atty. Dave Doneski spoke on the written decision to the Selectboard from town counsel, Koppelman & Paige, regarding the jurisdiction of "Importation and Deposit of Fill Material at Property of Pitcherville Sand and Gravel, Inc." dated 3/18/16. He indicated that, "based on the information and documents you (the Selectboard) and the Building Inspector have provided, and my review of the history of the Town's Earth Removal Bylaw and Zoning Bylaw, it is my opinion that local approval for the type of activity subject to the *Interim Policy* (Department of Environmental Protection's Interim Policy on the Re-Use of Soil for Large Reclamation Projects) falls into two categories: oversight and enforcement of reclamation conditions included in the last earth removal permit renewal granted for the subject property, and authorization for filling activity beyond the scope of those reclamation conditions. For enforcement of the reclamation conditions, it is my view that the Planning Board, as permit granting authority under the current version of the Earth Removal Bylaw, is the Town body having jurisdiction. For filling activity beyond the scope of that reclamation, it is my opinion that the Planning Board, on application by or for the property owner, may treat all or a portion of that activity as reclamation pursuant to the Earth Removal Bylaw; or may decline to do so, which would then make the filling activity a land use subject to evaluation under the Zoning Bylaw."

He further states, "On the basis of this language, it is my opinion that the Pitcherville Sand & Gravel permit activities, including reclamation activities, became subject to the jurisdiction of the Planning Board when Chapter XIX was amended to make the Planning Board the permit granting authority for earth removal."
"Thus, it is my further opinion that the Planning Board has jurisdiction to consider a new or modified reclamation proposal for the Pitcherville Sand & Gravel site under the provisions of the DEP *Interim Policy*."

Larry Brandt, Zoning Enforcement Officer, having researched the history of the earth removal permitting process, in the case of Pitcherville Sand & Gravel, also spoke to the question as to whether there is any documentation supporting the close out or the completed reclamation of that site. He indicated that he did not find anything in his research, written to that effect. If their prior earth removal permit was closed out, the Zoning Enforcement Officer would have jurisdiction in that circumstance. If their prior earth removal permit, including reclamation, was not closed out, the Planning Board would have jurisdiction in that circumstance.

Norman Brown, owner of Pitcherville Sand & Gravel was present at the meeting, and indicated that there was documentation supporting a close out of the pit permit in 2005. He stated that information would be forthcoming.

Tom Robinson, acting Planning Board chair, spoke on the Selectboard agenda item regarding a Planning Board motion presented from the March 14, 2016 meeting to request the Selectboard to approve appointment of a special legal counsel to render an opinion as to which board has jurisdiction in the matter of a land reclamation project. Siting redundancy and cost, the Selectboard ^{declined} any motion to allow permission for such special legal counsel for the Planning Board. The Selectboard indicated that any legal questions from the Planning Board in this matter could be submitted to the town administrator to forward to Koppelman & Paige, town counsel.

At 7:41pm the Planning Board members departed from the Selectboard meeting.

Approved: Tom Robinson with corrections 5/31/16
Date: _____