

**Town of Goshen
Planning Board
Minutes of October 19, 2017
FINAL**

Planning Board members present: Bruce Nadeau (Vice-Chair - will be acting as Chair), Doug O'Clair, Fred Smith, George Hebert, and Stephen Burse

Guest (s): Shaun Carroll, Jr., Kathy Carroll, Cory Patten, Shaun Carroll, III., Brad Stevens and Louis Stevens.

Meeting called to order at 7:00 p.m.

Review of October 5, 2017 Meeting Minutes

George Hebert motioned to accept the minutes from October 5, 2017. Doug O'Clair seconded the motion. All in favor, minutes approved "as is."

Review of Pit Inspection Minutes

George Hebert motioned to accept the minutes from the Pit Inspection on October 7, 2017. Doug O'Clair seconded the motion. All in favor, minutes approved "as is."

Newport Sand and Gravel Anderson Pit Amendment

Vice-chair Bruce Nadeau opened the hearing by reading the notice that was posted online and in public places around town. The notice read as follows: "Be advised, you are hereby notified of a public hearing of the Planning Board on Thursday, October 19, 2017 at 7:00pm at the Goshen Town Hall. Newport Sand & Gravel Co., Inc. is seeking an amendment to the hours of operation for the Anderson Pit (tax map 203, lot number 2). The property is located on the west side of Route 10 and south of Brook Road in Goshen, NH."

Bruce Nadeau - Stated that the current version of the permit had the wrong contact information as well as the incorrect spelling of Mr. Shaun Carroll, Jr.'s name and incomplete lot information. These amended permits are meant to fix those issues as well as adjust the hours of operation. Since the hours of the permit were always supposed to match the hours of the Davis Pit, the start time has been adjusted to 6:45am (originally 7am) to provide a warm-up period (6:45am - 7am) and the end time has been changed to 5:30pm. Mr. Nadeau also stated that this permit does not replace the Excavation Regulations, and it is the applicant's responsibility to remain in compliance with those regulations (see Excavation Regulations on Town's website for further details).

Shaun Carroll, Jr. - Stated that he saw the incorrect information that was stated in the permit and agreed that changes needed to be made. He also stated that he was under the assumption that the pit only had to abide by the permit rules. However, he was corrected and now realizes that rules from both the permit and the Excavation Regulations must be followed. Being made aware of this fact, he will act accordingly and he apologized for not understanding this fact in the beginning.

The board agreed that the fault was not Mr. Carroll's, but rather the mistake of the board's with regard to hours of operations, specifically the warm-up period.

The board and Mr. Shaun Carroll, Jr. then reviewed the two (2) amended permits and no changes to the documents were made.

Fred Smith made a motion to accept the amended permits. George Hebert seconded the motion. All were in favor, the amended pit permits for Phase I and Phase II of Newport Sand and Gravel were approved.

The board then signed the amended documents. No further action was made.

Permit Amendment Invoice

Vice-chair Bruce Nadeau read the invoice total for all the amendment charges. These charges include a certified mailing fee, a classified ad in the Eagle Times and an amendment fee, totaling \$194.97.

The board agreed that the mistake was made by the previous board and the total fees should be waived due to this mistake.

George Hebert made a motion to waive all amendment fees. Fred Smith seconded the vote. All in favor, Newport Sand and Gravel is not responsible for payment for any amendment fees.

Discussion of Latest Complaint (against Anderson Pit)

During Columbus Day, October 9, 2017, a complaint was made by Ms. Kim Gaddes regarding operations during a holiday at the Anderson Pit. Upon receiving the complaint, Chair Bursey acted immediately, first verifying that the pit was indeed operating and then by reaching out to Mr. Shaun Carroll, Jr. (please see NH Right to Know Emails below). The pit was shut down at five minutes to 11am.

Chair Bursey discussed the wording in the permit, the Excavation Regulations and the RSA (228:1) indicating which holidays are observed. While Columbus Day is by RSA a state holiday, it is not a paid holiday for state employees and state offices remain open. During the months of May-November there are potentially five (5) holidays that affect pit operations.

