



April 7, 2015  
7:00 PM

**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 March 17, 2015, as written.

**VOTE**  
**3-1 (Mr. Bouchard abstained)**  
**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. 10-minute public input session.**

There was no public input.

**B. Public Hearing – and continued review of proposed amendments to the Growth Management Ordinance and to allocate a maximum of 30 growth permits for the construction of new dwelling units in 2015.**

Mr. Beckert stated the rules for the Public Hearing and asked Ms. Pelletier to recap where they were on this proposed ordinance draft.

Ms. Pelletier summarized that about a year ago they had two Selectmen workshops looking for guidance on this issue; that they had heard from people who were asking for a change in the ordinance to allow more growth permits, as we were out of growth permits in March of last year and out of growth permits the first day of January of this year so there was a demand and a waiting list for growth permits this year. She added that, from that input, the PB wrote this proposed ordinance; held one public hearing; that we are now having another public hearing on what the actual number of growth permits will be, which will be a separate warrant article, and that number is currently proposed at 30.

**7:10 PM Mr. Beckert opened the Public Hearing.**

Mr. Murphy said that the number 30 was for the calendar year 2015 and that the number for 2016 would also be available in January rather than backfilling as you are doing with this process.

Mr. Beckert said that that was correct.

Mr. (Bob) Fisher, Frost Hill Road, asked how many building units you allowed now and how many for subdivisions.

Mr. Beckert said that it was half and half, with a total of eighteen.

Mr. (Jay) Meyer, Odiorne Lane, said that he was curious about the number of people currently on the waiting list for growth permits as of today and how the process worked.

Ms. Pelletier said that she did not check today but, as of last week, she believed there were nine. She added that if a growth permit lapses it is offered to the first person on the waiting list; that they have 90 days to convert that to a building permit.

Mr. (Jack) Murphy, Brixham Road, said that, if this ordinance is not approved and accepted by the Town, then that means we will continue under the current ordinance and the number of permits, next year, will be 16.

Mr. Beckert said that that was correct.

Mr. Dunkelberger said that, come January 1<sup>st</sup>, whoever the nine applicants are, number 9 will not get a growth permit under the current ordinance.

Ms. Pelletier agreed and said that it would be just like it was this year.

Mr. (Bob) Fisher, Frost Hill Road, said that there have been many meetings on this particular article; that he hears every time he's here that people want to keep the growth down and wondered if the PB listened to what the people say; that they have 30 on the paperwork and then insert the 15, which means we would have 45.

Ms. Pelletier said no; that whatever had been used would be subtracted from that number.

Mr. Duncan added that it is not in addition to the 18 already issued.

Mr. Fisher asked when the ordinance would become effective.

Ms. Pelletier said that it would be retroactive back to January 1<sup>st</sup>.

Mr. Dunkelberger added that it would change the allotment for this fiscal year from 18 to 30 so this would create 12 additional spaces.

Mr. Murphy said that it was his understanding that building or not building doesn't rely entirely on whether the majority of the people don't want it; that it has to do rather with whether the Town can demonstrate that they cannot provide services by statute; that that is what controls the building in Town. He added that, for instance, the Town wanted to hold to 10, the State can come in and ask the Town to prove that they cannot accept more than 10; that if you can't do that then you've got to let people build.

