

ITEM 1 - ROLL CALL

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

Also present: Kate Pelletier, Planning Assistant.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – REVIEW AND APPROVE MINUTES, AS NEEDED

Mr. Duncan moved, second by Mr. Lentz, to approve the minutes of February 17, 2015, as amended.

VOTE

4-0

Chair concurs

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

There were no Notice of Decision letters.

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

A. Public Hearing – and continued review of a proposed amendment entitled “Amendments to Chapter 29, Growth Management, and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to require the annual review of the rate of residential housebuilding and allow for greater citizen control over the number of growth permits allocated annually for new residential dwelling units.”

Mr. Beckert asked Mr. Murphy to describe the research he has done on this subject for the benefit of the public.

Mr. (John) Murphy, using the chart he developed, described his work in mapping out growth permits issued from 1984 to 2014. He said that there were two periods with few growth permits that corresponded with recessions. He explained that applying our current ordinance using the 2007 State law that required a rolling average from the previous 10 years of permits actually issued, along with the recession, brought Eliot’s average over 34 years to 29.7%. He added that, as the chart developed, it showed that it would take until the year 2107 to get to our original number of 48 permits per year; that that was on the assumption that every permit available each year was issued; well below the average that Eliot has lived with for many years. He said that, even though our ordinance didn’t pick up the State language ‘or more’, he used different percentage increases based on ‘or more’ – 110%, 115%, up to 200% - to see how long it would take

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us to get out of this pit. He explained that he wasn't telling anyone what to do but just showing what happened following the ordinance as it is now. Mr. Murphy then explained what happened in the first years after Eliot adopted zoning (1971) and when we adopted the growth limit ordinance (1978). He said that the limit started out at 40 and increased to 48 the next year, which Ms. Pelletier could explain further. He added that this wasn't the recipe for the future; that this just says what happened in the Town and possible curves, depending on what the Town decides to do now.

Mr. Beckert asked Ms. Pelletier to discuss her research on how the Town chose 48 as the number.

Ms. Pelletier explained that a number of people were asking about that and, in the process of some research, they found a paper made public in 1985 that was a sort of rationale on why 48 was proposed; that it looked like it was this way since 1978 when it was initially enacted. She added that they based the number on the number of housing units that were in Town at the time, which was 1,801, and they multiplied that by what the County determined was the Town's 'fair share' of population growth, which was at the time 3.48%. She added that they tried it that way and came out with 62 permits. She explained that, instead of doing that, they went with another method, which is similar to the approach we have here, which is looking at the number of housing units that were added at the time and the average percent increase for the housing for the County at the time, which was given at 2.7%, and that came out to be 48 units. She said that they used that; that it was in the original warrant article as being the rationale for that figure. Ms. Pelletier said that, if we used that today, it would obviously be a lot more than 48 and certainly a lot more than 18, which is where we are at now. She added that the only number she was sure of where she could find a definite number of housing units was in the Comprehensive Plan from 2006, using that as a basic estimation, and at that point we were at 2,711; that she thought it was 134 it would come out to today if we used that same rationale, same 'fair share' that the County dictates.

Ms. (Jennifer) Fox asked who produced the document that was referred to.

Ms. Pelletier said that she wasn't sure; that it seems to be repeated in other things we found; that it has some info about court rulings. She added that she thinks it was something that was meant to be sort of an aide to the voters to explain what the proposed amendment was meant to do.

Ms. (Connie) Weeks said that she was on the Planning Board (PB) when that was done and that was the rationale that was used.

Mr. Beckert clarified that the State and County expect each municipality to come up with a method of supporting their 'fair share' of growth within the State.

Mr. Dunkelberger said that he was a bit confused because he thought we were going to discuss the ordinance, itself, and the numbers were going to be a discussion for another time.

Mr. Beckert said that this was all background information on how we got to this point.

Mr. Dunkelberger said that he understood but he was getting the impression that numbers have been decided and he didn't think that they have.

Mr. Beckert said no; that nothing has been decided, number-wise.

Mr. Dunkelberger said that he understood, adding that he was getting that impression and, if he was, then he was assuming that a lot of other people were, too.

Ms. Pelletier said that she only brought it up because it seemed a question people were asking a lot; that she did this completely on her own, that it didn't have anything to do with anyone else and she was not at all promoting a number. She added that she was just trying to provide a little historical background about where 48 came from. She clarified that she forgot to include in her comments that, today, the County dictates the 'fare share' rate at 4.9%.

Mr. Beckert said that it was all just background information. He added that Mr. Dunkelberger worked quite a bit on the ordinance draft and asked if he felt there was anything to be clarified for the public before opening the Public Hearing.

Mr. Dunkelberger asked how many people have read the ordinance – there were only a few. He asked why others had not because he wanted to know if it was that the PB had not done a good job in making it available, and how do we make it available, because that seems to be a continuing problem. He added that it is on the Town web site.

Ms. Fox said she wasn't sure when it became available on the web site; that she has tried to educate herself; that she cannot attend every PB meeting. She added that she has had difficulty obtaining minutes for the PB so she suggested that it is difficult, sometimes, to obtain the information that is necessary to educate oneself to come to a public hearing.

Mr. Dunkelberger said that it has been on the web site for at least two weeks and he thinks even longer than that.

Ms. Pelletier said that she was pretty sure it was uploaded as soon as we finalized it at the last meeting (Feb. 17).

Mr. Beckert said that when the minutes are approved they are forwarded to the Clerk's Office so it shouldn't be an issue.

Ms. Fox said that she called last Monday about obtaining minutes and she was told that they were on the web site; that she confirmed that they were not on the web site and she was told they would look into that. She added that it required a visit to the Town Office on the following Thursday, interaction with three Town employees, including the Town Manager, in order to obtain minutes from the February 3rd meeting.

Mr. Dunkelberger said that, in putting together the ordinance, we tried to address, at least from our perspective, what the issues have been over the past couple of years with regard to the number of permits available to both individual residents and contractors or developers and what made sense from an ability to get the public involved in the numbers. He added that he thought they had done well in creating some limits and create some avenues to make sure everybody in Town has the potential to be involved in the actual number of permits that would actually be allowed each year.

Mr. (Bill) Hamilton asked, regarding availability of information, if the PB would consider revisiting the idea of video-streaming the PB meetings so we don't have to rely on the minutes of the meeting but can rely on the video-streaming, which is instantaneous. He added that that seemed like it may solve that issue of people clearly having trouble getting information

Mr. Beckert said that he has brought that up several times. He added that it was something the PB could discuss again. He added that the minutes are the official record and for people to really get the gist of what is there. He said that video-streaming was another way.

Ms. Fox said that she would echo the instantaneous nature of video-streaming; that if one were relying on the minutes you wouldn't even know this public hearing was happening tonight because the PB hadn't approved the minutes from the last meeting when you set this meeting.

Mr. Beckert said that, in defense of the PB, and he isn't defending the PB or anything else, it is up to the general public to keep themselves informed; that they put things out at official Town posting places, it is on the Town web site and they put official notices in the newspaper.

Ms. (Karen) Norton said that she tried to follow the minutes in many situations but, often, by the time the minutes are recorded and corrections made there are little changes in words and the way people present themselves for what they say and how they actually get recorded in the minutes. She added that it changes the whole context in a lot of instances of what somebody said and what somebody's intent was by the time it gets from their voice to the paper and approved; that there have been several changes in those minutes; that it happens on a very frequent basis.

Mr. Beckert explained the rules for the Public Hearing to the public.

7:25 PM Mr. Beckert opened the Public Hearing.

Ms. Weeks, 34 Odiorne Lane, said that she was disturbed because this seems to be the second or third time the PB or Selectmen are asking for a vote on this same subject; that she feels that the people of Eliot have expressed their opinion on this whole issue and she finds it difficult to understand why this same issue is being brought to us yet again. She added that she has heard rumors that it's being thought that whatever we end up

with in an ordinance will be voted on at Town Meeting and she wants to object to that. She said that she feels that issues of such importance need to be brought to the widest possible audience for approval or disapproval. She said that a much wider set of Eliot residents show up at the voting booth than show up at Town Meeting and, with our aging population, it's very difficult to go to Town Meeting and sit on uncomfortable chairs for extended periods of time; that she is getting to the point she can't do it anymore. She said that, in addition, she feels that the numbers that are being bandied about, or discussed, are in excess of the available land and ability of our small Town to support.

