

ITEM 1 - ROLL CALL

Present: Steve Beckert – Chairman, Jeff Duncan, Larry Bouchard, Greg Whalen, Melissa Horner – Alternate, and Dutch Dunkelberger – Alternate.

Also present: Kate Pelletier, Planning Assistant.

Absent: Dennis Lentz (excused)

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED

Mr. Dunkelberger moved, second by Mr. Duncan to approve the minutes of January 6, 2015, as written.

VOTE

3-1 (Mr. Bouchard abstained)

Chair concurs

ITEM 5 – REVIEW “NOTICE OF DECISION” LETTERS, AS NEEDED

PB14-21: Pierson – Increase size of non-conforming structure in Shoreland Zone

This was accepted as written.

ITEM 6 – PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED

A. Continued review of proposed amendments to the Growth Management Ordinance – Articles I and II.

Ms. Pelletier said that, in Article I, the highlighted areas were areas that were changed after the last meeting and the PB comments are incorporated; that she did not add or subtract anything that wasn't discussed. She added that she did change the public hearing notice requirement (§29-5 (b) (4)) to be in line with the State statute (45 days versus 30 days).

Mr. Beckert said that they discussed, in depth, Article I and suggested they tackle Article II, unless anyone had anything further on Article I.

Mr. Dunkelberger said, regarding Article II, the two points of discussion he and Ms. Pelletier ran into were how much the fees should be regarding a growth permit, which kind of keyed into the cost of a building permit. He added that it was his thought that you make the cost of a growth permit higher than \$100 (currently there is no fee), suggesting a price of, say, \$500, with \$100 being the cost of the growth permit and,



then, \$400 applied towards the building permit once that is in force. He explained that this would give anyone with thoughts of hoarding growth permits second thoughts because it would now be a pricier proposition; that if a builder paid \$100 for each growth permit, say 5, he would only forfeit \$500 if nothing was built but, if that amount that could be lost was \$2,500 at least that builder would think about it before he did it. He said that they could not charge more, by State statute, than the amount it cost the Town to process the growth permit.

Ms. Pelletier said that she thought that was too much; that she didn't think that was in line with what it takes to review that application; that it is a very simple application. She added that we don't have a fee now and people don't hoard growth permits; that that has never been an issue. She said that she agreed that there should be some fee and she and Mr. Dunkelberger agreed that half of it should be applied towards the future building permit; that she would be okay with up to \$200 but she personally wouldn't be comfortable going beyond that.

Ms. Horner asked what the current building permit fee is.

Ms. Pelletier said that it is based on square footage and it is usually not less than \$800.

Mr. Duncan asked if the building fee did not exceed that \$400 would the remainder be refunded.

Ms. Pelletier said no, it is non-refundable.

Mr. Bouchard asked if we could control the number of permits issued at one time; that a person could only pull one.

Mr. Dunkelberger said that they put that in Article II with regard to the number of permits any one entity can pull.

Ms. Pelletier said that she asked herself why we had to divide them 50/50 between subdivision and non-subdivision; that they could do away with that and make it so that any person or entity can only get 8 a year; that affordable housing would be in addition to that (exempt from that count).

Mr. Dunkelberger said that, at the same time, those subdivisions are limited to 50% of the total allocation but they didn't apply that same limit to individual homes.

Ms. Pelletier said that subdivisions can get up to 50% of the growth permits up until they are gone but, if non-subdivision lots take them first and there are only 25% of them left, then so be it. She added that it has been off-balance with the 50/50 split because nobody wants the subdivision permits; that she thought that what they were doing by doing that was forcing people into subdivisions because they can't get a growth permit any other way.

Mr. Bouchard said that they were allowed to get 8 at once.

Ms. Pelletier said yes; that they don't limit it by month or how many you get at any one time; that if you are ready to go, you are ready to go and there are definitely developers that are ready to go.

Mr. Dunkelberger said that they also changed the 'open season' to the first Monday in December, not the third Monday in December. He added that that gives the PA and CEO time to process.

Ms. Pelletier said that, if there are growth permits available for the rest of the year, opening them up to either category on the third Monday the person has to be able to convert that into a building permit by the end of December because they all expire at the end of the year. She added that it would make it easier for the staff and people holding growth permits.

