

**Bucksport Planning Board**  
**6:30 P.M., Tuesday, January 3, 2012**  
**Bucksport Town Office**  
**50 Main Street**

**AGENDA**

- 1. Call to Order**
- 2. Roll Call**

<input type="checkbox"/> John Daniels	<input type="checkbox"/> Marc Curtis	<input type="checkbox"/> George Hanson
<input type="checkbox"/> Gail Hallowell	<input type="checkbox"/> Rosemary Bamford	<input type="checkbox"/> Edward Belcher
<input type="checkbox"/> David Grant		
- 3. Review and Acceptance of Minutes:** Minutes from the December 6, 2011 meeting.
- 4. Chair's Report**
- 5. Code Enforcement Officer's Report**
- 6. Limited Public Forum-**An opportunity for the Public to address the Board on matters related to land use or planning in the Town of Bucksport.
- 7. Unfinished Business:**
  - A. Application for approval of an expansion of an existing mineral extraction operation on property located on Bucksmills Road, and identified on town tax map 15 as lot 15. The applicant proposes to mine stone in an area not to exceed .99 acres.  
Applicant: Wardwell Construction & Trucking Corp.
- 8. New Business:**
  - A. Application for approval of a Class 2 Vehicle Service business at 1524 River Road, tax map 45, lot 19. The applicant proposes to conduct auto repairs including oil changes, brakes, exhausts, front ends and tune-ups.  
Applicant: Jayne Howard
- 9. Administrative Business**
- 10. Discussion**
- 11. Adjournment**

**Bucksport Planning Board  
6:30 P.M., Tuesday, January 3, 2012  
Bucksport Town Office  
50 Main Street**

**MINUTES**

1. **Call to Order:** 6:30 P.M. by George Hanson, Chair

2. **Roll Call**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> John Daniels   | <input checked="" type="checkbox"/> Marc Curtis      | <input checked="" type="checkbox"/> George Hanson  |
| <input checked="" type="checkbox"/> Gail Hallowell | <input checked="" type="checkbox"/> Rosemary Bamford | <input checked="" type="checkbox"/> Edward Belcher |
| <input checked="" type="checkbox"/> David Grant    |  |  |

Staff present : Jeffrey Hammond, CEO

3. **Review and Acceptance of Minutes:** The draft minutes from the December 6, 2011 meeting were reviewed.

MOTION(Curtis): To approve the December 6, 2011 meeting minutes.

SECOND(Bamford)

DISCUSSION: None.

VOTE: 7-0 Motion adopted

4. **Chair’s Report:** None.

5. **Code Enforcement Officer’s Report:** The CEO advised the board that MMA legal services had been consulted regarding the right to know issue that occurred during the board’s site visit to Mr. Wardwell’s property last month. The attorney agreed that a violation of the right to know law took place, and recommended that each board member involved submit a written account of their observations made during the time they were separated from the public in attendance. All 5 members have submitted their written accounts.

The CEO informed the board that the town attorney would be available to meet with the board and talk about the right to know law. The board scheduled a special meeting for January 11, 2012 at 6:30pm.

The CEO advised the board that copies of the 2012 edition of the Maine land use laws booklet had been ordered, but not yet received.

6. **Limited Public Forum-**An opportunity for the Public to address the Board on matters related to land use or planning in the Town of Bucksport.

No comments were submitted.

7. **Unfinished Business:**

A. **Application for approval of an expansion of an existing mineral extraction operation on property located on Bucksmills Road, and identified on town tax map 15 as lot 15. The applicant proposes to mine stone in an area not to exceed .99 acres.**

**Applicant: Wardwell Construction & Trucking Corp.**

David Pooler was present to represent the applicant, who was also present. The chair decided to limit the board’s review of the application to one hour so that time could be provided to conduct new business on the agenda.

Before proceeding with the application review, the chair explained that time would be taken to summarize the board's activities at the site visit conducted last month. The chair described the event and addressed all the items on a list that was prepared for use during the site visit. It was noted that the applicant had received copies of the written comments submitted by the 5 board members who entered the pit. Member Bamford noted that at the southern end of the pit, excavation had occurred in the buffer area. The applicant intended to correct that deficiency. Member Curtis summarized his written comments.