Ms. (Christine) Bennett, Moses Gerrish Farmer Road, said that she would like to speak to the purpose section delineated in the growth ordinance. She said that it read: "Provide for the local needs of the Town's existing residents while accommodating Eliot's fair share of population growth in York County...". She said that she was wondering why we, as a small town, is putting forward as part of our responsibility to accommodate the growth in an area that is exploding and has been for a very long time; that our neighbor, Portsmouth, is really having a problem with very expansive growth. She added that that led into #2, which said to plan for continued residential population growth at a rate which would be compatible.....and consistent with the town's comprehensive plan." She said that the comprehensive plan was passed in 2009 and there was a very extensive community survey done that had the #1 concern as threats to the water supply and tax increases. She said that we know that residential growth increases taxes; that that development will demand more services than it actually provides in revenues. She added that we have a lot of wetlands in this community and we just rolled back our setback provisions on wetlands so she was a little concerned that we are putting forward this proposal. She did say that she thought the ordinance has been very-well thought out and the process is much improved to what we currently have but 53% of all respondents said that they were really concerned about preserving the rural character of our community. She reiterated that she had concerns about the number and that we are revisiting this at this time when the comprehensive plan specifically states that the growth ordinance shouldn't even be messed with until we think about increasing the density and reducing the lot sizes in our Village District; that that would be consistent with how the Village District has grown. She said that it also talks about being able to provide the environmental services that are needed to support that sort of growth; that that's a very controversial subject here in Town – the sewer – bring sewer and increase the density into the Village District so that residential growth won't have as much of an impact as it does out in the more open spaces, where it won't threaten our water supplies or impact a lot of these other amenities that people have a real concern about. She reiterated that this should be consistent with our comprehensive plan and that plan is very specific about degradation when we start to talk about or change our growth ordinance; that it talks about directing growth into certain areas, planning for where that growth is going to happen, where we, as a community, can accommodate it and not have it cost a lot of money. She suggested that they might use 'transfer of development rights' as a mechanism for placing development where it will have the least impact. She appreciated that it was a complicated thing and to work through these ordinances; that we need to

take careful thought to make sure that this ordinance really is consistent instead of just stating it is consistent with the comprehensive plan.

Mr. Beckert said that, having sat on the comprehensive plan rewrite committee as several in the room did, she was spot-on with some of her comments. He added that he would let Ms. Pelletier speak to the preamble of the ordinance and some of the other issues Ms. Bennett spoke of that have already been covered, such as an Open Space Development Ordinance that was passed by the Town and gives rights to the developer to transfer the development rights, etc.

Ms. Pelletier said that the comprehensive plan also speaks to housing growth and planning for growth based on what the number was at the time, which was 48 growth permits allowed per year for 36 years, up until 2007. She added that, as a result of the Open Space plan, we wrote and adopted an Open Space Ordinance, which requires that any subdivision of 5 lots or more in pretty much the entire Rural Zone be done as an open space design with that transfer of development rights or conservation easements being a requirement for the remaining land. She added that we are getting there, we are making baby steps. She said that the County growth is 4.9% and that is what they say is each town's 'fair share' of population growth per year; that she calculated ours last year and it was just over one half of one percent - .57% growth.

Ms. (Jennifer) Fox, Drake Lane, said that, in reference to the comprehensive plan, that number 48 had some analysis and she thought that the recommendation was that 48 might be appropriate for Eliot if we got to that point that the Village had sewer and water and allowing a greater density; that we are not there.

Mr. Beckert said that that was not correct; that the comprehensive plan did not tie it to 48. He explained that the comprehensive plan discussion was based on the fact that Eliot had an existing growth ordinance that was at 48.

Ms. Fox said that she had read it and was not recalling it, exactly, so if we could have a copy of the comprehensive plan for the discussion this evening.

Mr. Murphy said that the actual history of building in Eliot for the 34 years before it changed in 2007 was 48 as the limit; that this shows that that isn't what controlled actual building in Town and was actually controlled by outside financial problems – the state of the banks, the three recessions; that if you draw a curve showing the number of building permits issued, there were three recessions during that time, and that is what controlled what actually got built; that the average number over that period was 29.73 building permits per year. He added that having a number bigger than what was actually built as an upper limit allows this variation of breathing and non-breathing, you might say, by permission of the banks and availability of money to back building, is a safety for those people who need to build. He said that Eliot has a lot of building space and our ordinances allow that.

