

TOWN OF GOSHEN
PLANNING BOARD
APPROVED MINUTES OF REGULAR MEETING
CONTINUATION OF GUILDHALL PUBLIC HEARING
JUNE 3, 2008

MEMBERS PRESENT: Chairman Allen Howe, John Wirkkala, Jonathan Purick, Rich Moen, and Sue Peacock, Secretary.

OTHERS PRESENT: Shaun Carroll, Jr., Kathy Carroll, and Attorney Timothy Britain, Abutters David and Pat Stephan.

AGENDA ITEM # 1: Master Plan (June 10 or 12?)

Mr. Howe notified the Board that Mr. Dzewaltowski could not attend tonight's meeting, but that he could possibly attend on June 10th or 12th. Mr. Howe asked the Board whether Thursday, June 12, at 7:00 P.M. would be an available date for them to meet. All Board members stated that they are available on June 12.

Mr. Howe has not heard as of yet regarding the grant application, but that the Board could get started on the first task of the Master Plan.

AGENDA ITEM # 2: Correct minutes 4/1/2008, 5/6/2008, maybe 5/27/2008.

The Board reviewed the minutes of 4/1/2008, and made corrections. Mr. Wirkkala made a motion to accept the minutes with corrections, Mr. Purick seconded, and all were in favor.

The minutes of 5/6 and 5/27 will be done at a later date.

AGENDA ITEM #3: Meet with Town Attorney Bernie Waugh.

Mr. Howe spoke with Attorney Waugh earlier this evening, and he could not attend tonight's meeting.

AGENDA ITEM # 4: Continuation Hearing Guildhall Sand & Gravel:

Mr. Howe started off the public hearing by going over how the last public hearing was left off. At the last hearing the Board voted that the application was complete, and there was discussion of Atty. Waugh's legal opinion concerning the Town's authority to regulate use of the Davis Site as a gravel pit haul road. Mr. Carroll was to review the legal opinion, as well as the Board members.

Mr. Carroll feels that the legal opinion has nothing to do with his Davis pit application. He wanted to move forward with the complete application. The legal opinion has

nothing to do with the permit that he is looking for.

Mr. Howe said that the primary concern is use of the Davis Pit as a haul road. It has nothing to do with reclamation, it is a legal opinion regarding the Town's authority to regulate traffic through the Town. The past Davis pit permit had 77 truckloads per day, and addition of the 110 truckloads per day from the Unity pit going through the Davis pit would be a dramatic increase of hauling through the site. The Board stressed that we are entirely willing to listen to any information Mr. Carroll wanted to present on what reasons there are for increasing truckloads per day at the Davis site. The information should demonstrate there is a material change in circumstances that would warrant altering the 77 truckloads per day standard. Mr. Howe then asked if any of the Board members had any input on the concepts of the legal issues. Mr. Howe said that we want to come to a solution and not butt heads on the issue of using the Davis Site as a haul road for the Unity pit. We should see what we can work out. Mr. Howe said that any decision made relative to altering the 77 truckloads per day, per Attorney Waugh's legal advice, would be appealable. In addition, any argument Mr. Carroll should present now for changing the number does not mean he would forfeit the right to present different arguments at a later time. Mr. Howe told Mr. Carroll not to feel hesitant, ask the Board to consider whatever you need. Mr. Howe then asked the other Board members if they had any comments they wanted to add.

Mr. Wirkkala stated that from a historic side and from citizens presentations heard in the past, the citizens wanted to limit the trucks because of the fact that they lived with the issues; vibrations, noise, etc. The reason why the 77 trucks were established was for the interest of the community, those being close to the downtown area. There are older citizens, and who are retired. Mr. Wirkkala stated that we, as a Board, should be responsive to our citizens. There were 2-past 3-year permits that established the 77 truck limit. Since this is established, it needs to be treated with some kind of respect. There have been no citizen complaints since the 77 truck figure was established. Mr. Wirkkala said that if there are conditions, material changes of circumstances, if Mr. Carroll would like to change this figure permitting, then the process will be longer, but at a previous hearing Mr. Carroll stated he did not want to do that. But if there are legal issues with the Unity Site and the Davis Site, we do have something to deal with, or deal with it at a future date. In his opinion, we should proceed with the Goshen permitting process. Mr. Wirkkala said. But the decision should come from Mr. Carroll.