Mr. Pooler provided the board with an updated site plan that showed additional information, including the location of a proposed berm to be built in the buffer, and the plan to fill the excavated area in the buffer. The board reviewed the plan. The location of nearby water wells shown on the plan was discussed.

The board asked questions about the location of equipment in the pit and the monitoring of activities by MSHA officials. The applicant stated that in 7 years of operation, there has only been one complaint.

The board proceeded to continue with their standards review. The chair suggested that the board review what they have done so far to ensure that everything was properly addressed. He began by noting that blasting is a concern, and recent events in the news about a blasting accident in Tremont were brought to the board's attention by Member Bamford at the last meeting. Member Bamford noted the similarities in the size of the quarry in Tremont and the applicant's proposed quarry. Both were under one acre in size and, therefore, not subject to DEP oversight. The concern involves how small operations such as these can be properly monitored to ensure that abutting properties are protected from incidents similar to the Tremont accident that caused serious property damage.

Mr. Pooler interrupted Member Bamford and suggested that she had a bias against the application because of her involvement as an opponent to another application involving a proposed quarry. He asked that Member Bamford be recused from the application review. The chair responded that Member Bamford was not a board member at that time, and he believed she did not bring a bias into her position on the board because of her involvement in that application review.

Don Brown, attorney for the applicant addressed the board on the matter of bias. He wanted to ensure that his client receives a fair shake during the application review. He stated that Member Bamford is interjecting information about the Thibodeau application into this review, as well as additional information. Based on her role, it is the board's responsibility to determine if a bias exists. Member Hollowell stated that Member Bamford's involvement in the Thibodeau quarry review does not constitute a bias in this application review. Member Grant thought that legal counsel should be requested. Member Curtis stated that a question has been asked, and it should be addressed. The board's response should be based on established procedures. Member Belcher noted that he served on the committee that developed the new mineral extraction regulations, and that did not constitute a bias.

The chair asked the CEO for guidance on how to proceed. The CEO advised the board that the applicant has expressed a concern, and they explained why they believe Member Bamford is biased. If any board member shared that concern, a decision should be made. Member Curtis suggested that Member Bamford be given an opportunity to speak on the matter. Member Daniels noted that the question of conflict or bias should be addressed as a matter of procedure.

The chair asked Member Bamford to comment. She noted that her concern about the Thibodeau application was that it was not well-prepared, and questions were not being

adequately answered. She believed that was partly due to a weak ordinance, and that is the reason why she became involved with the preparation of the mineral extraction regulations. She also believed that everyone should be equally expected to comply with town regulations. She noted that the reason she brought the information about the Tremont accident was because of her concern that the ordinance she helped develop may not adequately ensure that this type of accident could not happen in Bucksport.

Mr. Pooler asked that the board vote on the matter. The CEO again advised the board that if any board member shared the concern about a bias, a vote should be taken. Otherwise, the board need not issue a decision simply because the applicant has requested that they do so. The chair asked if any board member was concerned about a bias from Member Bamford. No member expressed concern. Member Daniels noted again that a determination of conflict or bias is part of the process. Mr. Pooler noted that it does not matter where the concern of bias originated, the matter should be decided by the board. He also noted that he felt more comfortable with Member Bamford's involvement after hearing her explanation.

The chair stated that he had no issue with the applicant expressing the concern, but no member of the board has expressed a similar concern. He also believed that Member Bamford would have recused herself on her own initiative if she felt she could not remain impartial as a board member during this application review. He stated that the matter had been adequately addressed, and that there was no bias identified. No further action was necessary.

Member Bamford then proceeded to hand out the news stories on the Tremont blasting accident for the board's information. She suggested that the board should be prepared to address any applicant coming to the board for approval of a less than one acre quarry to ensure that sufficient measures are taken to prevent this type of accident from occurring in Bucksport.

Member Daniels noted that DEP will be involved because of the existing gravel pit permit. Mr. Pooler stated that the blasting company will comply with DEP blasting standards, even if DEP oversight will not occur. Member Hallowell asked if information on the type of rock formation and blasting that will take place could be provided to the board. Mr. Pooler stated that the information will be provided. It was noted that the blast force will be from the front to back of the ledge.

