

Approved
8-1-94

TOWN OF NEW BOSTON
SELECTMEN'S MEETING MINUTES

JULY 18, 1994

A regular business meeting of the Board of Selectmen was called to order at 6:30 p.m. by Chairman Pimenta.

PRESENT: Michael S. Pimenta, Chairman
Darlene M. Goodin, Selectman
Harold C. Strong, Selectman
Lorraine A. Cleveland, Town Administrator

REQUESTED APPOINTMENTS

The first order of business was a meeting with Town Counsel to discuss some legal questions pending before the Board. The meeting concluded at 7:30 p.m.

BID OPENING

At 7:30, Chairman Pimenta opened the one and only bid submitted for the 1967 International Loadstar Chassis. The bid was submitted by Jared Dodge for \$575.00. No action was taken at this during the meeting.

PUBLIC HEARING

At 7:33, Chairman Pimenta proceeded to open a public hearing on a gravel permit application submitted by New Boston Aggregate Corporation. Chairman Pimenta noted that a public notice of this hearing appeared in the Goffstown News on June 22, 1994. Notices to abutters were sent out on June 22, 1994. He discussed ground rules of meeting and introduced the Board members and the Town Administrator.

The following individuals were present for the hearing:

Applicant:

Ernest Thibeault, President, New Boston Aggregate Corp.
John MacDonald, Holden Engineering
Pierre Bruno, Holden Engineering

Abutters:

Mr. and Mrs. Armand Hebert, Jr.

Piscataquog Watershed
Assoc.:

Dr. Barry Wicklow

Cheryl Christner

Members of the public:

David Wilson

Brenda Lind

Jay Marden

Planning Board:

Brent Armstrong

Phil Consolini

Conservation Commission:

Cyndie Wilson

Town Counsel Leslie Nixon

The floor of the meeting was turned over to Mr. Thibeault and his engineering firm for the presentation of their application. Mr. MacDonald provided an overview of the phased excavation plan and the proposed final contours. He specifically addressed the present drainage of the site and the proposed drainage of Phase I. A sedimentation pond is planned in Phase I. This pond is designed to hold water that drains from western portion of the site. He provided groundwater information obtained from five test pits that were dug around the site, with specific attention to the western boundary line.

Mr. Thibeault then discussed the phasing of the excavation. He is requesting the removal of 200,000 cu. yds in the first phase, which is expected to take 2-3.5 years. This phase will be reclaimed before the next phase is opened. He estimates that the entire operation will take 18-20 years to complete. Chairman Pimenta asked what would be done if Mr. Thibeault reaches his limit of 200,000 yds. before the calendar year expires. Mr. Thibeault said he would come to the Selectmen to request an amendment to the quantity stated in his permit.

Ms. Cleveland inquired about the location of stump disposal area on the plan. Mr. Thibeault said it is his intention to continue to use the existing stump disposal area which is noted on the plan. If it is deemed necessary to move the area, he said the Town will be notified. He does not have a better area at this time. All of the smaller piles will be consolidated into one area. Mr. Strong asked if there would be a problem if the Town stipulated on the permit that no stumps be buried in the vicinity of wet areas (western boundary line).

Chairman Pimenta read the following letter from an abutter who could not be present into the record:

"As we will be out of town on the date of this hearing, this letter will express our concerns on gravel removal from Ernie Thibeault's property. Our main concern is the possible loss of water as our well water comes from the springs located on his property. We are also worried about the amount of dust coming into our house which seems to be considerably more since the area of open land has increased. Also we would like to see hours of operation after 7:00 a.m. due to the noise." Lionel and Norma Chancey

The floor then was opened to any questions from the abutters. Mr. Herbert raised questions regarding the hours of operation and bonding of the abutters wells. He referred to the spring and well in the back of his property which was bonded by Bud Scott. He would like to see the bond put back in place. He does not feel anyone knows where his well water is coming from and he can

not take a chance in losing his water. Mr. Thibeault responded that hours of operation will continue to be the same. Mr. Hebert said he has seen Thibeault trucks coming out at 6:00 a.m. Mr. Thibeault said there is another commercial operation at the garage which is separate from the pit operation. They are not hauling gravel. Gravel removal begins at 7:00 a.m. Mr. Hebert asked if there would be any crushing. Mr. Thibeault said it is stated on the plan that any crushing operation proposal will be presented to the Selectmen beforehand. The hours will be determined by the Board of Selectmen. Mr. Hebert said he feels the abutters should have some input on the hours. Mr. Thibeault said he would be agreeable to no crushing on Saturdays and limit it to 8:00 to 4:00 p.m. Monday through Friday.