Mr. (Robert) Pomerleau, Cedar Road, said that he has been following this closely from the beginning and wanted to make the comment, publicly, that he thinks what we have before us is, by far, the best thing that we've had in this Town as far as dealing with this issue; that it is a far cry better than what has previously existed. He added that his concern with it was not so much the end numbers; that that leaves a lot of room to be talked about and not going into what are suitable numbers or not; that he was concerned with the process – the process of how we develop the numbers, the process of how it gets to the public and the input the public has and when and how and so forth. He said that he was 90% satisfied with what's here, with one exception, and that is Section 29-5 (b) (3), which starts out with "If different from the prior year's allocation. He added that this was not a major issue but one of concern because of the way this is worded; that, whether high or low, you could set a number here that could remain indefinitely if it didn't change without any public input. He said that, from his perspective, they have crafted a pretty decent process for an annual review, getting input from a lot of different people involved and you are going to publish a number every year; so he suggested why not bring it to a vote annually. He added that you may set that number at 40 and think it's fine; that if you don't think it needs any change then the public has no feedback on that; that the public may not agree that it's fine year two and year three. He said that his only concern there would be that, if, not annually if it didn't change, you would at least have some sunset provision saying that it must be reviewed and brought for a public vote at least every three years, which is pretty much what the State statute recommends as far as reviewing this process. He said that he gives some credence to Ms. Weeks' comment about the vote being referendum as opposed to Town Meeting; that he thought that weighs heavily, as well. He reiterated that this is a pretty decent document as far as developing a methodology and some strategy for determining the numbers and, most of all, protecting the public's right to have final say on it.

Mr. (Donald) Weber, 163 Beech Road, said that a recent article in the paper regarding this issue made it sound like the people who wrote the original ordinance didn't have any idea what they were doing. He added that we did know what we were doing; that it was modeled after another town's ordinance and we were being spiked by high taxes because of the increase in houses at the time. He said that he believed that building 50 to 75 houses in the near future would definitely put a strain on public services. He said that we have heard from past police chiefs that we need X number of police officers for every thousand people and, if we build more houses, we will be buying more police cars and hiring more police officers; that would apply to the other departments as there

would be more roads to maintain, cul-de-sacs to plow and let us not forget the school system. He added that, if we build houses, one or two students will probably come out of almost every house we build. He said that he thought that this ordinance should be left alone; that the 2010 census said that we are an aging population; many of us are on fixed incomes and a spike in the taxes last year based on the fact that the Governor didn't send us back so much money most average homeowners saw a \$300 to \$400 increase in taxes. He said that our Selectmen met last night with the Kittery people to see if we could share some services to try and keep our taxes down but this ordinance would increase the houses is going in the opposite direction. He added that he checked with two real estate agencies today and there is not a shortage of housing in this Town; that there are plenty of houses for sale. He said that people who want to keep their families together and have their kids remain in Town he certainly concurs with; that there are plenty of houses that can be bought; that we don't need 40 or 50 new houses to be built in this Town any year in the future; we should stay with the ordinance we have.

Ms. (Jennifer) Fox, 34 Drake Lane, said that feeding into the impression that this could affect budgets that are being developed right now she was wondering if they could explain why they are proposing that this would be retroactive to January 1 of this year.

Ms. Pelletier said to take care of the immediate need for growth permits; that we ran out the first day we opened for permits on January 2nd.

Mr. Dunkelberger asked how many she had on the waiting list currently.

Ms. Pelletier said nine so making it retroactive would take care of those who are waiting, depending on what the number is.

Ms. Fox said that her concern was that they are strictly basing it on the demand from a development perspective and not necessarily taking into consideration how that could affect the budgeting process to make it retroactive to January; that she knew the school budget is well into the process of being developed and she doesn't think it is possible to consider a retroactive increase in the building permits. She added that that was just one example and imagined that the other budget processes are also well underway.

Mr. Beckert said that the PB actually has taken into consideration information from all the departments, including the school department.

Ms. Fox said that she thought they were sent the theoretical question and she doesn't think it is applying to this year's budget so, again, her concern would be the retroactive process; that that would be one of her concerns.

Mr. Beckert said that he understood her retroactive concern, adding that the number decision hasn't been made on this year or next year but we have sought input from all the Town departments as well as the school department; that we are not trying to come up with an arbitrary number but one the departments feel they can support.

Ms. Fox asked if it was explained to the departments that the number would be retroactive to January 1st.

Mr. Beckert said yes.

Mr. (Thomas) Clayton, 16 Clayton's Way, said that he was in the Town Meeting when we voted on the original ordinance and, if he remembers correctly, one of the big concerns we had was we didn't want to see an explosion of growth in Eliot, we wanted to maintain the original character of the Town. He added that his issue was that, until the State raised its ugly head and got involved, we were doing just fine with 48. He said that he would like to see us go back at least to 48 to not only allow some reasonable growth for people that might like to come here but, more importantly, for the people in Town; that if we have kids who want to build we have land that they can build on, in some cases, but they can't build because they can't get a permit. He added that we have a lot that we were saving, primarily for retirement, to be able to sell then use that money in retirement; that we still have the lot but we can't sell it because we can't get a building permit. He said that he would like to see whatever needs to be done to the ordinance to allow us to get back to 48; that from his perspective he would be happy with that.

Ms. (Karen) Norton, 266 Hanscom Road, said that she did have a concern with this because we do have a volunteer fire department and, although they have been really handy about trying to getting out the door, it's going to come to a point in time where somebody's either going to have to have a full-time department or bring in more people; that the more houses you bring, the more houses are burned; that there is a lot that is happening, we don't even have a center of Town anymore, we don't have a Town charter to say what direction does this Town want to go in. She asked if we wanted to be a suburb of Boston or do we want to be an affordable Town that residents who have lived here for their lifetime can stay, or, do we have to go north. She said that she can go north of Augusta and see more people she knows than she knows in this Town, and they are people who left this Town because they were driven out by huge budgets; extravagances we don't need – sidewalks for center of Town that is no longer a center of Town. She said that people come in and they bring all these grand ideas of what they want this Town to be; that they forgot what they came here for. She added that they came here for a quaint, small town. She said that we are lucky that we've got everything we need within two miles; two miles to any store you want to, three miles to a hospital; doctors, we don't have to have them in this Town, we don't have to provide extras for them because we've got them right outside of our boundaries. She said that we don't reach out for what we could use; that we could use South Berwick's facilities, we could use Kittery, but it's this pride factor that we're going to be better than them. She asked why we can't just be who we are and stop trying to be somebody we're not, and stop trying to outspend; that these Town budgets are flying, the numbers are flying; that we've been paying for cell phones for Town workers, huge bills; that there are so many things that need to be capped, how about cap some of the spending before we keep growing; cap some of the numbers and, then, grow. She said that the first thing you said when you got in here was that you didn't want people to come around to the same question and, if it was, it was going to be dismissed; that you guys are all coming to the

same question; that we voted no, we didn't want these extra houses, and you are coming up with a million ways to how to approach it that, yeah, there's a select few that do want these extra houses. She asked how come it's the same few that can bring up the same question but the voices that need to be heard get squashed.

Mr. Beckert said that the PB was asked to look at the ordinance.

Ms. Norton said that the people voted, they voted for what they want. She asked what's the sense in voting; that that's why people don't show up and vote because everyone goes around and changes it.

Mr. Beckert said that we were asked to look at the ordinance, to come up with a revision to the ordinance and that's what the PB has done; that we are here, tonight, to discuss that in the public hearing and get your views.

Ms. Norton said that, if people have to wait to build a house, they have to wait; that they wait outside of Best Buy for a T.V. on Black Friday; that they wait for something that they want to have. She added that it's not instant gratification; you wait for it; you earn it; you help the Town grow to a point where the residents who currently live here can afford to bring in what you want to sell us, which is going to be street lights and more roads and all the extras; we bring in students from other towns instead of merging with Kittery district, let some teachers go, the school budget is huge.

Mr. Beckert asked to keep it to the growth ordinance.

Ms. Norton said that that is all part of the growth.

Mr. Beckert said that he understood that but we are here to discuss the growth ordinance, tonight, not the philosophy of the school department.

Ms. Norton reiterated that it is all part of the growth; that you bring in more people – there are elderly people, now, in Eliot; that you know, you were one of the kids last week.

