

**BATH PLANNING BOARD MINUTES**

December 17, 2002  
As approved January 7, 2003

A regular meeting of the Bath Planning Board was called on 12-3-02 for the purpose of conducting regular business.

**MEMBERS PRESENT**

Bob Oxtan, Chair  
Jim Harper, Vice Chair  
Marjorie Hawkes  
Robin Haynes  
Richard Klingaman  
Mark Little  
Gordon Reed

**MEMBERS ABSENT**

None

**STAFF PRESENT**

Jim Upham, Planning Director

**Minutes**

**Minutes of November 19, 2002, November 26, 2002, and December 3, 2002, meetings**

Robin Haynes suggested that the minutes of the November 19, 2002, meeting be amended as follows:

1. On page 2 under the heading "Article 10" the sentence which reads, "Historical Society has approved the report of the archaeological resources study." It should read, "The State Historic Preservation Commission has approved the report of the archaeological resources study."
2. The last sentence on page 1 should read "The applicant will re-configure the access drive to redirect storm water run off per City staff's concerns."
3. The redundant sentence, "There will be an additional area of crushed stone in addition to paved aprons prior to leaving the site" should be eliminated.
4. The first sentence on page 9 should read "The Board agreed that the provisions of Section 14.05, H, would be met if the stormwater management plan were amended to include a 100-year storm."

**ON A MOTION BY DICK KLINGAMAN, SECONDED BY JIM HARPER, THE MINUTES OF THE NOVEMBER 19, 2002, MEETING WERE APPROVED AS AMENDED.**

**UNANIMOUS APPROVAL**

**ON A MOTION BY DICK KLINGAMAN, SECONDED BY ROBIN HAYNES, THE MINUTES OF THE NOVEMBER 26, 2002, MEETING WERE APPROVED AS WRITTEN.**

**ON A MOTION BY ROBIN HAYNES, SECONDED BY MARJORIE HAWKES, THE MINUTES OF THE DECEMBER 3, 2002, MEETING WERE APPROVED AS WRITTEN.**

### **Old Business**

**Request for Site Plan Approval** – Mining operations at North Bath Road (Map 6, Lots 1 and 2); H.C. Crooker & Sons, applicant.  
(Continued from the November 19, 2002, meeting.)

Walt Stinson, of Sebago Technics, told the Board of the letter sent by Stephen Sawyer, P.E., Vice President of Transportation Services at Sebago Technics, to Thomas Sturgeon, Harry C. Crooker & Sons, dated December 17, 2002. He said the letter explained that Stephen Sawyer had compared the field data regarding the road widths and pavement sections for North Bath Road, Whiskeag Road, Oak Grove Avenue, and Congress Avenue to two Maine DOT publications. The letter explains that the field data demonstrate that the roads meet the DOT publication's width and cross section criteria.

Mr. Stinson also said that the stormwater management plan had been amended to address the 100-year storm condition.

Jim Upham told the Board that he had received a faxed copy of Mr. Sawyer's letter to Mr. Sturgeon and that he had discussed the letter's findings with Peter Owen, Public Works Director. He told the Board that Peter Owen had agreed that the first half of the second alternative method for demonstrating that Section 14.05, B – Traffic Impact, had in his opinion been met.

Mr. Stinson told the Board that the Land Use Code allowed for mining operations in the North Bath area and that this important resource was located in this part of town. He said that in his opinion the performance standards of Article 10 and Article 14 had been met.

Jim Upham reported to the Board that earlier that afternoon it had been brought to his attention that the Ridge Road had not been covered by the data collected and analyzed by Mr. Sawyer.

Jim Harper reminded the Board that Section 14.05, B – Traffic Impact, related to the capacity of the proposed routes for removal of the mining resources.

Robin Haynes asked how often the roads would be video taped as part of the performance guarantee.

Gordon Reed suggested that this be done at the start and end of each hauling season.

Clifford Goodall, an attorney representing the applicant, told the Board that the applicant was asking that the Board review its preliminary decision regarding the hours of operation and the number of truck trips permitted. He said that while the Board was considering 10 AM to 4 PM as the hours of operation the applicant was proposing those hours which were approved by the Planning Board in 1995. Those hours were 7 AM to 5 PM during non-school season and 8 AM to 5 PM when school is in session. He said that the applicant would only haul material during daylight hours.

He explained the uniqueness of the clay resource that it could not be worked when frozen nor could it be worked or mined when wet.