Mr. Hebert asked how far the operation would be from his property. It will be 50 feet which is in accordance with the Town of New Boston gravel ordinance and state statute. Mr. Hebert again asked Mr. Thibeault about his intentions to bond the Hebert well. Mr. Thibeault said he has no intention of bonding the wells. He said he will do everything possible to stay away from the wells. He does not feel any bond company would bond wells. Chairman Pimenta said the Board has not made a decision on this issue. Selectman Strong said the purpose of this hearing is to take in all the concerns from the abutters; a decision will not be made during the hearing. Mr. Hebert said he did not feel the Selectmen had acted properly when they released Scott's bond without notice to the abutters. Mr. Thibeault said there has been more thought put into this plan which was not done before. He does not know why the Selectmen released the bond before, however, he feels the integrity of the wells will be maintained as this will be a different operation.

Ms. Cleveland asked Mr. Bruno some specific questions about the hydrogeologic conditions on the western boundary line. What tests would be required to determine if the perched water table condition follows the land contour or continues at a horizontal position into gravel slope. Mr. Bruno said there are two scenarios that could occur. If the perched water condition stays level and does not follow the contour of the land, the operation as proposed will stay above the layer and not impact it. However, if the perched condition does follow the contour of the surface up the hill, the final grade would intersect the perched water zone. It would open a new seep and alter the flow direction but not contaminate it. Mr. Hebert showed the location of the spring on his property. It is roughly 75-100 feet up the hill. Mr. Bruno does not feel this particular area will be impacted; nor will the water disappear in any case.

The next question was what hydrological tests would be required to find out which scenario exists. Mr. Bruno said test borings

could be obtained with a split spoon sampling device. Chairman Pimenta asked how long would this take from start to finish. A series of borings would be taken, a minimum of three which could determine the trend that exists. A piezometer would be installed to observe water levels. Depending on the availability of a drilling rig, it will take approximately one week.

Mr. Hebert would like to know if the abutters can be notified when the permit is up for renewal so the Selectmen can receive their input.

Chairman Pimenta opened the floor to the general public for questions and comments. Dave Wilson questioned the sedimentation pond and the release of water to the river. How will the sedimentation be handled during a heavy storm when water goes over the top of the pond. Mr. MacDonald said the pond capacity is designed for a 100 year flood. If there was such a storm, the sediment from the river would be greater. The capacity is 200,000 cu. ft. or 1.5 million gallons.

Mr. Wilson then asked the Selectmen who will supervise the operation to ensure it is in compliance with the permit stipulations. How will violations be handled? Selectman Strong said the abutters must be active and report any problems to the Selectmen's office immediately. The Town Administrator will contact the Selectmen to investigate the complaint. A warning would be given the first time. If the violation continues, a cease and desist order may be issued. Mr. Hebert asked what the penalty is? Ms. Cleveland read the penalty section of the gravel ordinance. The fine is \$100 per day. Mr. Wilson asked how many violations are tolerated? Chairman Pimenta said there is no set number. The Selectmen can cease the operation at any time until the violation is remedied or hold a public hearing if they wish to revoke the permit completely. The Board of Selectmen or representative of the Board can inspect the site at anytime.

Mr. Hebert asked how the Board will know or determine how much gravel is removed from the site. Has the 200,000 cu. yd area been marked by a surveyor? Ms. Cleveland said the Selectmen can require slips. Mr. Thibeault said he would be glad to submit the necessary reports. Ms. Cleveland said only one section will be open at a time. Chairman Pimenta said this is an engineered plan with a stamp. The engineer will be responsible. Mr. Thibeault said the first phase is intended to be small in order to install the sedimentation pond and complete the reclamation. Mr. Wilson does not feel that is sufficient enough to monitor what is going on. He is skeptical because he has seen violations and the river has been polluted.

Cyndie Wilson asked about the floor drain in the garage and where

it drains to. Mr. Thibeault said he is not sure. Selectman Strong said the Board can refer to the site plan/building permit plans to determine where it drains to. A site walk would be scheduled to investigate the matter.

Cyndie Wilson said she had spoken with Lionel Chancey regarding the amount of sedimentation in the springs behind his house. His concern is there has been an increase in the amount of the sedimentation in the last few months. She feels it is coming from the area which was recently stripped. She asked the Selectmen revisit the site again. Barry Wicklow also voiced his concern that the streams are choked with sediment. Will the operation continue to move to the western border?. Will the material slide down into the streams? He is concerned about the pearl mussels that exist in river and the sedimentation that flows from the culverts. There are two species that exist downstream from the site and are endangered. In regards to the drainage from garage, how can it be monitored? No one knows what category of chemicals may need to be monitored.