Mr. (Jim) Tessier, 57 Johnson Lane, wanted to confirm that there are only nine people on the waiting list.

Mr. Beckert said that was correct.

Mr. Tessier said that the system isn't broken if there are only nine people on the waiting list. He added that what is broken in the ordinance is that they can't stay on the waiting list; that they have to stand in a line on January 1st and get back on the list. He added that if they knew they could stay on the list and they could get their growth permit on January 1, 2016, they would only be waiting a few months to get a permit to build their house. He said that he went through the process back in the '80's; that he bought his land and had to wait for some amount of time; that there was a point system back then;

that he wasn't advocating going back to the point system but you had to wait regardless; that the number was 48 then but you still waited. He said that waiting for 8 months or 10 months he didn't think was a big hardship; that it gives them some time to plan, line up all the people they need, get all their permits; that they can get everything done so they are ready to go. He added that he thought that one of the changes that could be made is to allow those people that are on the list to roll over to the following year and they can plan and go and get their permits.

Mr. Dunkelberger said that we are three months into the year and we already have nine; that it has not been a great past couple of months to get around in much less do planning for a house. He added that he suspected, come spring and summer, that there will be a large number that may be looking for that. He said that if it is more than sixteen those people are potentially going to be waiting two years before they can get a permit.

Mr. Tessier said that in Section 29-49 it says, "*This growth management ordinance, Chapter 29, shall expire in its entirety upon approval of ordinance changes needed to comply with a revised comprehensive plan.*" He asked if this means this is a temporary fix if with some problems and it is going to get fixed more permanently at some time in the near future.

Ms. Pelletier said that that language has been in there so she just moved it up and made it its own paragraph.

Mr. Dunkelberger said that it used to be that in order to have a growth management ordinance you had to tie it to some kind of Town plan; that they still do and that is why that language is in there. He added that if we don't have a comprehensive plan we don't have anything on which to base a growth management ordinance; that if the comprehensive plan changes significantly it could, in fact, make this unmanageable.

Mr. Tessier said that there are no known things that we need to change.

Mr. Dunkelberger said not yet.

Ms. (Roseann) Adams, 74 Frost Hill Road, said that her concern was with the criteria that will be used to determine future permits that will be issued. She added that it's been alluded to by Mr. Weber and there's a whole story about why this growth ordinance came up; that it was because of developers overrunning the Town and developing the Town. She said that we have heard from the DPW Director that we acquired nineteen miles of roads since 1999. She asked what they thought was going to happen if we just go with demand of what people want today; that she is worried that that will be used as the criteria. She said that she understood that we are asking these departments what impact this will have; that already it's had an impact, just nineteen miles of roads with no change to the DPW Department as there is a request for another worker. She added that she agrees with people who say this will lead to bigger government and more government; that she thought we have to start trimming back before we start to move ahead. She said that she didn't see nine people waiting as a big, big problem; that this all

came about because of demand because people were upset that they had to wait. She said that she likes the process in the ordinance but she doesn't think you need to...she would rather see it in the ordinance that the PB would approve X number of permits a year, and that's it, but she likes the process of going before the voters every time. She added that she agreed with Mr. Pomerleau that, again, you would review it every three years.

Mr. Dunkelberger said that we actually put two caveats in the ordinance to deal with that because we also see a potential problem with developers. He added that we have limited developers, a single entity, to no more than eight permits of whatever the number is so, if the number is 48, no single entity can get more than eight. He added that the other piece to that is the developers, no matter what the number is, are limited to half of whatever that number is, total; that the rest are for individual, family units. He said that, if it's 48, then developers, in total, are limited to 24; if the number is sixteen, developers are limited to eight; that there are no such limits on the individual in trying to get them.

Ms. Adams said that, as part of history, developers were saying they were giving these lots to family members when they actually weren't; that they were developing huge plots of land.

Mr. Dunkelberger said that we even addressed that in Section 29-42 (e), "*For non-subdivision lots, not more than eight (8) building permits shall be issued to any individual, corporation, trust, estate, partnership, association, or other legal entity prior to (but not including) the first Monday in December of each year, after which additional permits may be issued in accordance with subsection (f).*"

Ms. Adams said that that doesn't prevent a developer from deeding the lots to children as a pass-through in order to develop land and that's the type of thing that was happening; that there weren't enough safeguards, there were a lot of loopholes.

Ms. Pelletier said that she thought it was important to note that the make-up of the people who are waiting are not developers at all; that they are all individual lot owners. She added that, with subdivision growth permits, there never once, nor is there now, a wait list for. She said that nobody wants those because there are no subdivisions going up; that in the last ten years the PB has reviewed three. She reiterated that everyone on the waiting list were individual lot owners, not developers.

Ms. Christine Bennett, 140 Moses Gerrish Farmer Road, said that she would like clarification about who did get those permits this year.

Ms. Pelletier said that it was the people who were first in line.

Ms. Bennett asked if that wasn't a developer – Greenbriar.

Ms. Pelletier said yes; that there are only nine in that category and he received six. She added that the ordinance limits it to eight and there is nothing she can do about that; that that is how it exists today.

Ms. Fox said that she was not clear where you said that permits did not go to developers.

Ms. Pelletier said that she did not say that; that she said that no one on the waiting list was a developer.

Ms. Fox said that those on the waiting list are not developers but six permits went to the Greenbriar developer.

Mr. Beckert said yes; that nobody said they did not.

Mr. (Russ) McMullen, 371 Beech Road, said that subdivisions going back to 1973 and lower that used to exist are no longer considered subdivisions by the State through new legislation. He added that anyone who owns a subdivision that was created prior to 1971 is no longer considered a developer, they are considered to be just a resident. He added that that was why he believed that, out of the nine, three were issued to individuals and the other six were issued to the builders of Greenbriar. He said that they have a lot more lots to build out there. He said that a big concern he has, being in a real estate office and seeing the problems that are being created through our eyes, and they are big problems, is the fact that what's going to happen year after year, no matter what you do for permit issuance, if you are going to allow these 1971 subdivisions, or lower, to just come in – once they get through the door they can apply for as many permits as they want. He was very concerned that should there be a rotation process that, as you come in you can get one permit and, if you want another one you go to the end of the line and start all over again; therefore being fair to the local people that are trying to honestly build and house their family. He said that he did not feel this was a Walmart situation but a family situation with people trying to house a family in a home; that this isn't a TV or a stereo or something like that; that to him it was a whole different ballgame.

Ms. Pelletier said that we recognized that our definition for subdivision did not include that situation; that that situation will never happen again but we corrected it in the ordinance, anyway, and we expanded the definition to include any subdivision approved by the Eliot Planning Board no matter when that was and, as such, they are limited to eight per year; that they always have been and that's not changing; that even if they were considered non-subdivisions they would still be limited to eight per year.

Mr. (Robert) Fisher, 74 Frost Hill Road, said that he was kind of instrumental in getting the kind of ordinance that we have, or had in the '70's; that one of the reasons we did that was to give our old residents – there was an article in the ordinance, itself, that took care of people who lived here for a long period of time; that they would get so many points to get a building permit. He said that that has disappeared so they took that out. He added that he is against any growth other than what's regulated right now; that he doesn't want to see it get any bigger; that he wants to keep the community we have; that

probably everyone in this room has made a buck selling their property or developing their property or have a real estate person help them get a building permit to get a house. He added that he's so afraid that the younger kids...even realtors will tell you we have to build houses, that's how we keep our people employed; what are they going to do with their people after they sell all the houses or house lots. He said that the people he had problems with back in the '70's, about the realtors, they're still in business and thank God we did what we did – three acres, two acres and one acre; it's wonderful and that's why people move here. He added that now they can put a whole bunch of houses, what they used to call cluster housing, on small lots in the area and they don't even make the permits for sewer systems. He said that it used to be up in East Eliot (3-acre) that because the land was so poor (clay) that we were supposed to have two septic systems in the area because one always failed and we had another one to go to; that they have to have so many feet away from the septic system with your well and what they are doing is putting wells right beside septic systems; that that is happening right now. He supported the idea of rotation for permits.

Ms. Pelletier clarified that what Mr. Fisher referred to as the cluster subdivision we call open space subdivision and they do not get any density bonus, at all; that they are still required to have as much land area as you would with a conventional subdivision.