Mr. Carroll said that there is nothing in Attorney Waugh's letter that has to do with his company hauling sand out of Unity using the same number of trucks. The letter is totally different, was not on there prior, and he has been doing everything that he has been asked to do. There have been no complaints from the neighbors, he is looking to duplicate the old permit. Mr. Carroll feels that he has satisfied the criteria, this issue is totally independent, and should not be bound to the permit. Mr. Carroll said that there could be 77 trucks from the Davis Pit and 110 from the Unity, but he does not have the need, he would not haul that many from the two pits.

David Stephan asked in which direction? Mr. Carroll said truck traffic would be through the Davis Pit. It was a published fact the permit was received, and it was public

information.

Mr Carroll stated that Mr. Carrick and Mr. Wirkkala had gone to the meeting regarding Unity Road that dealt with the Unity site, and where he would haul through. Perhaps something could be put in their permit that reflects what we would like for an amount of trucks.

Mr. Carroll said that 110 trucks out of the Unity Site would have the same hours as the Davis Pit. Mr. Carroll then stated that he would like to continue with the permit process. Mr. Howe gave Mr. Carroll a final opportunity to change anything in the permit, or if Mr. Carroll would like to go into any other issues.

Mr. Carroll said that he needs to verify if there are going to be any limitations. Mr. Howe said that we do not know as this is just a legal opinion and the Planning Board has not voted on what stance it will take. Mr. Howe stated the Davis Site application is complete. Yet, Mr. Howe stated that Mr. Carroll could ask for more trucks if he wanted to.

Mr. Carroll felt that he (Mr. Howe) was dancing around the issue. Mr. Carroll asked why the amount of 77 trucks is being pushed, or do you want the 110 trucks? For the past two weeks, the number of 110 trucks has been talked about and down to 77. Mr. Carroll then asked "Is that what you are asked for, stick to 77?" Mr. Howe stated that he wanted to give Mr. Carroll the opportunity to alter to any other number of truckloads per day and present an argument to justify the request. The Board has not voted on the legal opinion.

Mr. Carroll then asked if this is going to be the criteria, 77 trucks or the 110, is this going to dictate what goes on for hauling through my pit and hauling out. Mr. Carroll stated he will change his mind, but that he needs to know exactly what needs to be done.

Mr. Wirkkala said that no one knows, but we can approve the permit. But what we try to do is to think about the big picture, and what happens with the neighboring towns with the hauling of 77 trucks out of there. There is no one on this Board that would argue, if you wanted to be proactive, that is where you stand. We as the Board would take the prior permit and some agreement and state it to the townspeople. Mr. Carroll stated that he did not apply for this application to cloud that he is trying to haul through the pit, he needs a cushion, to have it in the permit, and doesn't want to come back, and doesn't want to waste time.

Attorney Britain stated that right now we have the right to haul from the Unity Pit through the Davis Pit. Attorney Britain wanted to be clear that a 77 trucks limit would be a problem. Mr. Purick asked "Do you know why 77 trucks was imposed?" Mr. Carroll replied by saying "The year-to-year basis, that happened because it was not the right day, there were two trucks absent, and that is why." The Bristol location prior to court, there were 86 trucks and has one more to haul, Mr. Carroll stated.

Mr. Wirkkala suggested there might be some kind of middle ground to accommodate.

There might be 110 trucks permitted for Goshen. Let's just say that perhaps there could be another exit for the traffic flow, and then it would not be an issue. Mr. Wirkkala asked if there were any opportunities to exit as in past years by way of Judy Lewis' property. Mr. Carroll stated that there would need to be a more rugged bridge. Mr. Carroll stated that used to be the exit, but Don Davis and Howard Lewis, had a tiff. It was on Howard's property so then Don couldn't use it. Then at that time a new bridge was put in by Judy. Mr. Carroll stated he would be happy to forfeit the sand permit, 104 trucks out of Unity Pit, and we will not haul sand out that day, cannot reload with 104 trucks. Mr. Carroll also said that we do not benefit from hauling the sand, wants to be up front with hauling through the Davis Pit. Mr. Purick said we did not know any of this regarding the Davis Pit.

Attorney Britain said that the hauling from the Unity Site is unrelated to the Davis Pit, and his client would be happy to change this permit to 110 *combined trucks*, not a cumulative impact to the town. Mr. Howe stated that this is significant. Attorney Britain said that we should first rule on the number of trucks, then the permit, we believe that they are not related. Mr. Purick said because it is interrelated. Attorney Britain is willing to increase to 110 trucks per day. Mr. Howe stated that we need to consider the legal opinion. Attorney Britain said he would like a ruling first on that number of trucks.