The board reviewed Chair Bursey's emails that are mentioned below and discussed the operations during a holiday with Mr. Shaun Carroll, Jr.

Vice-chair Bruce Nadeau - *Suggested that due to the fact the the holiday has now passed, the issue should be reviewed during the renewal process in February. He also made it clear that he believes, along with other members of the board, that because it is a state holiday on which state offices are open for business, the pit should be allowed to be in operation during Columbus Day if desired.*

Shaun Carroll, Jr. - *Apologized for the disturbance, and stated that it was not his intention to purposefully create another problem. He does not want the public to feel like they are deliberately breaking laws. However, because he relies so fully on the regulations and RSA rules, maybe a review and possible change of the regulations should be considered.*

Doug O'Clair - *Stated that it is the job of the board to review all regulations, and that the Excavation Regulations were not reviewed during the last review period. He does, however, agree that the regulations should be reviewed and changes or amendments should be made.*

The board agreed that an amendment may be the best approach and will discuss the issue further during upcoming meetings. No further action will be made at this time.

On another note, Mr. Shaun Carroll, Jr. was asked when the pit would cease operations for the 2017 season.

Shaun Carroll, Jr. - *Stated that at this time, the closing of the pit relies entirely on the weather. He predicts that it will be in operation for at least a few more weeks, however, again, everything is dependent on the weather.*

The board concluded this portion of the hearing and continued other business.

Other Business

- The next meeting will be the first Thursday of the month - November 2nd.

Standing items

- Discussion on Excavation Regulations.

**Fred Smith motioned to adjourn the meeting; Doug O'Clair seconded the motion, all were in favor.
Meeting adjourned at 7:30p.m.**

Respectfully Submitted,

Melissa Salinardi
Recording Secretary



A Bursey [REDACTED] >

Re: Anderson Pit

1 message

A Bursey <[REDACTED]> Tue, Oct 10, 2017 at 12:16 PM
To: Alicea Bursey <[REDACTED]>, Melissa Salinardi <[REDACTED]>
Bcc: Alicea Bursey <[REDACTED]>, Bruce Nadeau <[REDACTED]>, Doug O'Clair
<[REDACTED]>, Fred Smith <[REDACTED]>, George Hebert <[REDACTED]>,
Melissa Salinardi <[REDACTED]>, Stephen Bursey <[REDACTED]>, Dick Fraser
<[REDACTED]>, Shaun P Carroll Jr <[REDACTED]>

Good Afternoon All,

I just wanted to close the loop on this and provide a time line as well as Right to Know documentation

I received the complaint was sent yesterday (10/9/17) at 7:50am, I received it and responded to it at 9:18am.

I contacted Steve Bursey at 9:20am to have him check the pit in person.

I contacted Doug O'Clair at 9:22am to have him check the pit in person.

Steve Bursey confirmed activity in the pit at 9:45am

I called Shaun Carroll Jr at 9:49am to discuss the complaint.

Dick Fraser called me at 10am to confirm the situation.

Shaun Carroll Jr called and at 11:49am to confirm that site had been shut down at five minutes to 11am.

There happened to be a Select Board meeting last night, so I swung in just to keep them in the loop. I explained the confusion over the holiday (not one recognized by NS&G, also one that the state does recognize but does not close for) and at that time Doug O'Clair mentioned there had been a complaint last year but it was not made until after the fact. I didn't remember this.

Alicea

On Mon, Oct 9, 2017 at 11:15 AM, A Bursey [REDACTED] > wrote:

Good Morning All (Shaun Carroll Jr, Dick Fraser and the Planning Board),

I received a complaint this morning regarding operations at Anderson Pit and this email serves as follow up under the NH Right to Know Laws.

The complaint I received from Kim Gaddes (her original email is below per NH Right to Know Laws) was that operations were being carried out in the Anderson Pit on a holiday. After receiving the complaint, I asked Doug O'Clair and Steve Bursey to go to the pit in person to ensure there were in fact operations. Both Doug and Steve confirmed that there were operations.