Mr. Dunkelberger discussed §29-44, which talks about submitting false information. He said that the wording gives the CEO authority to decide if information was submitted falsely or in error, with the penalty being that the person who submitted false information intentionally would not be eligible to apply for a growth permit for two years. He said that, in §29-47 Nontransferability, they added a line that the CEO will be notified and approve the transfer of a growth permit to a new owner and, if not, then that growth permit would be nullified and revoked by the CEO.

Mr. Beckert said that this was an extra check to make sure it hasn't left the property, so-to-speak.

Mr. Dunkelberger agreed.

Ms. Pelletier said that they added what needed to be submitted with a growth application in detail to make it clearer.

Mr. Beckert said that he knew that builders and realtors do hang on wording for growth permits because he saw it in the paper for lots that were for sale in Eliot – "Has a growth permit."

Ms. Horner asked Ms. Pelletier if she knew what surrounding towns charged for these types of fees.

Ms. Pelletier said that, of the towns she is familiar with, many only accept growth permits at the time of building permits and it is built into the cost of the building permit; that a lot of towns do \$100 and others do 50% credited towards the building permit later; that others charge no fee at all.

Mr. Beckert commented that someone who comes in to apply for a growth permit is pretty much deemed to be shovel-ready.

Ms. Pelletier agreed, saying that the 90 days has never been an issue; that people are ready to go and they want to get going.

Mr. Beckert asked, as an example, if a builder who has pulled 8 permits, advertising that he has eight lots with growth permits, has lost any of them at the end of the 90 days; if that has ever happened.

Ms. Pelletier said that it has happened a few times that permits have been lost. She added that, with subdivisions, there is no competition for those growth permits so, when they do lapse, they just reapply and get them again.

Mr. Beckert discussed his conflict over charging that kind of fee and thinking that developers might think twice about pulling 8 growth permits in January if they have no inkling of turning over eight lots in 90 days and losing that kind of money.

Ms. Horner asked if we were allowed to have different fee schedules for subdivisions versus single family units.

Ms. Pelletier said that, if you are doing it only as a means of deterring people, she would say no; that if there was some difference in what it takes to review one of those subdivision applications but case law has guided municipalities that fees have to be in line with what it takes to review it.

Mr. Dunkelberger encouraged them not to focus in on subdivisions because you could have a developer or real estate agent that owns six, seven, eight different lots around Town not associated with subdivisions.

Mr. Beckert said that they had a good draft before them and should have their thoughts ironed out before they go to a public hearing, then listen to what the public might be concerned about at that point and make any changes, if necessary. He added that they needed to discuss fees and come up with something, either yeah or nay.

Ms. Pelletier said that they also needed to talk about what the number will be.

Mr. Dunkelberger said that any time the Town Hall processes paperwork there should be a fee associated with that, asking what is a reasonable fee for those services and the amount of time spent.

Mr. Whalen asked who determined the penalty fees.

Ms. Pelletier said it was the courts.

There was discussion regarding the average fee charged for building permits being \$800; that the minimum fee for a building permit would be \$400 in this draft (\$100 for growth permit) and, if the person doesn't execute that building permit within 90 days of receiving a growth permit, then they lose it for both.

Ms. Lemire asked if there were any exceptions to that.

Ms. Pelletier said no, that that had only happened a couple of times and there was no provision in the ordinance for that.

Mr. Dunkelberger said that the only exception was to extend at the CEO's discretion; that an unexpected hardship would go to the BOS.

Mr. Beckert asked if there were any other issues.

There was further discussion regarding fees and refundability.

Mr. Beckert said that he thought that everyone needed to understand that people asking for growth permits needed to be shovel-ready in 90 days; that Ms. Pelletier has said that she has not seen this as a big problem in the past. He asked how hard it would be to extract that data to see how many have actually been thrown back into the pool after 90 days.

Ms. Pelletier said that she could only do it for the time either she or Ms. Ross have been CEO because, as far as she knows, no one has ever kept track of that.