Mr. Purick is concerned, he stated that we are charged for the Town, from the point of view, does traffic pose any danger, and noise disturbance? Mr. Purick said he was surprised that Mr. Carroll did not talk to anyone else in town. Mr. Carroll said he did believe he needed to talk to Goshen because excavation was coming out because it was coming out of the Unity Pit, and this permit had lapsed. In all honesty, it really didn't matter, we felt we did not need a permit to truck through our property. Not knowing that this would be an issue or restriction, we do not have another pit to go to at this time, do not want to put any restrictions on his land.

Mr. Carroll said that there would be 180,000 cubic yards over 3 years taken from Unity for each of the next 3 years. He said that in the 3rd year the company would remove the knob separating Unity and Goshen.

Mr. Howe stated that the resolution of 110 truckloads per day from the Unity and Davis pits combined, with no more than 77 hauling material from the Davis Pit and not imposing the legal opinion could be a solution. As long as those figures are maintained and if we are not getting into a cumulative amount of 187 truckloads per day Mr. Wirkkala said that the Select Board is not present, but it is our decision to try to work something out. But we do need to get the input from the Select Board.

Mr. Howe said that we can present the possible solution of the total number of truck loads per day to the Select Board. Mr. Carroll said that would be something he could do, and he could live with. Mr. Wirkkala questioned the size of the trucks, he is concerned that they are larger than what Goshen has permitted in the past and can make more money with the fleet upgraded. Mr. Carroll asked if the Board would allow the 1 tandem truck and the triaxle truck? Mr. Wirkkala stated that if we come up with an agreement,

would that be to say if the trucks are of this type, the truck protocol. Mr. Howe asked if this truck was 19 or 20 cubic yards? Mr. Carroll stated that this truck is about 22 cubic yards. A tri-axle can haul 65,000, a tractor trailer can haul about 80,000 cubic yards. Mr. Carroll stated that 3 years ago he put scales on the loaders, we do not overload, the pay is by the tons. Then it is radioed with the amount that the loads are either light or heavy, and that everything is a legal load.

Mr. Moen asked if the permit should come up with some statement of what size trucks are permissible. He was also concerned about establishing a protocol for counting the number of trucks. He asked is there is a capability of doing bookkeeping? Mr. Wirkkala stated that the Board may have difficulty because of conditions approved in the Unity Permit. Mr. Howe stated that the 18 cubic yards standard could be carried forward from the previous permit and would be associated with all trucking through the Davis Pit.

Mr. Carroll stated that he might not even get any sand hauling this year, 90% of the jobs are from Newport, the only jobs through the Davis Pit are the loader and if we got the Unity Landfill job. We are using 6 trucks instead of 7 because of the economy, and cutting back on hours of crushing. We do not need as much volume, and we need the extra truck.

Mr. Purick stated to Mr. Carroll that he is looking at a 40% increase, and that we the Board have to answer to the townspeople, put yourself in their shoes.

Mr. Wirkkala asked what is the typical turnaround time? Mr. Carroll stated about 14 trips a day. There are 14 trips a day times 7, which would be 98 truckloads, but on Fridays we would shutdown early because of the farmers market traffic.

Mr. Moen said that we would need to explain to the community a 40% increase, and to only last 3 years. Mr. Carroll stated that if the Board would like to come to the pit and that this would enable you to see the trucks in motion. He also said the neighbors would probably not notice the difference. He also said that it would be nice if there was 5 years worth of work, but we do not see being there for more than 3 years on that site, and 1 year on that buffer. There is material in that buffer. Mr. Moen stated that it would be positive that there could be 3 years to take out the knoll.

Mr. Wirkkala stated that the year 2030 seems like a long time, Mr. Carroll stated that to do polygon A would not take that long. The upper section which Ernest reclaimed, he will do that once, and as soon as possible.

Mr. Howe stated that he would like to close this hearing, so we will go to the Select Board, pull the pieces together, then go into deliberations, and close the hearing. We are hoping that this will not take long, the Board will go over the narrative. We are hoping to come back on June 12th at 8:00 p.m., and we hope to have the old permit to use as a discussion, and make changes to the renewal.

Mr. Moen made a motion for a continuation on Thursday, June 12th at 8:00 p.m., Mr. Purick seconded, all were in favor.

Mr. Wirkkala made a motion to adjourn, Mr. Purick seconded, all were in favor. The public hearing was adjourned at approximately 9:15 p.m.

Sincerely submitted,

Sue Peacock
Planning Board Secretary