

**MINUTES OF THE SHAFTSBURY SELECT BOARD  
DECEMBER 3, 2007  
COLE HALL  
SHAFTSBURY, VERMONT**

Board Present: **Wynn Metcalfe, Chairman, Bill Pennebaker, Lon McClintock, Cinda Morse, Karen Mellinger**

Others Present: **Mike Gleason (Bennington Banner), Chris Williams (Planning Commission), Craig Bruder (Planning Commission), Tom Dailey, Andy Crosier, Trevor Mance, Mary Beth Maguire, Oliver Durand, Aaron Chrostowsky (Town Administrator), Susan Swasta (Recording Secretary)**

1. Call Meeting to Order:

**Chairman Wynn Metcalfe called the meeting to order at 7:06 PM. He stated that the Board had met at 5:00 PM to start the budget process, and will continue budget work this Saturday at 8:00 AM at Cole Hall.**

**He asked if any Board member needed to recuse himself or herself from discussion of any topic on tonight's agenda. None did.**

**Chairman Metcalfe said that he had heard nice things about the Christmas tree lighting. Karen Mellinger and Bill Pennebaker confirmed that it had been a lovely event, and thanked the Garden Club, Rev. Estes, Ken Coonradt, the Girl Scouts, the Jacobs twins, and Mr. and Mrs. Ed Corey for their contributions. About 40 people attended.**

**Ms. Mellinger announced that the Garden Club is looking for new members.**

**Chairman Metcalfe welcomed Bruce Mattison, Jr. to the Town highway crew.**

2. Minutes:

**November 26, 2007 Select Board minutes**

**Cinda Morse made motion to approve the November 5, 2007 minutes. Ms. Mellinger seconded. Motion carried 5-0-0.**

**Aaron Chrostowsky requested that Deena Ruege be added to the list of those attending the November 26, 2007 meeting.**

3. Warrants:

**The following warrants were presented for approval:**

<b>Payroll #22:</b>	<b>\$5,015.56</b>
<b>AP Warrant # 26:</b>	<b>50,617.63 (health insurance, paving of Grandview and Twitchell Hill Roads)</b>

**Ms. Morse made motion to pay warrants. Mr. Pennebaker seconded. Motion carried 5-0-0.**

4. Public Comments:

**There were no public comments.**

5. Gravel Pit Re-use Study Presentation:

**Chairman Metcalfe invited Planning Commission Chairman Chris Williams to the table for his presentation. Planning Commission member Craig Bruder handled the projection of visuals to**

accompany the report.

Mr. Williams stated that the gravel pit report represents the culmination of a year's work by the Planning Commission and consultants SVE Associates out of Brattleboro. The study was funded by a state municipal planning grant.

He said that the impetus for the study was the Town plan, which requires sand and gravel resources to be extracted without degradation of the environment. Gravel pit sites are to be restored.

Mr. Williams noted that this language has always been in the Town plan and zoning bylaw, but that there has been no action on it. Dailey's proposal for a construction and demolition (C and D) dump and the TAM application for a transfer station, both to be located on former gravel pits, brought attention to these sites.

The renewed attention had brought discussion as to whether such activities represent the highest and best use of the land. The Planning Commission decided it would be good to examine this issue in depth and make recommendations to the town. This study is the result.

Mr. Williams stated that SVE had originally identified 26 gravel pit sites. Upon examination, the Planning Commission found that most sites are inactive, and many are overgrown and now blending into the landscape.

Eventually six sites were identified as the focus of study. The Planning Commission met with owners of these sites, walked the sites with them, and held a public hearing which was attended by all pit owners

Mr. Williams identified the six sites. The Green pit on Cider Mill Road covers 140 acres, with 56 excavated acres. It is owned by Peckham and appears to be inactive. The Green pit is zoned Rural Residential40.

The Tunic pit, also owned by Peckham, is at the end of Tunic Road. This is a very small pit on a large piece of land, and appears to be inactive. Peckham has stated that it is their reserve pit.

The Waite pit on North Road and Sim Dean Road has 27 acres under excavation and is an active Peckham pit. The adjoining Davis and Harrington pits are essentially idle, with most good material taken out, so discussion needs to focus on what happens next. They are zoned Rural Residential 40.

The Dailey pit is located south of Airport Road opposite the precast plant, and is mostly used in Peckham's precast operation. It was excavated years ago.

Mr. Bruder accompanied the discussion with aerial photographs of the six sites taken last spring. Mr. Williams noted that the Waite pit is very close to residences, and a key issue is this proximity to a residential neighborhood.

He stated that the Davis and Harrington pits have pretty dense development all around them. These pits are close to Airport Road, which could provide access to the sites. Mr. Pennebaker noted that any residential development of the sites would have to take into account limitations on well-drilling imposed by proximity to the Town landfill.

Mr. Williams stated that the Tunic pit is essentially in the middle of nowhere. It includes some wetlands near the railroad. Both the Tunic and Green pits are close to the Hidden Valley development, which itself contained gravel pits in the past. Mr. Williams noted that the Green pit has been excavated below the water table level of the wetlands, which contravenes state standards.

Mr. Bruder and Mr. Williams next showed 1976 aerial photographs of the six pits to show change over time. The photographs indicate expansion of the Green pit from 3 acres to 56 acres. The other pits have stayed about the same or contracted in size.