Cyndie Wilson stated that she would like to see a 100 ft. buffer zone on the Chancey border and see that entire section of the west bank be removed from the proposed operation. Mr. Wicklow also voiced his support to that recommendation. Mr. Thibeault said he would like the Selectmen to show him where the striped area is impacting these streams. There will be a buffer that will be maintained, the vegetation will not be removed. Mr. Wicklow said the tributaries from the top of the hill are carrying the sedimentation into the streams. A site will be scheduled tomorrow.

Mr. Wicklow asked what will be done to preserve the bank swallow habitat. Chairman Pimenta said a decision has not been made yet. Mr. Wicklow asked that the bank be maintained.

Mr. Bruno expressed his feelings on natural erosion and sedimentation. He said there could be some additional sedimentation from the activities on the site, however, the naturally occurring erosion must be taken into consideration as well. He feels that it is unlikely the direct sedimentation is coming from this pit. Mr. Wilson expressed his disagreement with that statement.

Cyndie Wilson presented the Conservation Commission's recommendations. The recommendations were read into the record:

(1) The town designates an engineer to give a second opinion on placement of the sediment pond on exact location, especially the depth of the spring near Chancey border; and on whether ledge underlies the proposed spot for the sediment pond.

(2) Create 100 ft. buffer zone on Chancey border due to wetlands located there.

(3) [Capacity] of sediment pond to be based on 100 year flood plain.

(4) Maintain the bank swallow habitat; fence off area with snow fence for safety.

(5) Maintain replacement of hay bales periodically.

(6) Set up regular monitoring of all gravel permits and pits by specific individual(s) especially the amounts taken and reclamation agreements.

(7) Move gravel permits from jurisdiction of Board of Selectmen to the Planning Board with regularly scheduled on site visitation and monitoring of permit allowances.

(8) Assurance that sections of each 10 acre phase be reclaimed bit by bit as the 10 acres are finished rather than reclaiming the entire area upon completion of that excavation. Mr. Thibeault commented that this would not be feasible as there will be two tier cut and reclamation would begin after the second cut is complete.

(9) That no fuel (except to heat the building) be kept on site permanently and that temporary tanks (other than hauled in and out on the same day) be set up with catch basin to prevent spilling.

(10) That no other substances or drums be stored on the property.

(11) Regular monitoring of materials flowing into the river

(12) In reclamation on 2:1 slopes seedlings should be planted where possible.

Mr. Thibeault said the fuel storage has been addressed on the plan already.

Mr. Herbert asked if stumps would be allowed to be hauled onto the property. Chairman Pimenta said no. Mr. Thibeault said topsoil is being hauled in as there is no topsoil left on the property for reclamation. Chairman Pimenta said this brings up a good point that the neighbors must be notifying the Selectmen if they have concerns.

Mr. Herbert asked if any one has inspected his spring/well. The reply was no. However it will be reviewed tomorrow.

Selectmen's Meeting Minutes
7/18/94
Page 7.

Mr. Thibeault made his final comments. His concern is that he is being singled out with stricter requirements than other pits in town. An example would be a 100 buffer zone, bonding of wells, reclamation before starting another section, etc. . . He would like to see other pits made to adhere to the same requirements. He has made a good faith effort to cooperate with the Town.

Cyndie Wilson said the State needs to do some work to improve their ditches which run into the culverts that drain in the river.

Brent Armstrong asked what the Board's procedure would be from this point. Chairman Pimenta replied that the Board will be meeting on Wednesday, July 20 at 7:00 p.m. to review the results of this hearing.

The hearing was closed at 9:13 p.m.

The Board continued with their regular business meeting. Mr. Thibeault was asked to stay to discuss the issue of the expiration of the 60 day agreement and the fact he has continued to operate before his permit has been issued. Town Counsel was present for this discussion. Chairman Pimenta made it clear to him that his operation must cease until the permit is issued. A decision on the permit will be made within the next 20 days. Mr. Thibeault said this was against his understanding of the 60 day agreement, i.e. if he made a good faith effort to submit the necessary paperwork, even after the expiration of the agreement, he could continue to operate. Chairman Pimenta said this was not the intention of the Board nor was this ever stated in the agreement. Mr. Thibeault said he is under contract to supply gravel out of this pit which has been tested for the specific jobs. He can't rely on other pits on such short notice.