Mr. Dunkelberger said that this would not be a problem, and has not been a problem, because we've had plenty of building permits available for demand; that now we are getting into an era with the current ordinance where demand exceeded supply; that that trend could continue if the public chooses not to follow PB recommendations. He added that his thoughts in crafting the language he proposes are based upon when demand is exceeding supply.

Ms. Pelletier asked if it was still reasonable to charge that fee when supply exceeded demand.

Mr. Dunkelberger said yes, as long as it applies to the building permit because, again, they have to come in and say they are ready to go knowing they have 90 days even before they write out the check.

Mr. Whalen asked for the differentiation between a growth permit and a building permit.

Ms. Pelletier said that a growth permit is basically giving someone the ability to apply for a future building permit; that it is like a reservation of one of the X number of new dwelling units we allow in Town each year.

Mr. Whalen asked if there was a reason for that 2-step process.

Ms. Pelletier said that it has been that way since 1978; that she wasn't sure why they wrote it that way.

Mr. Dunkelberger said that, written that way, it gives the person some room to play with.

Mr. Whalen had not experienced this in other towns he had lived in. He added that he brought this up is because in the language that gets identified here leading up to line 141 continually just refers to building permits; that now all of a sudden we have growth permit language that is inserted in there and there is no prior reference in this current draft; that that, for him, is very confusing.

Ms. Pelletier said that a definition for growth permit is on page one.

Mr. Dunkelberger added that the growth permits allowed now (18) is the minimal requirement for processing versus 18 building permits; that for the next 30 days they would process the building permits versus the 90 days where those growth permits may be stretched out and allows a little more time to process them. He added that, from an administrative viewpoint with one CEO and one PA, that makes a whole lot more sense.

Mr. Whalen asked why we needed a growth permit to manage the administrative side of processing 18 building permits; why do we need to legislate that; why can't Ms. Pelletier or her staff...

Mr. Dunkelberger said that there was no staff.

Ms. Pelletier added that it is very ingrained here and everyone knows that, in Eliot, this is the way it goes. She said that she thought to change that process radically would probably not be wise as of this point. She added that they were fine with it and thought the point Mr. Dunkelberger made about spreading out the pain of reviewing that many building permits in that short a time was good.

Mr. Beckert said that, as far as the fee, he was kind of leaning towards having a fee that one third or one fifth of it goes to the growth permit and the rest to the building permit. He added that he couldn't see that it hurt anybody unless they don't use the permit.

Mr. Bouchard agreed with Mr. Dunkelberger and agreed with the \$100/\$400 fee.

Mr. Beckert said that the fee needed to be defensible in court and it needed to be in concert with what the costs are; that he doesn't think that will be a problem if we put a majority of the fee towards the building permit. He added that the average building permit fee in Eliot was at least \$800.

Mr. Duncan said that he had no problem with that approach.

Ms. Horner said that she was convinced with the processing thing; that it makes sense.

There was discussion of what caused the building permit fee amount; that fees were based on livable square footage; that a 1,000 square-foot home would have a minimum building permit fee of \$900 to \$1200.

Mr. Duncan asked, for purposes of paragraph (d) in §49-2 For Lots within Subdivisions, if a property gets subdivided into sixteen lots in 2015, does that remain a subdivision in 2016 eligible for 8 more permits.

Ms. Pelletier said yes; that subdivisions don't expire.

Mr. Duncan asked how far back does a subdivision exist in accordance with this paragraph.

Ms. Pelletier said that that was the only thing we changed in here; that they wouldn't have this problem again but Greenbrier is not a subdivision, by statute, because it was approved prior to 1971 and the statute doesn't recognize subdivisions approved prior to 1971; that that one was approved in 1968 and that is why they take all the non-subdivision growth permits. She added that that was why she added the language "For the purposes of this ordinance, a subdivision shall mean any subdivision approved as such by the Eliot Planning Board."; that there is no timeframe and, so, not reliant on that 1971 issue.

Mr. Duncan said that once it's a subdivision, it will always be a subdivision. He added that, as an example, if somebody splits off a 5-lot for family purposes...

Ms. Pelletier said that of a person has owned the property for more than five years then that person can do two divisions in a 5-year period.

Mr. Duncan asked if Greenbrier was the only reason that somebody, not subdivision, would need 8.