The CEO reminded the board that the time allotted to this application had expired. Member Bamford suggested that the applicant be provided some guidance on what additional documentation might be expected. However, at the CEO's suggestion, the chair decided to conclude the application review, and take up that matter at the next meeting.

No further action was taken on the application.

#### **New Business:**

- A. Application for approval of a Class 2 Vehicle Service business at 1524 River Road, tax map 45, lot 19. The applicant proposes to conduct auto repairs including oil changes, brakes, exhausts, front ends and tune-ups.  
Applicant: Jayne Howard**

Jayne Howard was present. The CEO conducted an introductory presentation. The applicant did not conduct a presentation. The board asked general questions. The chair asked if any board member had a conflict of interest or bias. No member responded in the affirmative.

The chair invited public comments. No comments were submitted.

It was noted that the applicant had not submitted a survey and would like to request a waiver of that requirement.

MOTION(Grant): To waive the requirement of a survey.

SECOND(Curtis)

DISCUSSION: None

VOTE: 7-0 Motion adopted

Upon conclusion of preliminary discussions, the board commenced their standards review.

Environment Standards: The board determined that the following environment standard was applicable: protection of surface and subsurface waters, and protection of the ambient air environment. There were no concerns regarding compliance with these standards. Waste oils will be stored in an 8 gallon container and properly disposed of. Cleaning solvents and other chemicals used in the business will be properly contained. Pollutants from car exhaust will be minimal.

Special Areas Standards: The board determined that no special areas standards were applicable.

Local Areas Standards: The board determined that the following local areas standards were applicable: development patterns, separation and shielding, artificial lighting, and noise. There were no concerns regarding compliance with these standards. The existing structure is residential in appearance, and is similar to others in the vicinity. Existing vegetation is minimal, but still provides an adequate buffer and shield for abutting residential properties. A yard light is activated by motion, and is not on all night. The building is well-insulated and noise heard from within will not be a problem.

Public Safety Standards: The board determined that the following public safety standards were applicable: proper management of solid wastes. The project will not include an outdoor waste container. All solid wastes will be disposed of at the transfer station.

Specific Uses Standards: The board determined that the following specific use standards are applicable: Section 13.15.8.12 and 13.16.6. Ten parking spaces are required, and provided. No junk vehicles or parts will be stored on the property. Additional screening for parking areas was deemed to be not necessary.

Dimensions Standards: The board determined that dimension standards are not applicable because there are no new structures proposed.

The board commenced their findings upon conclusion of the standards review.

MOTION(Curtis): To find that the proposed use has met all applicable environment standards in the ordinance.

SECOND(Bamford)

DISCUSSION: None

VOTE: 7-0 motion adopted

No special area standards were found to be applicable, so no finding on these standards is required.

MOTION(Bamford): To find that the proposed use has met all applicable local areas standards in the ordinance.

SECOND(Hallowell)

DISCUSSION: None

VOTE: 7-0 motion adopted

MOTION(Bamford): To find that the proposed use has met all applicable public safety standards in the ordinance.

SECOND(Belcher)

DISCUSSION: None

VOTE: 7-0 motion adopted

MOTION(Bamford): To find that the proposed use has met all applicable specific use standards in the ordinance..

SECOND(Daniels)

DISCUSSION: None

VOTE: 7-0 motion adopted

No dimension standards were found to be applicable, so no finding on these standards is required.

Upon conclusion of the findings, the applicant was advised that the proposed project will have no impact that is contrary to the purposes of Appendix K, and is therefore approved.

**8. Administrative Business:** None

- 9. Discussion:** The board discussed how the need for a public hearing during an application review is to be determined. It was noted that the public attending the Wardwell application review might want another chance to comment on the application. It was suggested that a public hearing be held before findings are conducted.

Member Curtis stated that the chair should be advised that a bias question might be raised by an applicant, so as to be better prepared to respond. Member Grant questioned the board's authority to remove a board member for bias, simply because an applicant raises the question. The chair noted that he was surprised that Wardwell raised a bias question. Member Daniels suggested that the checklist form used by the board should include addressing conflict of interest or bias. The CEO will make the change on the form.

**10. Adjournment:** 9:30PM

Minutes prepared by  
Jeffrey Hammond  
Recording Secretary