Mr. (Robert) Pomerleau, Cedar Road, said, speaking on the number 30, that he thought that was a very reasonable compromise between the two extremes of 18 and 48; that that was only 12 more than what is allowed now and there won't be anything overwhelmingly disastrous over twelve more houses over the next year or two. He added that they have already surveyed the Town departments and they have spoken to the fact that it wouldn't pose any problem. He said that the biggest increase to come from growth is school taxes and school population has been in decline for 10 years and projected to keep declining for the next 20. He added that he didn't see 24 houses over the next two years having any impact on that so that any related fear to this particular ordinance over this year or the next year creating some increase in taxes is not likely. He said that, regarding the preamble and York County's 'fair share', he didn't believe that was ever in the previous ordinance. He added that he thought it had already been established that the York County thing is a recommendation and not a mandate; that it is nothing we have to follow; that in researching this he didn't ever recall seeing anything that implied that if they weren't happy with the numbers we have that they were going to swoop down here and challenge us. He said that he didn't see any substance for that argument, whatsoever, as long as you have an ordinance that meets the minimum of 105% or more. He added that the only problem he has regarding the 30 and citizens currently concerned about that being too many, it's for a year and it's back to that provision in that, if it doesn't change, it doesn't go to a vote next time; that this could be set at 30 and stay there for the next 6 years or 10 years if you didn't change it. He added that there would be no opportunity, except by citizen petition, for the voters to reduce that if they thought it was getting out of hand. He said that that might relieve a lot of concerns if people knew they would have another crack at it. He reiterated, regarding the number 30, between 18 and it started out at 48 and the history of the number of permits that have been issued over 20 years he didn't see why anyone should be terribly alarmed at the number 30; that he thought it satisfied both ends of the argument about too many and not enough, as a starting point; that he agreed that there are changes that can be made that have better control of our concerns about the rural characteristics of the Town, which is differential zoning where you could set a limit of 30 but put 20 of them in the Village Zone, for instance, where you would have lower density and allow more growth without challenging growth in rural areas.

Ms. Horner said that in the new ordinance the number can be amended via PB independent review or a municipal officer brought it to our attention; that the citizen petition isn't the only way that this ordinance can be changed.

Mr. Pomerleau said that his point was that, if you don't change it, the public doesn't get a vote.

Ms. Horner agreed and added that the PB reviews this every three years at a minimum by State statute.

Mr. Lentz added that the PB could leave it at 30, 30, 30. He said that he thought it should go to the Town whether we change it or not.

Ms. Fox said that there was discussion at the last public hearing about why any individual for non-subdivision applications could get up to 8 permits at any one time; that there were many comments that it should be one per individual and she wondered if the PB had any further consideration of that; that if this wait list is developing and individuals are concerned about their inability to obtain a growth permit why would you allow any individual to absorb 8 permits, rather than one, at a time.

Mr. Bouchard said that his question to that was, if this one person owns or has the ability to use 8 permits why should that person be restricted on 7 pieces if he cannot get back in line, and he's only allowed one.

Ms. Fox said that it was her understanding that this ordinance isn't serving the needs of any one person but being revisited because there were a number of concerns brought to the BOS who then asked the PB to intervene; that she suggested they need to intervene for a group of people rather than any one individual. She added that you are allowing one individual to monopolize development in Town and the permits being issued.

Mr. Bouchard said that that would be restricting people the use of their property.

Mr. Beckert pulled the Public Hearing back and suggested the PB could choose to discuss anything after he closed the Public Hearing.

Ms. Pelletier said that she thought it was a common misconception about the way the ordinance is now; that at the moment we do not restrict a non-subdivision owner, so, an individual who owns 8 lots, or 10 lots, in Town and with 20 growth permits available, that person would not be limited, as the ordinance is currently written, from taking those permits; as currently written, only subdivision lots are restricted to 8. She added that another misconception is that Greenbriar is in the subdivision category; they are not, by State definition; that the State only recognizes subdivisions approved subsequent to 1971 and this was approved in the '60's; that we had to defend that and we have to call it a non-subdivision. She said that, as the ordinance is currently written, Greenbriar can take as many permits as they want to as long as they are available in that category; that the change in the ordinance recognizes Greenbriar as a subdivision and any other subdivision that's ever been approved by the PB, regardless of age; that it also puts the limit of 8 on the individual lot owner. She said that she thought it's been addressed what Ms. Fox brought up as concerns. She emphasized that all would be restricted to the limit of eight. Ms. Pelletier also pointed out that there is the developer from out of Town, there's the individual lot owner, and there's a lot of builders who also live in Town and own these individual lots and how they earn their living; that they are not out-of-town people from somewhere else coming in, developing and leaving, they live here. She asked why we should deny them the right to develop their property if they own it, make a living.