Mr. Williams noted that zoning requires compliance with bylaws governing extraction if operations expand, or if a pit is inactive for two years and then becomes active. This includes a reclamation plan.

He stated that the Planning Commission was able to uncover only one permit, for the Lester Davis pit. The reclamation requirements of this permit were not enforced, and the property was recently sold.

The Planning Commission has concluded that zoning enforcement of gravel pit operations has not worked. The one permit with restoration requirements was not enforced, and operations which are shown by aerial photography to have expanded have no permits. The Commission recommends that permit conditions be included in land records, and a method devised to track permits over long periods of time.

Mr. Williams stated that it is necessary to balance the jobs provided by extraction with stewardship for future generations. The expansion of precast operations in particular is a value-added activity, and provides good jobs that can't be globalized. It is necessary to establish ground rules that all can live with.

He noted that Oak Hill subdivision, a reclaimed Dailey's pit, is one example of a model for redevelopment. Other Dailey's properties in Manchester have been redeveloped.

Mr. Williams said that one of the issues they have to grapple with is abandoned pits, and how to determine when a pit is abandoned. If the Tunic pit is developed in the future there will be an impact on the Town, especially in terms of truck traffic. It may be better to have the materials come from local sources, with traffic on smaller roads, than trucked in from outside over main roads.

Mr. Williams stated that it is not clear from zoning where extraction is permitted. This needs to be clarified, as do setbacks. With current zoning, under some conditions an excavation may go right to the property line. This should be looked at, especially in view of the proximity of some pits to residential areas.

Mr. Williams recommended sitting down with pit owners and coming to an understanding for the future. At present, a whole section of the zoning bylaw is being ignored. The bylaw should either be revised or removed, because not to enforce undermines zoning.

He said that they need to figure out what is fair to abutting residential zones, and what to do about reclaiming abandoned operations. At present there are 97 acres of raw land which needs to be reclaimed.

Mr. Williams asked for questions on the report. Chairman Metcalfe asked how preexisting operations could be regulated. Mr. Williams replied that there is a lot of mythology about preexisting.

The Planning Commission was told that Peckham's pits were placed under Act 250 voluntarily, but they found no evidence of this. Act 250 criteria for preexisting pits are the same as in local zoning. They are based on expansion of operations.

Chairman Metcalfe asked about reactions of pit owners. Mr. Williams replied that all had received copies of the report and been asked for comments. There was no response.

He said that during prior meetings Peckham's has been cooperative but guarded, claiming that all their pits are active or potentially active. The Harringtons said that their pit is about played out.

They are thinking about the next use and feeling hemmed in by zoning.

Ms. Morse asked if they see reclamation as something to be done incrementally or once an entire pit is excavated, which could be a long period of time. Mr. Williams said that the Agency of Natural Resources (ANR) guidelines are for reclaiming as you go, and avoiding big scars. He described the reclamation practices used by SVE in New Hampshire, which show that it's possible to do this in a less destructive manner and still make money.

Ms. Morse noted that to get reclamation plans on existing pits would require cooperation of owners. Mr. Williams agreed. Mr. Bruder stated that reclamation might be forced if expansion could be shown, but this is difficult.

Mr. Williams stated that the 2007 aerial photographs could be used as benchmarks for future expansion. Mr. Pennebaker said that expansion is defined under Act 250 as rate of removal of material, not physical expansion.

Mr. Williams stated that they need to negotiate a sustainable balance with property owners. Ms. Morse asked if they are looking for recommendations from the Select Board. Mr. Williams replied that they are, because this is a far-reaching policy decision.

Andy Crosier noted that it is hard to set up negotiations for reclamation if property has not been identified as wasteland vs. productive. He also said the Town should have worked with Peckham's on the Cider Mill Road drop-off years ago.

Tom Dailey stated that the Green pit has been excavated regularly over the last fifteen years, and is not inactive. He also said that the Cole Hall vault has Act 250 permits, including Dailey's permits. Mr. Williams said that permits had not been found in Rutland. Mr. Dailey repeated that they should look in the vault.

Trevor Mance stated that his parcel, acquired from Dailey's, is an old gravel pit and had been under Act 250. Mr. Williams said that they may need an addendum to the report on Act 250 information.

The Select Board thanked the Planning Commission for a great job.

6. Solid Waste Bylaw Status:

Chairman Metcalfe stated that the Select Board, Planning Commission, Development Review Board (DRB), and Economic Development Committee will meet on the solid waste bylaw for the last time this Thursday at 7:00 PM. The bylaw will then go back to the Planning Commission, who will hold one more public hearing before returning it to the Select Board. The Select Board will hold one public hearing before voting on the bylaw.

7. Other Business:

Mr. McClintock requested an Executive Session on a personnel matter.

Fire Warden Oliver Durand stated that he cannot attend the Saturday budget meeting. he asked that \$3000 be added to the sinking fund to replace a 1993 truck within five years.

Andy Crosier asked if it would be possible to use a roller on Town roads after they have been graded and raked. He said that this would aid draining, eliminate mud berms, and help keep potholes from forming. Chairman Metcalfe said that he would run it by Road Foreman Ron Daniels.

Mr. Pennebaker made motion to go into Executive Session (Personnel) at 8:25 PM. Ms. Mellinger

seconded. Motion carried 5-0-0.

The meeting adjourned at PM.

**Respectfully Submitted,  
Susan Swasta**