Ms. Pelletier said no; that there were many builders, here, who own properties around Town.

Mr. Dunkelberger added we have some who own two or three lots, here and there, that aren't subdivision but happened to be developed by the same person.

Ms. Pelletier commented that if we are going to limit subdivisions to 8, we might as well limit all to 8.

Mr. Dunkelberger agreed, saying that it simplified things.

Mr. Duncan asked if someone bought a lot in a subdivision – they just bought a lot – are they under the individual or subdivision.

Ms. Pelletier said subdivision; that it didn't matter who owns it because it is still part of an approved subdivision.

Mr. Duncan said that if a developer owns twelve lots and he sold off one, then, if he gets the 8 the individual cannot get another one.

Ms. Pelletier said that no single subdivision can get more than 8; that that restriction exists in the ordinance now.

Mr. Whalen asked how long the building permit was good for.

Ms. Pelletier said that with the building permit a person has 180 days to start construction and, after that, if a person has put a footing in the ground it is pretty much vested in perpetuity.

Mr. Whalen said that they don't have a requirement for completion after they go into the ground.

Ms. Pelletier said not in the ordinance currently.

Mr. Duncan asked, before we take this to public hearing, if we were going to change that 29-42 (b).

Ms. Pelletier said that she thought that, before we do a public hearing on the ordinance, we should decide what the number is going to be; that what everyone really wants to know is what the number is going to be.

Mr. Beckert said that we had to come up with two numbers this year – one for 2015 because this is going to be retroactive and one for 2016; that we need to look at both years and make sure that whatever number we come up with for 2015 is going to be satisfactory for 2016, or, maybe not so, we have to have a recommendation for 2015 and 2016 ready for June.

Ms. Pelletier suggested she could do a couple scenarios based on Mr. Murphy's calculations on numbers of permits.

Mr. Beckert said that he wanted to pin the fee down now, subject to change after a public hearing.

The PB agreed by consensus to use the \$100/\$400 permit fee.

Mr. Dunkelberger asked what Ms. Pelletier was thinking about a number for permits.

Ms. Pelletier said that she was thinking as close to 48 as we could get would be great; that she thought that even 38 or 40 might be sufficient to satisfy the demand at the moment; that she thought they didn't need to go much higher than that.

Mr. Duncan said that, in his mind, if we are going to try to develop a number we should at least follow the procedure that we are proposing that we utilize.

Ms. Pelletier agreed that that was discussed at the last meeting, to take it for a trial run and follow the process.

Mr. Dunkelberger asked if we should request from the Town Manager, then.

It was consensus of the PB to take the process on a dry run and request the Town Manager get input from the various Town departments; that input from departments should be in writing to the Town Manager and the Town Manager could give a verbal presentation to the PB at the next PB meeting on February 3rd.

ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

There were no outstanding action items.

ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED

Mr. Duncan said that at the Conservation Commission (CC) we had an updated presentation by Beginning with Habitat. He added that they presented some updated maps on some areas of ecological concern around Town. He said that he thought that nothing has really changed but that the mapping has become more accurate as the technology is becoming more accurate.

Ms. Pelletier said that they had the Beginning with Habitat layer on our GIS.

Mr. Duncan said that it may need to be updated because these maps are quite new. He gave the updated maps to Ms. Pelletier. He added that the CC was working to figure out if they were doing what the Comp Plan was asking them to do.

Ms. Horner said that the Eliot Business Development Committee (EBDC) was having their Business After-Hours soiree for local business owners on the 1st of April; that we are in the midst of preparing bill to go to legislation to change an old State statute that prohibits – a different form of funding that is an alternate route rather than going through a bank, kind of like a lending tree, that Maine does not currently allow for. She added that they will soon allow for people to invest in these companies but they don't allow people to borrow, and Maine is one of three states in the whole country.

Ms. Pelletier suggested she find out if the Town Clerk could set something up on the Town web site e-alert that, if someone wanted to register their business with the EBDC, click here and be informed.

ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for February 3, 2015 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:12 PM.

VOTE

4-0

Chair concurs



Steve Beckert, Chairman
Date approved: 2-3-15 (K.P.)

Respectfully submitted,

Ellen Lemire, Recording Secretary