Mr. Pomerleau said that this whole issue of waiting lists and limiting permits only raises its' head when demand exceeds supply. He added that someone mentioned last time that this is the first time it's come up in 30 years; well, this is probably one of the few times

in the last 30 years that the number was so low that demand exceeded supply; that if you have that number established at 30 it is less likely that somebody standing in line and grabbing 8 is going to exhaust them all; that there will be permits left over for the people behind him; that if the number stays low then it's likely to repeat itself. He said that he thought it was fundamentally unfair to allow one citizen to get more than a fair share of those available. He said that, in Lebanon, they gave them a limit of 2 per week so, if they weren't used up the first week, then they could come back the second week and get 2 more; that, in that way, they could fill their 8 but it gets back to an adequate supply of permits as far as the demand is concerned. He reiterated that going from 18 to 30 is likely to eliminate the issue of a waiting list and one person grabbing 8 permits and grabbing all that's available. He added that he would recommend that there be some provision in there to put some 'fairness' into the number of permits any individual could get at one time.

Ms. Pelletier said that she thought there were lots of different ways you can allocate them; that we did not want to complicate this and we only wanted to change what was necessary. She added that she and the CEO work with this every single day; that it was very easy to pick out the problems in the process, what had been problematic in the past, what people had complained about in the past, and the '8' thing has honestly never come up; that the limit of 8 had never come up, to her knowledge, until now so, the reason she didn't change it was because it wasn't broken, she didn't think. She said that she wasn't opposed to allocating it differently but what she was opposed to was doing it on a per-month basis or a per-week basis just because the building season is so short; that half the year you can't build here so, if you are putting those limits on one half of the year, what happens to the other half of the year when nobody wants those permits; that she is not opposed to another way of doing it but she just doesn't know of another way that makes more sense or would account for the short building season.

Mr. (Doug) DeGrappo, Evergreen Lane, said that he would concur that, as a builder in Town, that 30 was a reasonable number; that he did stand outside for 48 hours, there, to get 2 of the 9 issued permits but only because he did his due diligence and homework and realized the amount of pressure that was going to be at that front door when they opened up on that Monday morning. He added that he thought they needed to find some other means to control that; that this isn't the first time this has ever happened; that he has been in the Town long enough and built here enough but it was when Don LeGrange was here and it was about 1:30 in the morning that he showed up; reiterating that this isn't the first time that this has come into Town. He said that he followed the waives; that, in 2009, he didn't come in to the Town Hall to ask for a permit because nobody wanted to build a house. He added that he was not 100% against limiting growth, even though he is a builder; that he doesn't think it suits the size builder that he is and the ways that he believes in building, living in this Town, having kids, and all that. He said that he thought that limiting growth was good for the Town, good economically for him, keeps the housing at a level that is profitable to build in Town; that it has actually pushed that profitability to a point where some people are not able to get in to the Town unless they come into Greenbriar, or someplace like that, but even those are not inexpensive homes for the size. He reiterated that, although he is a builder, here, he is

not against limiting growth but he does believe we need a higher threshold from where it sits right now; that he thought it was a little crazy from where it is.

Mr. (Russ) McMullen, Beech Road, said that there were two of us in this room that were involved in writing and creating the original 48 permit ordinance and wanted to give a quick history and a statement. He explained that the reason they did that was because they did have a lot of out-of-state developers coming in and literally using our land to make huge profits and really affect our schools, etc.; that we never, ever, did it to hurt the individuals of the Town who wanted to build on their land that they and their families had owned. He added that they never wanted to hurt the local contractors; that he realized that that was the way they made a living; that he has sold real estate and built for 42 years, himself. He said that we were very sensitive to that. He added that he felt that 48 permits worked for many, many years and, if the Town sees that 30 would be adequate, then he has no problem with that. He reiterated that he was one of the original people in controlling the growth of this Town so he applauds their position but he thought we needed to be reasonable that, if we have good honest people, whether they are local or own land, they should have the right to build on that, not do subdivisions and start making profits, but the right to do with their land as they see fit; that we still are a democracy.

Ms. (Michelle) Meyer, Odiorne Lane, said that she was curious as to the nature of the voices who spoke to the BOS and asked for this issue to be visited with the intensity that it has been, because it has occupied just about everything you folks have done since that election; who were these voices who held such sway over the Board.