Mr. (Jay) Meyer, 58 Odiorne Lane, said that he wanted to talk about the election in November where the simple question was, "*Shall the Town make amendments to Chapter 29, Growth Management Ordinance?*", and 1,512 people voted no, 1,407 voted yes. He added that he doesn't understand why we are making changes to this amendment, which has been voted on as early as November 2014. He said that the PB alluded to the fact that they were asked to address the Growth Management Ordinance and the voters clearly stated that we shall not make amendments to that.

Mr. Beckert said that we were asked to address it because the feedback was that the voters didn't want it open-ended at '105% or more'; that that was what we were told and that is why we were told to readdress it.

Mr. Meyer asked why that (105% or more) wouldn't have been on the question, then.

Mr. Beckert said that it was; that that was the question in November.

Ms. Pelletier said that, by law, you cannot put anything more in a question in an article than just what it is changing.

Mr. Meyer said that that was how the voters read the question and that is how we voted.

Ms. Pelletier reiterated that is the law and we can't do anything about that; that it is State statute.

Mr. Meyer said that you didn't like what they...

Mr. Beckert said that it isn't that we didn't like it; that other members of the public came back to us and the feedback was that they did not like the open-ended question of just saying '105% or more' in figuring the growth permit so, we were asked to go back and look at that and clarify it and go even further and that's what we did.

Mr. Meyer asked who asked.

Mr. Beckert said the Town Manager, the Board of Selectmen...

Mr. Meyer questioned that the voters' voices didn't matter.

Mr. Beckert said that it was not a question of the voters' voices not mattering.

Ms. Pelletier said that we had two public hearings on this.

Mr. Beckert said that it wasn't a question of the voters being ignored, it was a question of we are trying to put something back before the Town. He added that if the voters don't want this they can vote it down.

Mr. Meyer said that we already did.

Mr. Beckert disagreed; that the voters voted down '105% or more' is what we were told.

Mr. Meyer disagreed; that what we voted down was "Shall we make amendments to Chapter 29."

Mr. Beckert said that that was not the question.

Ms. Pelletier said that you have to read the ordinance.

Mr. Meyer said that he had the sample ballot.

Mr. Beckert said that he understood what the sample ballot was but you have to understand what that vote meant and what the ordinance it was changing was.

Mr. Meyer asked when the Town had an opportunity to put that on a ballot and word it the way they chose to word it.

Mr. Beckert said that the '105% or more' was worked on last year for how long...

Mr. Dunkelberger said that it was somewhat rushed because we wanted to get it on the November ballot; that this was expected to be a short-term fix to address the backlog.

Ms. Pelletier said that we tried, it was not good enough, we took the input and we are trying again.

Mr. Dunkelberger said that he heard feedback from Eliot citizens; that the concern they had was that the 'or more' scared them with the numbers; that people were thinking we would have 100 homes coming in. He said that Mr. Meyer is one opinion, one vote; that there were others that expressed similar concerns and said that if we are going to have a growth management ordinance we want to see a solid number on the front end rather than an open end at '105% or more'.

A member of the audience said that we are talking about numbers now.

Mr. Dunkelberger disagreed; that we are talking about the Growth Management Ordinance, which does, in fact, put a top in based upon what the voters decide.

There was further discussion regarding how the ballot was written and the vote that occurred and that this was being approached again.

Mr. Beckert clarified that we are here because the input that came back to the PB was that the voters were upset with the wording '105% or more'; that we heard that numerous times.

Ms. (Kimberly) Richards, 17 Pine Avenue, said that she was coming from the conservation standpoint (Conservation Commission). She said that her concern, right now, when we are trying to look at projects that are under way, that are popping up, and we would like to find out, for example, if crucial wetlands are being harmed or natural resources, but stuff happens so fast; that we are trying to keep up with what we have right now and she is worried about growth. She added that once something is built you can't un-build it. She said that, right now, we are supposed to be an advisory commission and making sure that conservation issues are addressed; that we just can't get to it in time before it goes through.

Mr. Dunkelberger asked how often the Conservation Commissions (CC) meets.

Ms. Richards said once a month, at least.

Mr. Dunkelberger asked why not meet more often.

Mr. Beckert said that we do have a liaison.

Mr. Dunkelberger said that the PB meets twice a month and, oftentimes in past history, we've met more often, depending on what was on their plate but he thought that the CC had kind of stuck with once a month.

Ms. Richards said that they are increasing membership and things like that. She added that she is not trying to criticize other groups, or anything like that, but they have had an influx of people joining our group and we are trying to make sure, first of all, the steps that are being taken, such as whether there a checklist we can follow that the PB follows,

is it being followed. She said that even as she is asking these questions and getting answers to them permits are going, building is happening.

Mr. Dunkelberger said that it sounds like you need to meet more than once a month.

Ms. Richards said that she would bring that up to the CC.

Ms. Fox said that the alternative is to have a growth cap on our building.

Mr. Beckert said that for 34 years of history we had a growth ordinance that was working until the State got involved and he still contends that if that had not changed we would not be sitting here; that most of you didn't hear anything about this until now. He added that it maxed out seven times in 34 years and, as Mr. Murphy said, the average was 29.73 dwelling units per year over 34 years. He reiterated that the growth ordinance we had was working, the zoning lot sizes were working; that we are here, now, to try to amend this ordinance so that it is workable for the Town and is what we've been asked to do. He said that we have not decided on a number and that is why we are seeking public input; that this is something that the entire Town is going to have to vote on. He added that this municipality, like any other town in Maine, is expected to take our fair share of growth on by State law; that the State planning office expects that and whatever percentage they use we have been under that.

Mr. Murphy wanted to remind people that we have a comprehensive plan, adopted five years ago, and our Town's growth was one of the major issues of that and it took care of it. He added that we are zoned for different rates of growth and we have lots of room to grow at the rate we were growing. He added that to cut out growth is very treacherous because you are impinging on people's property rights; that if you are going to cut down on the building you have to have a justification for cutting that down, from the State's point of view, or else you're not going to be allowed to do that. He said that that's why this Board went out, properly, to get input from the school, from the fire, the police, all the departments of the Town – Can you expect for the next year or two to accept this without it modifying your services to a great extent. Is this acceptable? – and the answer, so far, for a year or two is yes; that that is why coming back every year to this ordinance is the safe thing to do; take a quick look every year, has there been a change, how are the costs this year, has something new come up that you didn't remember last year so that there is an adjustment because of the cost of doing stuff; that that can affect it and that's what we want to look for rather than just setting a single thing and living with it, or, not knowing what's going on.

Mr. (Jay) Muzeroll, Eliot Fire Chief and resident, said that he wanted to address a couple of things in that there seems to be some concern about the involvement of the Fire Department in years past and how we would be involved if we had a large growth rate in the next few years. He added that, as Mr. Murphy pointed out, it has averaged over 30+ years that we've had about 30 building permits a year for new houses and that equals about 900 houses. He said that in that 30-year period the Fire Department's calls for service has increased but they're generally not related to anything to do with that

structure; that there is human error within that structure or older houses that were constructed under a less stringent building code. He added that has happened in the last thirty years as building codes have changed is that houses are safer structures. He said that we have a lot of things going on within houses throughout the country that is human error; that people do things that aren't right that creates calls for service, structure-related incidents. He added that, when he looks at the calls for service in the Fire Department over the past 30 years, our numbers have pretty much stayed the same for non-medical-related calls. He said that our medical-related calls, as have fire departments across the country, has seen an increase; that that has mostly to do with demographics. He added that if we have 30 building permits per year for the next 30 years of course it will have an impact somewhere along the line; that he would certainly not say that it won't have an effect on emergency services, whether Police or Fire, and, yes, there probably will come a time, not in his lifetime, that you will see a fully-manned fire station and you may see minimally-manned administrators. He said that he can pretty much derive our data from what we've seen over the last 30 years; that education has helped us a little bit; that he didn't see it, short-term, having a great effect on the fire service; long-term it may, depending on what type of houses they are.

Mr. Dunkelberger asked if a slight growth in, say, 30 houses a year didn't that increase the potential pool for volunteers for the Fire Department.

Mr. Muzeroll said that you would like to think so and went back to demographics to explain. He said that the Fire Department is predominately blue-collar; that blue-collar workers, low-income families of less than \$100,000 a year – let's just pick \$75,000 – almost 30% of the population that would be the type of demographic person he would normally try to recruit can't afford to live in this community anyway or they are commuting somewhere else with a busy life-style. He said that he would like to think that, if we had a different style of housing that would bring different types of families and workers into the area; that if we had something different to offer other than a bedroom community, then that would help with recruitment and retention.