I followed up with Shaun Carroll Jr and Dick Fraser via telephone and discussed the wording in the permit, the Excavation Regulations and the RSA (228:1) indicating which holidays are observed. *It should be noted that*

this is first time that there has been a complaint regarding work on Columbus day, while Columbus day is by RSA a state holiday it is not a paid holiday for state employees and state offices remain open.

In case there are any questions, I have attached to this email the Excavation regulations (see item P on page 13), the previous permits for Anderson and Davis pits as well as the previous reasoning of decision on the Davis pit and below are the links to the recognized state and federal holidays.

By way of this email I ask the board to note that from May to November there are potentially five (5) holidays that affect pit operations. Since I may not be at the next meeting I would like this to be discussed as it seems excessive to ask a business to shut down when the state does not. I realize this is per the regulations but at the very least this should be discussed.

Link to state holidays: <http://www.gencourt.state.nh.us/rsa/html/XXV/288/288-mrg.htm>

Link to federal holidays: <https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/#url=2017>

ORIGINAL EMAIL:

Sent at 7:50am on 10/9/17

Morning.

Today is a Holiday correct? Yet they are hauling/working in the pit.

Could you please get them to stop!

Thank you



A Bursey [redacted] >

Pit

1 message

Kim Gaddes [redacted] >
To: Alicea bursey <[redacted]>

Mon, Oct 9, 2017 at 7:50 AM

Morning.
Today is a Holiday correct? Yet they are hauling/working in the pit.
Could you please get them to stop!
Thank you
Kim



A Bursey <[REDACTED]>

Anderson Pit

1 message

A Bursey <[REDACTED]> Mon, Oct 9, 2017 at 11:15 AM
To: Alicea Bursey <[REDACTED]>, Melissa Salinardi <[REDACTED]>
Bcc: Shaun P Carroll Jr <[REDACTED]>, Dick Fraser <[REDACTED]>, Doug O'Clair
<[REDACTED]>, Bruce Nadeau <[REDACTED]>, George Hebert <[REDACTED]>, Fred Smith <[REDACTED]>, Stephen Bursey <[REDACTED]>

Good Morning All (Shaun Carroll Jr, Dick Fraser and the Planning Board),

I received a complaint this morning regarding operations at Anderson Pit and this email serves as follow up under the NH Right to Know Laws.

The complaint I received from Kim Gaddes (her original email is below per NH Right to Know Laws) was that operations were being carried out in the Anderson Pit on a holiday. After receiving the complaint, I asked Doug O'Clair and Steve Bursey to go to the pit in person to ensure there were in fact operations. Both Doug and Steve confirmed that there were operations.

I followed up with Shaun Carroll Jr and Dick Fraser via telephone and discussed the wording in the permit, the Excavation Regulations and the RSA (228:1) indicating which holidays are observed. *It should be noted that this is first time that there has been a complaint regarding work on Columbus day, while Columbus day is by RSA a state holiday it is not a paid holiday for state employees and state offices remain open.*

In case there are any questions, I have attached to this email the Excavation regulations (see item P on page 13), the previous permits for Anderson and Davis pits as well as the previous reasoning of decision on the Davis pit and below are the links to the recognized state and federal holidays.

By way of this email I ask the board to note that from May to November there are potentially five (5) holidays that affect pit operations. Since I may not be at the next meeting I would like this to be discussed as it seems excessive to ask a business to shut down when the state does not. I realize this is per the regulations but at the very least this should be discussed.

Link to state holidays: <http://www.gencourt.state.nh.us/rsa/html/XXV/288/288-mrg.htm>

Link to federal holidays: <https://www.opm.gov/policy-data-oversight/snow-dismissal-procedures/federal-holidays/#url=2017>

ORIGINAL EMAIL:

Sent at 7:50am on 10/9/17

Morning.

Today is a Holiday correct? Yet they are hauling/working in the pit.


Could you please get them to stop!

Thank you

5 attachments**Final Reasoning 02 13 2012.pdf**

6442K

 **Goshen 2004 Excavation Regulations.pdf**
178K

 **Permit_anderson.pdf**
52K

 **Newport Sand Gravel Permit to Excavate Phase II.pdf**
434K

 **permit_PB.pdf**
798K