He said that the applicant was proposing the same limitation on trucks as was approved in 1995; that limitation being an operation limited to the use of 12 trucks. He told the Board that if the hours of operation are limited it would simply extend the length of time the trucks would be hauling. He reminded the Board that the Public Works Department works 4, 10-hour days per week and he felt that there would be a significant enforcement issue with a condition limiting the number of trips as opposed to the number of trucks being used. He said that in the past the average hauling period had been 45 days. He told the Board that their decision would have to be a balancing test between protecting the neighborhood and too much limitation on the mining activity.

Bob Oxton opened the meeting up for public comment.

Bill Truesdell, 165 Whiskeag Road, spoke and told the Board of his research into the bids for the landfill-capping project. He said that while the Crooker company could haul material from a local clay pit there was very little savings to the City.

He told the Board that he had talked with the Bath Public Works Department, the Maine Department of Environmental Protection, and the Maine Department of Transportation and that they all felt the Planning Board should address the number of trips not just the number of trucks used. He told the Planning Board that the Maine DOT website indicates that one loaded truck has the same impact to a highway's surface as does 900,000 passenger cars.

Doris Ford, 94 Whiskeag Road, spoke and told the Board that summers are no time to be out of doors at her house because of the number of trucks driving on Whiskeag Road. She said that every truck has to shift going up the hill by her house and that there is a truck every 30 seconds. She told the Planning Board that the City should consider people not just businesses. She said that North Bath is now as bad as South Bath. She told the Board that she is on the Assessment Review Board and that everyone impacted by this activity should have a 50 percent tax break.

Susan Reed, 118 North Bath Road, said that the purpose of the Mining Ordinance (Article 14) was to keep a mining activity small. She said that hauling material for 10 hours per day is a big pit operation. She said that if the mining operator can't move the material and limit the impact then they simply can't move the material. She reminded

the Planning Board that this mining operator had violated agreements in the past and she asked how the City would be able to monitor the standard that only one acre per year be mined.

She responded to Mr. Goodall's comments regarding the Public Works Department working 4, 10-hour days per week by saying that the Public Works Department does not haul on the same road to the same location every day. And she said that a 45-day hauling period is equivalent to 9-weeks of hauling. She told the Board that trucks were continually going over the speed limit and she asked the Board to consider truck speeds in their conditions.

Patricia Taggart, Foster's Point Road, West Bath, spoke and told the Board that she and her husband (Walter Taggart) are concerned about the City limiting access from their property to a public road. She said that there are other businesses along North Bath Road, Whiskeag Road, and Ridge Road that generate traffic such as bed & breakfasts, greenhouses, the golf course, and an oil dealer. And that none of these were limited to hours of operation. She said that people chose to live in North Bath knowing that the pit was there and that it had been there for 60 years.

Patti Guerette, 306 North Bath Road, said that she was very concerned that hours of operation and number of trips were being discussed by the Planning Board. She said she thought this item had been decided upon at the previous Planning Board meeting. She also commented that the Public Works Department was not a repetitive operation. She said the ease of counting trucks versus counting trips was not an issue and she told the Board that she felt North Bath Road did not have 2-4 foot shoulders.

There being no other members of the public who wanted to comment, Bob Oxtan closed the public session.

**GORDON REED MOVED, SECONDED BY MARK LITTLE, THAT THE BOARD ACCEPT THE LETTER FROM STEPHEN SAWYER TO THOMAS STURGEON DATED DECEMBER 17, 2002, AS MEETING THE FIRST HALF OF THE SECOND ALTERNATIVE METHOD OF DEMONSTRATING THAT SECTION 14.05, B HAD BEEN MET.**

**THE MOTION WAS ADOPTED UNANIMOUSLY.**

Jim Upham told the Board that the applicant's offer to video tape the roads and repair any damage as required by the Public Works Director could be considered as the performance guarantee meeting the second half of this second alternative method contained in 14.05, B.

Robin Haynes asked how often the roads should be video taped. It was suggested that this be done prior to each season's mining and hauling activity.

Dick Klingaman commented on the applicant's request to stockpile excavated clay material. He said that his understanding of the mining ordinance was that it was not the intent to allow twice the amount of material mined to be hauled in any one year.

Jim Harper suggested that the mining activity itself would be governed by the noise standard and that if it was not heard by the neighbors then it would not be a neighborhood impact. But the hauling would be.

Again Dick Klingaman suggested that the Ordinance's intent was to limit both the excavation activity and the hauling activity.

Robin Haynes reminded the Board that limiting the number of trips per day will mean that hauling activity lasts for a longer time period.

Bob Oxtan suggested that the applicant be permitted in the future to haul more material so that it would be done faster if this would be agreed to by the applicant.

Jim Harper said that this would simply be an amendment, which the applicant could apply for at a later date.

Dick Klingaman suggested that the two conditions that will keep this activity from becoming a nuisance will be the hours of operation and the number of trucks.