Mr. (Dan) Bennett, 36 Wisteria Lane, asked if this ordinance limits the permits that any one person...he happened to be #5 in line January 2nd and he was shocked sitting about 'here' and one of the other contractors told him he would not get a permit, that that dude in front of him was going to take them all. He asked if this ordinance would prevent him from getting more; that he was up to Greenbriar this past weekend; that they want to build a lot more houses and the trailers that are there they have full intention of buying all of them and building houses there, too.

Ms. Pelletier said that he was limited to eight.

Mr. Dunkelberger said that there are two pieces to that; that one is that contractors or developers are limited to 50% of whatever the number is so, if the number is 18, then they are limited to nine, overall, and the other nine are made available to individual homeowners; any individual contractor or developer entity is limited to eight; that that will be a big factor in the overall number, once that is discussed that that's what that

number should be, so there are two limits on that. He added that, as far as individual homeowners, if they were standing in line in front of a developer they could take all eighteen because they are not subject to the same limitations as a contractor or developer.

Ms. (Debbie) Berthiaume, 432 Goodwin Road, said that she has lived here since she was six; that she has been here a long time seeing all these things we're talked about happening. She said that she had a question regarding Section 29-2 Purpose. *“(1) Provide for the local housing needs of the Town's existing residents while accommodating Eliot's fair share of population growth in York County and the immediate sub-region.”* She guessed that that came from the State and asked what our fair share was.

Ms. Pelletier confirmed that it did come from the State and, right now, it is 4.9% for York County. She added that you should use that as, when you're planning on future growth, that you can expect and taking on 4.9% increase in your population per year.

Mr. Duncan said that that was more than what was current, 4.9% per year.

Ms. Pelletier confirmed that, adding that that was a good baseline for planning; that, historically, that has been the State recommendation; that it is not legally binding. She added that the only time she has brought that up is in relation to where the 48 came from; that she was not suggesting that be used to determine the new number.

Mr. Beckert said that the original numbers back when the original ordinance was adopted it was 3.4%; the recommendation at the time. He added that Eliot decided to go with 2.8% versus the State recommendation and came out with 48.

Ms. Berthiaume said that she wondered what that was based on as it was so ambiguous.

Mr. Beckert said that it was based on the State, County and State Planning Office recommendation. He added that they are saying that you can't go below 105%.

Ms. Pelletier said that the State law says that you have to grow by 5% based on the number of homes constructed in the last ten years; the average of that as opposed to whatever the County bases their rate of growth, which she believes is just straight, historical data; that the State law says 5% a year based on a 10-year average.

Ms. Berthiaume said that they were looking at a State law and a State recommendation.

Ms. Pelletier said yes.

Ms. (Michelle) Meyer, 34 Odiorne Lane, wanted to address the survey sent out to department heads. She said that questions two through four start with the phrase, “In the coming year...” and then it asks how many new dwelling units each department could reasonably shoulder. She added that she thought it was pretty clear that we are not

talking about a one-time spike, here; that you are going forward with increasing a number to whatever that is, likely 48 because that's what you've been talking about, and it's not going to drop off after a year or two. She asked what happens in five years; what happens if we do max out 48 growth permits, if you get what you want; that in five years we are talking about almost 250 homes; that you didn't ask the department heads about that and that concerns her because she doesn't see this thing just dropping off after year one; that once you get what you want she didn't think we were going back.

Mr. Beckert said that it wasn't a question of us getting what we want; that it is a question of us coming up with an ordinance and a number to recommend to the Town, and what he is hearing is that everybody wants us to look at it each year. He reiterated that it is not a question of what this Board wants.

Ms. Meyer said that, with all due respect, we've already told you what we want; that we are here because we want to be part of the process. She added that, personally, she wishes she was part of the process last year but she wasn't; that she is here now and she is concerned that this survey is vague and misleading and, like many other aspects of this process, not as transparent as it should be.

Ms. Weeks said that he was wondering if the point system that was in effect, originally with the first 48 ordinance, has been looked at, at all.

Ms. Pelletier said that that has actually been challenged in court and found to be unconstitutional.

Ms. Weeks suggested that, instead of kowtowing to the State, we make a case for looking at our growth in our way and what suits this Town rather than going with whatever the State says. She added that we are a small Town; that we don't have the same kind of acreage as York, for instance, or some of the more northern towns.

Ms. Richards clarified earlier remarks as she thought she was being too polite. She said that, basically, she thought that concern for our environment and natural resources and wetlands have not been taken seriously enough and that approval of building, and building, happens too quickly a lot of times before things can get fleshed out and checked out properly. She emphasized that she personally believed that and, so, her concern was that large amounts of growth in the future will just make any damage to our environment just exponentially out of control.

Ms. Adams said that she wanted to clarify that she was not one who objected to 105%; that she didn't want any change in the ordinance and, so, when she hears that people have come and that's what their objection is, that is not all the people who voted against it. She added that they might want to look at putting in a statement to the 'fair share' in the ordinance because she thought someone could come back and challenge it, saying that you are saying you will comply with that and, yet, you are only allowing 48 permits, or you are only allowing 26 permits; that maybe someone could challenge that in court, because you put it in the document that that is what your purpose is in writing.

A member of the audience asked what entity determined the contractor's percentage of growth permits should be 50%.

Ms. Pelletier said that that has been in the ordinance since 1978, she believed.

Mr. Webber said that, as the gentleman mentioned about the vote last year, he thought, maybe, we misunderstood it when we read it; that he voted with the majority that the ordinance would not be changed. He added that another mentioned that we have a hard time sitting for hours at Town Meeting; please, whatever you do, please put it on a ballot so that we can vote on it.

Ms. Fox said that she had a question on the section that's been proposed to amend Section 29-9 that would change the ability to appeal a growth permit; that she was wondering why that was being added to the growth ordinance. She added that she was wondering if it would be better to amend the ordinance and make the criteria for application clearer; that it seems we go down a path of allowing a growth permit on very limited criteria and, now, you are suggesting that we couldn't even appeal that, only to later find out that site isn't suitable for a building permit. She suggested they look at not denying the appeal of a growth permit and actually making the criteria for a growth permit clearer and more expansive and not setting up a situation of having an impression that one has a growth permit and now one is going to get a building permit; that, perhaps, that is not the situation.

Ms. Pelletier said that we very much on purpose leave it a more simplistic process; that it is not meant to be a full review that happens when a building permit is applied for; a complete, and thorough, full review of everything we need to meet, at that point; that when one gets to a building permit a very thorough review is required. She explained that they had the approval of a growth permit challenged in court by an abutter and the judge affirmed that the growth permit was really insignificant in terms of what it meant because there would be a complete review done when the building permit was applied for; that that is why she took it out.

Ms. Fox suggested that maybe that was something to review and discuss further; did they really say that the growth permit was insignificant or that the criteria were lacking.

Ms. Pelletier said that they said both; that in the end we prevailed.

Ms. Fox said that she would ask the PB to look into that suggestion that the criteria into the application is lacking, asking if there was a way to expand that criteria. She added that she would not recommend they follow through with this language to not allow a growth permit to be appealed.

Mr. Dunkelberger asked where she was reading that.

Ms. Fox said Section 29-8.

Ms. Pelletier said following the approval of a growth permit; that you can appeal a denial of one still.

Ms. Fox said that her concern was the ability to appeal the approval of the growth permit.

Ms. Pelletier said that what her interpretation of what the judge was saying at the time was that it was not worth someone's time to challenge it at that level because a thorough review was not yet complete, was not supposed to be complete.

Ms. Fox added that, as she had just explained, she also noted that the criteria were lacking so her (Ms. Fox) point was that, maybe, the criteria need to be expanded.

Mr. Hamilton said that he concurred with the previous speaker. He added that he would like to ask what the current fee was for a growth permit.

Ms. Pelletier said that the fee is zero dollars.

Mr. Hamilton said that, in the proposed ordinance, the establishing of the fee for the growth permit is \$500. He added that it would seem to him that it would make logical sense that, if you are going to pay \$500 for a growth permit, that there should be some standards attached to that growth permit so that you aren't spending \$500 on a lot that, possibly, can't be developed, which right now, you could well do; that except, right now, you are only spending zero dollars and, on this draft ordinance, you are spending \$500 on a lot that, possibly can't be developed; that that doesn't seem sensible to him. He added that he concurred that the criteria for issuing a growth permit should be made much clearer and more difficult so that that building permit that will eventually follow would be worth \$500. He also concurred that the granting of the growth permit should be appealable to the local ordinance.