After some further discussion with Town Counsel, the Board informed Mr. Thibeault that they agreed to amend the terms of the present permit he is operating under. The Board stipulated that all operation will cease and desist until Mr. Thibeault provides the following: (1) \$26,000 in cash as security. The Selectmen have the authority to require and amend the terms of the security; the Board feels Mr. Scott's bond is no longer acceptable. (2) A letter from Mr. Thibeault's attorney stating how much gravel has been removed from the site since the commencement of the 60 day agreement. (3) No more stripping of topsoil and trees is allowed until his permit application has been acted upon. Once these terms have been met, operation may resume. Mr. Thibeault said he was agreeable to these terms and would provide the necessary paperwork tomorrow morning.

Selectmen's Meeting Minutes
7/18/94
Page 8.

While Town Counsel was still present, Chairmen Pimenta and Selectman Goodin reviewed the language she had prepared for the Helena Drive petition decision. Selectmen Strong excused himself from the discussion as he is an abutter to Helena Drive. Both Selectmen approved the draft and a final copy will be ready for signature tomorrow. Ms. Cleveland said copies of the decision will be mailed to all Class VI abutters.

Brenda Lind came in to see the Board regarding an existing setback violation on a home she would like to purchase. Her attorney would like to receive a permanent waiver from any enforcement action on this violation prior to the closing. Chairman Pimenta said a similar case was recently handled through the Zoning Board of Adjustment. She was told to contact the ZBA for a variance.

Jim Dodge, Fire Chief, was in to inform the Board about an incident at the old campground by the spring on River Road. There were campers that had started a fire in the old dilapidated fireplace. They were asked to leave by the Police. He said he would like to see the fireplace brought back into good repair or to tear it out so people are not tempted to set fires in it. There are no signs prohibiting fires either. Selectman Strong said he was in favor of seeing the area remain as a picnic area but have no fires. Selectman Goodin made a motion to have the fire places removed by the Highway Department. Selectmen Strong seconded the motion. The vote was unanimous. Chairman Pimenta said he will speak to the Road Agent tomorrow.

The Board voted to award the one and only bid for the 1967 International Loadstar chassis to Jared Dodge in the amount of \$575.00. The Board asked the Fire Chief to be sure that requests for bid advertisements be submitted to the Town Administrator. She will handle the preparation of the advertisements.

Jay Marden was in to ask the Board if they would vote to sign the necessary release on the fire cistern contingent on the approval of Town Counsel and the Planning Board which will discuss it tomorrow night. The Board voted unanimously to his request.

ADMINISTRATIVE

The Board reviewed and approved the weekly payroll and accounts payable.

A driveway permit for Jan Mosseau was approved.

APPROVAL OF MINUTES

Selectman Goodin made a motion to accept the July 5 minutes as written. Chairman Pimenta seconded the motion. The vote was unanimous. Selectman Strong abstained from the vote. Selectman Goodin then motioned to accept the July 11 minutes as written. Chairman Pimenta seconded the motion. The vote was unanimous. Selectman Strong abstained from the vote.

NEW BUSINESS

Ms. Cleveland presented a proposal from Business Data Solutions to replace the present tax collection/billing software which does not provide adequate programs for assessment record keeping. The program will be funded from the annual assessing line item which has an unexpended balance of \$5,000. This request ordinarily could wait until Town Meeting, however, it makes sense to make the change now when all new assessment values from the revaluation update must be entered this year. In addition there will be annual savings of at least \$500 in license fees and telephone support. The Town is spending \$1200 right now for just the annual license fee for the MUNIS system. The license fee for the BDS system is \$750.

The present software system does not keep records on deed book/page, date, and sales information; sales ratio analysis including coefficient of dispersion and standard deviation; history of all changes to each parcel including previous owners; multiple owners and percentage of ownership; and when properties need to be reassessed including the reason. The new program will save the office staff time by calculating current use values to the present equalized ratio. Presently, all current use cards must be updated manually each year and then the values recalculated again when the assessments are entered in the computer. The tax collector will save a great deal of time as well. The new system will track accounts receivable with more efficiency, print all legal notices, and the annual MS-61 form automatically.

Selectman Goodin made a motion to purchase property assessment and billing software from Business Data Solutions for the amount of \$3,050. Selectman Strong seconded the motion. The vote was unanimous.

The meeting was adjourned at 11:30 p.m.

Respectfully submitted by Lorraine Cleveland, Town Administrator

Lorraine Cleveland