Jim Harper asked why the number of trucks was relevant. He felt that it was only the number of trips which was relevant.

Dick Klingaman stated that an 8-hour day, 9 AM to 5 PM, was not unreasonable.

The Board then discussed how many loaded truck trips per day was reasonable.

Robin Haynes felt that a truck trip passing by someone's residence every 10 minutes was too much of an impact. She said that keeping the frequency to one every 15 minutes was much less of an impact.

**ROBIN HAYNES THEN MOVED, SECONDED BY MARK LITTLE THAT THE PLANNING BOARD SET AS A CONDITION HOURS OF OPERATION BEING 9 AM TO 5 PM, AND DURING DAYLIGHT HOURS, WITH NO HAULING ON WEEKENDS AND NO HAULING ON HOLIDAYS. AND, THAT THERE BE NO MORE THAN 32 LOADED TRUCKS LEAVING THE PIT IN ANY ONE DAY.**

**THE MOTION WAS APPROVED UNANIMOUSLY.**

Jim Upham then asked if the item could be continued until the January 7<sup>th</sup> meeting so that he could prepare proper Findings of Fact and Conclusions.

Bob Oxtan asked the applicant if waiting for a final decision by the Board until January 7<sup>th</sup> would be a hardship. The applicant indicated that waiting until then would not be.

**JIM HARPER MOVED, SECONDED BY GORDON REED, TO CONTINUE THE ITEM UNTIL THE JANUARY 7, 2003, MEETING SO THAT FINDINGS OF FACT AND CONCLUSIONS COULD BE PREPARED BY STAFF FOR THE PLANNING BOARD'S REVIEW AND APPROVAL.**

**THE MOTION WAS APPROVED UNANIMOUSLY.**

### **NEW BUSINESS**

**Site Plan Approval Amendment** – Amendment to the approved site plan; 1 Washington Street (Map 43, Lot 21); Plant Memorial Home, applicant.

George McDonough, SMRT, spoke on behalf of the applicant and told the Planning Board that the Maine State Housing Authority had requested a number of changes in the approved Plant Home Site Plan. These changes, he said, included

1. the addition of a canopy over the south entrance;
2. a revised decorative treatment under the windows of the porches which connect the existing building to the addition;
3. the replacement of the existing building's slate roof with a synthetic slate like material;
4. the replacement of outdoor concrete stairs adjacent to the shed with a low-pitch bituminous walkway;
5. the replacement of concrete pavers with stamped, painted bituminous at the rear patio;
6. the addition of handicap curb at side entry; and
7. lighting modifications.

He told the Board that the lighting modifications would be reducing the number of lights and their wattage and that the requirement of not more than 0.2 foot candles at the property line would still be maintained.

Bob Oxtan asked if the lights were cut off type.

Mr. McDonough said that they were not defined as cut off, but that there would be less than 0.2 foot candles at the property line.

Bill Bisson, architect with SMRT, spoke and told the Board that the revised decorative treatment under the windows of the porches would be a minor visual impact. He told the Board that the plan was to replace the balusters with bead-board that would give a similar appearance.

He also told the Board that the slate roof on the original building needed to be replaced and that the proposal was to use a synthetic material made of recycled rubber and plastic, which will simulate slate. He said it would have the same color and shape as the original slate.

Robin Haynes asked Mr. Bisson about the proposed plan to change the balusters on the connecting porches with grooved, bead-board. She asked the applicant if they were proposing to make the windows in this connecting porch area smaller as well. She said that the smaller windows made the porches look much more enclosed and gave them a modern appearance. She suggested that if the windows were to be smaller they be sash windows with divided lights like the windows in the rest of the building.

Mr. Bisson told the Board that bead-board was historically used in farm houses and was a typical historic wainscoting material.

Robin Haynes asked if the Board could see another solution to the window and decorative treatment of the connecting porches.

The Planning Board discussed the modifications to the existing building's roof. After considerable discussion the Board felt that the modification to the existing building's roof met the approval criteria.

Bob Oxtan then opened the meeting to public comment.

There being no public comment he closed the public session.

**JIM HARPER THEN MOVED TO APPROVE THE AMENDMENT TO THE SITE PLAN; 1 WASHINGTON STREET (MAP 43, LOT 21); PLANT MEMORIAL HOME, APPLICANT, EXCEPT THAT REQUESTED CHANGE #2 (REVISED DECORATIVE TREATMENT UNDER THE CONNECTING PORCH WINDOWS) NOT BE APPROVED. THE MOTION WAS SECONDED BY GORDON REED, AND APPROVED UNANIMOUSLY.**

Jim Upham reminded the Planning Board that it was after 9 PM and the Board needed to vote to continue the meeting.