Mr. Dunkelberger said that they discussed that at length; that he was the one pushing for higher fees. He said that growth permits are only good for 90 days before they must be converted to a building permit; therefore, somebody that has a growth permit, or applies to get a growth permit, must have everybody lined up, otherwise, they won't get a building permit; that that 90 days goes quick in the contracting world. He added that the idea, also, was for contractors or for individual entities that desire a number of building permits; to grab eight of them for nothing, now, those same people have to put some money up-front, so in this case, \$4,000 for eight permits. He said that if he is a contractor or developer, he is going to think twice before he snatches up those building permits knowing that he might not be able to get his crews and get those building permits within the 90 days for that number of homes. He said that the idea there was to ensure that, when contractors, or groups, snag all these building permits that they have some skin in the game.

Mr. Hamilton said that he applauded the increase in the fee and, yet, again, that may relate to the criteria for the lot for the developer; that, on the other hand, it's eliminated

eight growth permits for someone else, whether it is frivolous or not. He said that he thinks the fee structure is good but he thought the criteria should be enhanced and the appealability should be enhanced and allowed, as well.

Mr. Dunkelberger said that the other piece to that with criteria is that it was easier to have a growth permit, and many towns don't have growth permits, that is now converted into a building permit within a 90-day period. He used January 1st as an example; that 12 people lined up for 12 growth permits that, over the next 90 days, are converted to building permits versus 12 building permits now granted on January 1st and one person, the Code Enforcement Officer (CEO), has to examine all twelve of those building permits to meet the specifications and the requirements of the Town; that what the growth permit process actually allows us to do is to keep our staff at a reasonable level by stretching those building permit requirements out that are more stringent; that they get the looks that they need to and the detailed attention by the one-person shop, which is the CEO.

Mr. Hamilton said that he totally understood Mr. Dunkelberger's logic; that he didn't think these ordinances should be construed to make the job of the CEO easier.

Mr. Dunkelberger said that it doesn't just make the job easier, it makes it more manageable by one person. He added that the alternative, in order to pay attention to the detail required, is that you expand the staff, or you have the potential for errors and we end up permitting homes that, as Ms. Weeks pointed out and the lady next to her pointed out, have no reason to be built in that location.

Ms. Norton asked if that \$500 was for individuals or just developers.

Mr. Dunkelberger said that that was for individuals, also, but there is a portion of that that is applied to the building permit.

Ms. Norton said that that amount of money for a developer...they wouldn't blink twice; that if they want to put in 50 houses, \$500 a piece is nothing; that for an individual, that's a huge amount of money.

Mr. Dunkelberger said that the minimal is \$800 for a building permit so they are paying it, anyway, and, of the \$500, \$400 is actually applicable to the building permit.

Ms. Fox said that you could almost suggest, with her comment, that you are actually hindering the individual and favoring the developer.

Ms. Norton said that \$20,000 or \$30,000 is nothing to a developer; that she knew as her outlaws built houses hand-over-fist.

Mr. Dunkelberger said that he understood and, if he had the choice it would have been higher. He added that, if you are applying it toward the building permit, which again, is a minimum of \$800, then you are not hurting the individual because, really, the home

developer is paying \$100 for the processing of the growth permit and the rest of it is applied towards the building permit, once they apply for it within the 90 days. He said that what this does do is discourage the individual that just come in to get a growth permit to get a growth permit, without having any plans in place to exercise a building permit.

Mr. Pomerleau said that he wanted to get back to the substance of the language of the ordinance. He said that he knew that the big issue was really numbers but, as far as how we get to those numbers and his satisfaction with what's in this language, he first wanted to go back to the issue of the last time we voted and what that meant. He added that he didn't think anybody could clearly say, with any certainty, why everyone voted the way they did and what they thought they were doing. He said that he knew the ECIN made a substantial effort to educate the people that the language of that ordinance allowed an unlimited number of houses to be put forward. He added that he was certain that anybody that accepted that was every bit as alarmed at that potential and not actually opposing growth, or at least limited growth; that that was history, now, but what you may think has happened since then was that, if we were not here today, the existing language that would still be in effect would still allow this PB to come forward with a recommendation for any number they want; that it hasn't taken anything away from the PB and it hasn't added anything to their power; that it really hasn't changed anything from the outcome of the prior vote except that the process, by which you as voters, get to look at the new numbers is a substantially better, safer, fairer process than what was there before. He added that, if you look at all your concerns and, specifically, at this language, he thought that they would find that most of their concerns are pretty-well taken care of. He said that if we go back to the whole essence and substance of what a growth ordinance is trying to do; that most growth ordinances start with the second issue, not the first one, and it's a plan to continue residential at a rate that would be compatible with the orderly and gradual expansion of community services, etc., etc.; that is to say that let's not let growth get so far ahead of us that our property taxes skyrocket. He added that the national average on that is pretty clear that, for every dollar of residential taxes, the cost to support those services are \$1.20; that that's statistics for statistics' sake. He said that that tends to be true in big cities and not so true in small communities; that that was because it depended on the saturation level that those services, or town services, reach. He added that there is usually more flexibility with the smaller amount of growth in the smaller community than it would be in a big city; that it is almost automatic in a big city; that if you add houses you increase taxes and that is not necessarily true in a smaller community. He said that, no matter what it is generically, what it boils down to is this Town, specifically, how much growth would it take before you would see an increase in your tax on this and, then, the number that we settle on, ultimately, has to be put into a five-year outward projection, or a ten-year outward projection, that is tied to the Comprehensive Plan; that the sentiment, clearly, from this Town in the Comprehensive Plan is that they want rural, period. He added that they also were concerned with property taxes. He said not to think for a moment that no growth necessarily keeps you taxes down because there is a down side to that; that your property values tend to be artificially inflated because of the lack of supply. He said that in the context of the State taxes, the higher your assessment value, the more school taxes

we pay as our share with South Berwick and the less revenue-sharing you get, reiterating that there is a down side to no growth. He added that there are very valid arguments on both sides of this; that people's property rights shouldn't be restricted and, on the other hand, we don't want growth getting completely out-of-hand so our taxes skyrocket; that somewhere in the middle there has to be some meeting of the minds. He reiterated that he is comfortable, and if you read this thoroughly, there is a process in here to allow that to happen. He said that he was not totally comfortable with the process for the actual numbers, itself; that that one-year survey to a bunch of department heads – how could you handle it this year – is probably very narrow; that that's why he dislikes the provision about, unless it changes, not going back to a vote; that this ought to be looked at and voted every year. He added that there is a case to be made to do the one year to do a catch-up kind of thing for people who have been on the waiting list. He said that he is not taking a position on what the ideal number is, at all, but as far as the language of the ordinance, itself, in the second part of this it has to go to the voters in June isn't actually a number; that to put it into effect they have to come up with a number. He said that he thought that what everybody has to focus on in subsequent public hearings is to be satisfied and comfortable that the language protects both your views, whether you are pro or con growth; that the key matter for voters to be focused on is what the number is, where are we going to settle on what the number will be. He said that if you are going to have a growth ordinance you have to follow the State's ordinance – guidelines of 105% or more – but they are free to set any number above that. He said not to be misconstrued by voting here, again, that they have changed anything that wouldn't be existing had they not done anything; that we could be here, today, and not considering this at all you would be no better off than you were with the old one.

Ms. Bennett said, regarding the appeal section, that this seemed a substantial change from the entire ordinance; that there was a provision that allowed for an appeal and, now, it seems we've eliminated all appeals unless a party is aggrieved in not receiving a growth permit.

Mr. Beckert said that we can certainly take another look at that; that this is not the end of the discussion of this ordinance; that this is the first public hearing and he was sure they were going to have another one. He added that that was up to the PB but he didn't see why we wouldn't.

Ms. Bennett said that she was just looking for an appeal process to be put in the ordinance.

Ms. Fox asked where they came up with the number eight; that any individual or entity or LLC could get eight.

Mr. Beckert said that that had been in the ordinance for years.

Ms. Fox said that the discussion this evening seems to be the concern of the balance between an individual not in the developer category being able to get a permit and

would you ever consider that people could only have one permit and that they get rotated back in.