**ON A MOTION BY JIM HARPER, SECONDED BY MARJORIE HAWKES, THE BOARD VOTED UNANIMOUSLY TO CONTINUE WITH THE PLANNING BOARD'S MEETING AGENDA.**

## **Item 2**

**Request for Site Plan Approval** to establish a leaf composting and brush storage and processing area; Oak Grove Avenue (Map 15, Lot 1); City of Bath Public Works Department, applicant.

**ON A MOTION BY JIM HARPER, SECONDED BY ROBIN HAYNES, THE BOARD VOTED THAT THE SITE PLAN APPLICATION WAS COMPLETE.**

Jim Harper commented that the plan was very complete.

Lee Leiner, Deputy Public Works Director, spoke and told the Planning Board that the Public Works Department's goal was to extend the life of the landfill by keeping leaves and brush from being buried there.

He told the Board that the Maine Department of Environmental Protection was satisfied with the proposed site which would be behind the Public Works garage. He said that there was no space at the landfill site for this operation.

He told the Board that he felt his cover letter addressed all of Article 10 approval criteria. He said that he had visited the brush grinding operation at the Boothbay Regional Transfer Station and had measured the noise from the grinding. He told the Board that at the Bath facility brush might be ground up 8 times a year, but that it was more likely it would be only 2-3 times per year. He said that the closest home is over 700 feet away and there is 250 feet of trees between the site and Whiskeag Creek.

Jim Harper asked what time of day the grinding operation would take place.

Mr. Leiner told the Board that there would be no grinding on the weekends and holidays nor would it happen after 5 PM.

Bob Oxtan opened the meeting to the public.

Doris Ford, 94 Whiskeag Road, told the Planning Board that she can hear the rock crushing operation from the Public Works garage area. She said that the noise of this operation was a problem and that truck traffic on Whiskeag Road was a problem. She said that the noise level is unreasonable.

There being no other public wishing to speak, Bob Oxtan closed the public portion.

Bob Oxtan asked Lee Leiner to respond to the issues raised by Mrs. Ford.

Mr. Leiner told the Board that the facility would not be open to the public and that the materials would be transported to the site from the landfill by 1 or 2 truck loads a day. He suggested that there would be no additional traffic because trucks to the landfill would simply bring the material for recycling to the proposed facility behind the Public Works garage.

There was some discussion by the Board regarding allowing the public to use the facility. Mr. Leiner said that the Public Works Department wanted to make sure that only leaves and brush were left there. He said that, perhaps, certain landscape contractors might be allowed to bring material to the new processing site.

There being no other discussion **JIM HARPER MOVED TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL TO ESTABLISH A LEAF COMPOSTING AND BRUSH STORAGE AND PROCESSING AREA; OAK GROVE AVENUE (MAP 15, LOT 1); CITY OF BATH PUBLIC WORKS DEPARTMENT, APPLICANT, WITH THE CONDITION THAT GRINDING TAKE PLACE NO MORE THAN 8 TIMES PER YEAR,**



**GRINDING NOT TAKE PLACE PRIOR TO 7 AM NOR AFTER 5 PM, AND NO GRINDING ON THE WEEKENDS OR HOLIDAYS. THE MOTION WAS SECONDED BY MARJORIE HAWKES AND APPROVED UNANIMOUSLY.**

**ITEM 3**

**Request for Conditional Certificate of Occupancy – Cemeteries & Parks Maintenance Building; 1 Oak Grove Avenue (Map 19, Lot 6); Cemeteries & Parks Department, applicant.**

Denis Hebert, Superintendent of the Bath Cemeteries & Parks Department, told the Planning Board that the maintenance building was completed, but that there had not been time to do final grading or planting of shrubbery.

Jim Upham told the Board that the performance guarantee for the completion was City of Bath purchase orders for the costs of the plant material and gravel for final grading. He said that City crews would be planting the trees and completing the final grading.

**ON A MOTION BY DICK KLINGAMAN, SECONDED BY MARJORIE HAWKES, THE BOARD VOTED TO GRANT THE CONDITIONAL CERTIFICATE OF OCCUPANCY WITH THE CONDITION THAT THE PLANTING AND FINAL GRADING BE COMPLETED BY JUNE 15, 2003. THE MOTION WAS APPROVED UNANIMOUSLY.**

**OTHER BUSINESS**

**Item 1**

**Update of planning activities.**

Due to the lateness of the meeting Jim Upham said that he would forego discussion of City-wide planning activities.

**ON A MOTION MADE AND SECONDED, THE BOARD VOTED TO ADJOURN THE MEETING AT 9:37 PM.**

Minutes prepared by Jim Upham, Planning Director.