Mr. Beckert said that that was certainly something that could be considered.

Mr. Lentz asked if Ms. Fox included developers.

Ms. Fox said anyone however that definition came in when you are in the non-subdivision category. She added that there seems to be this debate that demand is outstripping the number of permits, that people are unable to get permits but, yet, she thinks some of the data from last year shows that it is not necessarily individuals getting the permits, it's a LLC or a developer, and they are getting up to...that person got six...and you are looking at a number of eight. She asked how we got up to that number and do we need to come back to, as people have suggested, you could get one permit and then you are rotated back in. She added that, if the demand is still there, you will be back on the list, she was sure.

Mr. Tessier said that he had a similar concern regarding making this retroactive from the 1st of January and we take the people on this waiting list; that he has a pre-conceived notion of non-subdivision; that he was thinking individual people that have a lot and want to build a house. He added that non-subdivision could really still be a developer who has eight different lots; that they just aren't in a subdivision. He said that if that developer is at the top of the list and he comes in and gets eight and one fellow wants to build, and can't, because that developer took them all; that it seems like, at least initially if we approve this, we might want to think about how we can make it fairer to an individual resident who has a lot they want to build a house as opposed to letting one developer take all those available, up to eight.

Mr. Dunkelberger said that one way is by the number, whatever it may be; that maybe it isn't 48 but maybe it's 24; that even then with the problem we have now is that eight eats up about half of the available permits.

Mr. Tessier said that if you did something like what Ms. Fox suggested that there would be some kind of rotation where the developer can only get one, instead of being at the top of the list and going in and getting his eight; that if he could only get one at a time he thought that would be fairer to the other people trying to build a family home.

Ms. Pelletier said that the answer to that is that developers have the same property rights as individual homeowners; that they own a lot just the same as an individual homeowner does. She added that it is unconstitutional to regulate them in a different way.

Mr. Tessier clarified that he was not saying a different way, he was saying the same way; that everyone could get one.

Ms. Pelletier said that, if you did that, you would never have to worry about another subdivision again.

Mr. Tessier said that we are talking about in a non-subdivision area.

Ms. Pelletier agreed but, to limit a developer in Town to just one house a year; that that is not a good number.

Mr. Tessier said no; that he could get in line as many times as he wants but he shouldn't be able to take the vast majority of the available permits; that he could get his one and get back in line and, if he comes up again he can get another one, just like everybody else.

Ms. Fox said that he could still act in the subdivision category and we are talking about the non-subdivision category; that she wouldn't want to portray it that we wouldn't have subdivisions in this Town any longer with what's being suggested.

Mr. Tessier said that subdivisions are all by themselves; that to the individual people that are waiting, we need to address that and make it fairer and let them be able to build a house if they have family and land and want to build.

Mr. Hamilton asked if there had been any thought of readdressing the 50% rule; that right now developers can take up to 50% of the available growth permits. He asked where that came from.

Mr. Beckert said that that has been in the ordinance since 1900-and-froze-to-death and only maxed out seven times. He reiterated that, if the State hadn't gotten involved in Home Rule and changed the law that said if a town wants a growth ordinance then this is the way you have to do it, we probably wouldn't be sitting here today.

Mr. Hamilton asked if the 50% is dictated by the State.

Mr. Beckert said no.

Mr. Hamilton said that his question was why should it be 50%.

Mr. Duncan said that they are still capped at eight per person.

Mr. Hamilton said that he thought that both those numbers should be looked at.

Mr. Dunkelberger said that back in the late '90's our growth ordinance was actually tested in the Maine Supreme Court and it stood up; that it was the Maine Homebuilder's Association that brought the Town to court. He added that he would suspect that, if we put those kinds of limits out there that, again, we would be going to court with regard to that. He said that, in his opinion, he was not certain we would prevail this time.

Mr. Hamilton said that all he was asking is for the PB to revisit those numbers.

Mr. Beckert said that we can certainly look at the numbers.

Ms. Norton said that, if the State has made this to be considered a problem with the way they have addressed it, do you think they made their approach to it because of the economy; they set the standards; they had to go to a formula, they didn't just pull it out of the air so they had a reason for their numbers, whether it was to slow the growth down in certain areas or increase it in different areas.

Ms. Pelletier said that it wasn't to slow growth; it was to ensure that towns grew by at least 5% per year.

Ms. Norton said that she thought that that would probably be more for north of Augusta, not considering the southern part that's growing.

Mr. Duncan said that it didn't preclude the Town from saying 110% or 130%; that it just had to be at least 105%. He added that our ordinance says 105% and that was what was passed; that the State law allows a larger number.

Ms. Norton said right, according to what the people feel they want in that area but she thinks it's pretty much up in the air about what people feel they want in this area; that there are people who want huge growth and there are people who don't want huge growth.

Mr. Beckert said that the State of Maine doesn't like growth ordinances, period; that they would just as soon municipalities not have them and controlled growth in other ways – lot sizes and things like that. He added that we had many in Town at the time we went to the Supreme Court that didn't want the Selectmen to go forward and defend it at the Supreme Court.

Ms. Fox said that she appreciated the BOS taking all her questions; that she did read it and it has generated many questions in her mind and she appreciates the discussion this evening. She said that she was wondering how much they have delved into the Comprehensive Plan as it has been raised as a support of the need to increase the numbers of growth permits. She added that what she has read in the Comprehensive Plan was a suggestion that the permits in Town try to be focused in certain areas, such as a higher density in the Village. She added that she was wondering how this fit into that adjustment of this ordinance.

Mr. Beckert said that it would all have to be considered; that having been on the Comprehensive Plan rewrite committee, the Comprehensive Plan actually recommends reducing the lot size in the Village District from the current one acre to a half acre if water and sewer are available; that that was passed by the Town in 2009.

Mr. Murphy clarified that it wasn't a requirement to go to a half acre but to allow it.

Mr. Beckert said that that would have to go to the voters to do; that any zoning change has to go to the voters so any change in lot size recommended in the Village District

would still have to go back to the voters; that it can't just be done because the Comprehensive Plan recommends it.

Ms. Pelletier said that that was one of the first things she suggested, when we first started working on this, was a differential growth cap but it went nowhere so she dropped it. She added that the Comprehensive Plan references something similar; that she thinks it's 38 in some places and 42 in other places but it definitely calls and anticipates at least that much growth per year. She said that she has reviewed the Comprehensive Plan while doing this ordinance to make sure it is consistent.

Ms. Fox said that, to her, it was a circular logic; that if the Comprehensive Plan was recommending a certain number of growth permits that have been discussed this evening but it is based on a plan that allows greater density in the Village, which is dependent on water and sewer, it seems like before we address bumping up the number of permits there are a number of things that would need to be addressed; that she questions that we are entertaining a discussion of a higher number of permits based on Comprehensive Plan recommendations yet we haven't addressed some of the other parts of the Comprehensive Plan that would get you to that high number. She said that on page 4 the language changes from growth permits to building permits and she doesn't understand why that changes.

Ms. Pelletier explained that what a growth permit does is that it limits the number of building permits that can be issued for new residential construction. She added that, in her opinion, there have always been big gaps in the old ordinance; that there was no definition of what a growth permit even was so she attempted to fill in those blanks and clarify in any paragraph she could that the purpose of the growth ordinance is to limit the number of building permits that are issued for any new residential units.

Mr. Duncan said that one thing to point out, he thinks, is that some of the changes you are seeing in here, for example growth to building permits, is a change that's occurring in the internal discussion; that it isn't in the existing ordinance; that growth was in the initial revision, if you will, and growth was changed to building in subsequent revisions. He added that that paragraph is all new language and the cross-outs and new wording becomes subsequent revisions to the subsequent revision, etc.

Mr. Dunkelberger said that the Maine statute actually requires an annual review of the number of building permits on at least a three-year basis so, the reason that language is the way it is, is to meet those State requirements but, rather than doing it every three years, the process will actually be run every year, as far as the review goes.

Mr. Lentz said that the review he is talking about does not solve the problem, even with this ordinance, that Mr. Pomerleau brought up; that it won't go to the voters the way it is written right now.

Mr. Bennett asked if there was any way that we could just combine the subdivision, eliminate the wording of the subdivision lots and just have them all just lots. He added

that Greenbriar is coming in and grabbing up a whole bunch; just put them all out there under one umbrella – just building lots or building permits; that we have had only three subdivisions, anyway.

Ms. Pelletier said that we recognize that as something that we changed in the ordinance before the permits were divided up at the beginning of the year, 50/50; once all the non-subdivision goes, there may be nine available in the subdivision category and they stay available all year, until the end of the year.

Mr. Dunkelberger said that the problem with what you're proposing is that the developer in Greenbriar is ready to execute however many number of permits right now; that what happens is he takes them all, now, in March and there is nothing left for the remainder of the year, even if he does them one at a time.

Ms. Pelletier said that we did try to fix it by eliminating the dividing up at the beginning of the year and allowing them all to be issued in any category until 50% have gone to subdivisions; that that way none are available unnecessarily.

Mr. Dunkelberger said that we sat and tried to put ourselves in the shoes of a developer around how one might try to get around this.

Mr. Fisher said that, as he listens to this, it seems to him that, if he had two contractors – one guy in front of him and he could actually pick up all the subdivisions to build a house on and he wouldn't get anything for that.

Mr. Dunkelberger said that, depending on the number, potentially yes.

Mr. Duncan said that, in this year based on this wording, yes, because the number is eighteen; that one subdivision developer could get eight at one fell swoop and the next guy would get one under this year's limitations. He added that, if the number was 34 for example, then that wouldn't be the case.

Mr. Fisher asked why he couldn't take 34.

Mr. Duncan said that was because he is limited to eight.

Mr. Dunkelberger added that he couldn't take more than seventeen, total, between the two of them because we've limited the developers to 50% of whatever the number is.

Ms. Pelletier said that, at the moment, the way the ordinance is written he would not be limited because he is not considered a subdivision because he was approved in 1963 and the definition of subdivision doesn't recognize subdivisions approved prior to 1971. She added that, unless we fix the ordinance, he's going to be able to get, perhaps, an unfair share of them.

9:03 PM The Public Hearing was closed.

Mr. Lentz said that he was glad there was so much turn-out and so much input. He added that we put a lot of time into it; that it isn't perfect and can be simplified but it is much better than what we've had before. He said that he wasn't around so didn't know how we got into this mess but, looking at the numbers, we were at 48 for like 12 or 14 years; that it seemed like we went on automatic pilot. He added that he didn't hear that anybody was yelling back there about growth or anything else; that he looks at this, maybe, as a fresh start. He said that we need to get a little smarter about how we do things; that there are ways we can move these caps by resource criteria, by zone; that maybe it's a minimum cap – two houses a year in these protected zones; that you could force the movement back into the Village if that's where you think it belongs. He reiterated that there were ways to do this if we all got a little smarter and understood all these things; that he thinks we'll learn.

Mr. Bouchard said that the educated voter is the smartest voter in Town and he thinks people need to educate themselves on what they are dealing with.

Ms. Horner said that she was glad that people showed up and agreed with Mr. Bouchard.

Mr. Dunkelberger said that the Town grew by 300+ people in ten years from 2000 to 2010. He added that he doesn't know that anybody perceives any huge growth in the next ten years. He said that, along with that, he thinks we have a lot of those protections in place with regard to conservation with the setbacks and the one-, two- and three-acre zoning requirements and, as Mr. Beckert pointed out, in order to change those zoning requirements, we have to go before the voters to let them make those calls. He added that he thought we put together a good product, here.

Mr. Duncan said that he certainly appreciated the public's input that we received tonight; that he thought there were things that need to be considered before this goes forward for any final presentation and/or vote. He added that he did want to say, again, that he agreed with the number of comments that have been put forward this evening that this whole effort is against the will of the voting public in November and he doesn't think we should be doing this.

Mr. Beckert thanked the public for coming; that this is one of the few meetings that he's seen this big of a turn-out. He added that the PB will look at all the comments and concerns that were brought forward to us tonight and see where we go. He reiterated that we were asked to look at this, to come up with a change to correct the ordinance; whether that is something the Town will go for, or not, we will tweak it and put that forward, try to educate everybody as to what we have ready to put forward to the voters. He added that something he wanted to dispel, and is the first time he has heard it, whether this was going to go on a referendum or Town Meeting vote; that that decision has not been made at all. He said that the PB will definitely make a recommendation to the Selectmen; that the final decision is up to the Selectmen as to what they put it on.

ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

There was no discussion.

ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED

1. Yardscaping workshop announcement.

This is informational.

2. February 2015 Maine Townsman Legal Note regarding appeal periods.

Ms. Pelletier said that this was recently challenged at the Supreme Court and she wanted to let them know the appeal process was reaffirmed.

3. Memo from Planning Assistant regarding Comprehensive Plan implementation summary.

Ms. Pelletier said that this summary was nice and that a lot of them we are working on.

Mr. Lentz asked if they could prioritize this for us, say, the top ten.

Ms. Pelletier said that she didn't know the purpose of this but she imagined it is so that they can give some guidance. She added that she thought it would be helpful to see where people wanted us to go; that this Board, internally, has a list of priorities but it's only the upcoming four or five things that we will be working on, which takes a long time. She said that if that is not the direction people want you to go in that would be good to know before we go down any paths; that she thought it would be helpful.

Mr. Duncan asked if there was any significance to the black X's and red X's in the column labeled PB.

Ms. Pelletier said that she did not create that spreadsheet; that the only thing she did was add the comments. She added that the Town Manager created that spreadsheet and anything with an X was listed as a PB responsibility in the Comprehensive Plan. She said that she was not exaggerating by much when she says you have 97% of 200+ goals in there.

Mr. Duncan asked if there was a difference between the colors of the X's.

Ms. Pelletier said that she didn't know; that if there was it was not shared with her.

Mr. Murphy said that he thinks the black X is one put in by the original Comprehensive Plan and the red Z represents a recent change to that or an additional assignment for some kind of accomplishment but you would have to ask Mr. Lee.

Ms. Pelletier said that it appeared to her to just be a verbatim copy of exactly what was in the Comprehensive Plan; that it did not appear that anything was added or subtracted from her comparison of both.

Mr. Lentz said that the point is with the amount that is on there.

Mr. Beckert said that there was discussion back when it was being rewritten, before this was put out, that there was too much being put on certain boards and committees and too much of it was being asked for within the first year or two after acceptance; that there was no way that much change could be done. He reiterated that the Comprehensive Plan was a guide; that it doesn't necessarily mean it's going to happen; that it is what the Town looks at to try to go down that road and which side of the road do we look at.

Mr. Murphy added that it also gets the State off the Town's neck.

Mr. Beckert said that the State requires that you look at and review your comprehensive plan every ten years.

Mr. Dunkelberger said that there were two things that caught his eye – one as it relates to impact fees; that one other thing that he hoped that the Board might look at is impact fees as it relates to new development and, in particular, new growth that we all know eventually become Town roads and increases our requirements to maintain those roads. He added that he would encourage the Town PB and BOS to look at impact fees for development that is going in before they become Town roads.

Ms. Pelletier reminded the PB about impact fees; that they are very specific and you have to have a project planned and in place and anyone paying an impact fee has to directly benefit from that project; that there has to be a need for it. She added that it is fine to have that in your heads and she is in complete support of them if there is a project. She said that those people paying into it, it will never be enough money if someone is limited to eight lots a year in a subdivision; that there would never be enough money in that fund to buy anything because there will be eight lots contributing to it; that the laws are very specific.

A member of the audience said that a lot of towns around here are using impact fees in a different way.

Ms. Fox said that, regarding the amount of money in the fund, we've used, for example, \$25,000 to support additional federal funds so the amount that is in the fund doesn't necessarily need to be all the money for a project to be what the Town contributes.

Ms. Pelletier agreed that was true; that the people who are paying into that fund, though, have to directly benefit from that project and, if you're talking about a 4-lot subdivision, it's going to take a long time; that it's not worth it for that.

Mr. Dunkelberger said that if you are using it because they have a new road in that 4-lot subdivision, then it seems to him that it would be real easy to have an impact fee that goes in with making that new road a Town road because, now, we maintain it and they benefit from that. He added that the impact fee was to lessen the impact on the Town, not pay for the road, in absorbing that increased infrastructure.

ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for March 17, 2015 at 7PM.

ITEM 10 – ADJOURN

There was a motion and a second to adjourn the meeting at 9:18 PM.



Steve Beckert, Chairman
Date approved: 3-17-15

Respectfully submitted,

Ellen Lemire, Recording Secretary