Ms. Pelletier said that they did not come to the PB; that they went to the BOS because, in that first year, we were out of growth permits by March.

Ms. Meyer asked who they were.

Ms. Pelletier said the people who came and attended; that she would strongly encourage you to go back and look at the meetings online or read the minutes; that the room was packed with way more, twice as many, people as are here tonight.

Ms. Meyer asked if they were individual citizens or are we talking about the touching regard we have for the local contractors.

Ms. Pelletier said that we were talking about all property owners; certainly a mixture of all types.

Ms. Meyers asked about the 1,500+ voices that voted no in November.

Ms. Horner said that that was what changed the language of the ordinance.

Ms. Bennett said that, regarding Mr. DeGrappo's comment about getting 2 of the 9 permits, she thought it spoke to the allocation, per person, when it comes to individual

lot owners; that Mr. McMullen has a really great point that people want to be able to exercise their property rights and possibly build on their own land or, even, do a family subdivision, which doesn't have to go through, under Homestead Rule, PB review; that it is not a subdivision but, maybe, there should be an allocation when it comes to individual lots of record on an individual one-by-one basis so that you could service more than just Greenbriar in one year. She said that she thought Mr. Pomerleau was right that an increase to 30 would create a satisfaction for some of the demand; however, we are in a high-demand period. She suggested that a rolling issuance of growth permits might be the way to meter these things out instead of saying we're going to plug them out – if you are going to do thirty, and two of them are going to be affordable housing units, then you are talking about 14 for subdivision and non-subdivision; that you are then going to say that 8 of that 14 are going to go to one person, with 6 for the actual lot owners. She added that she didn't know if that was going to address the issues that were raised at the Select Board where individual lot owners were coming and were concerned, rightfully so, that they were not able to build on their lot. She said that she would urge the PB, in their consideration of this ordinance, to look at how these growth permits are issued.

Ms. Pelletier said that we cannot limit growth based on what people do for a living; that if they are a property owner then they are subject to the same requirements; that that kind of thing is not the PB's role.

Ms. Bennett said that she was not suggesting that but suggesting there is differential treatment – subdivision units and non-subdivision units – and the real problem she has been hearing is in the non-subdivision ones; that there are individuals with property in this Town that cannot build on it because there are only so many, 50/50 after the two affordable housing units are subtracted.

Mr. Murphy clarified that the affordable housing is above the number.

Mr. Dunkelberger said that the proposed ordinance has a caveat in there that no more than 50% of the allotment may go to subdivisions; however, that 50% limit does not exist for the individual lot owners.

Ms. Pelletier said that we would keep issuing growth permits to anyone until 50% had gone to subdivision lots; that instead of breaking them into two piles at the beginning of the year they are just in one pile and, until 50% go to subdivisions lots, the non-subdivision lots can keep taking them.

Ms. Bennett said that the issue, as she understands it, is that there hasn't been a demand for subdivision lots but a demand for existing lots of record.

Ms. Pelletier agreed, adding that the restriction is driving people to subdivision who had no intention of subdivision because those are the only growth permits available; so that is actually the opposite of a growth control ordinance.

Ms. Bennett said that that, in her mind, actually speaks to revisiting this mechanism.

Ms. Pelletier reiterated that she was open to it but did not know what a good way was.

Mr. McMullen said that one concern he would like the PB to consider was that he doesn't think this Town does enough for workforce, or affordable, housing; that it either comes in the form of affordable housing, itself, or the form of apartments, such as a duplex or 4-plex. He added that a 4-plex is one of the most efficient buildings to create and we can't do that here under current ordinances. He reiterated that he would like them to think more about this because we don't do much for our children; that our greatest export is our children and he would like to see affordable housing increase so we can do more for people.

Mr. DeGrappo discussed the unusual circumstances around Greenbriar being able to pull that amount of non-subdivision permits and, if this was a normal situation, they would have been pulled under subdivision; that it just happened to show up, it happened to be the way it was (because of the State change). He added that it was an odd turn of events and he was glad he did his due diligence and found that out.

Ms. Fox said that there was discussion last time regarding language that a growth permit, once issued by the CEO, would not be appealable; that there were suggestions at the last Public Hearing that that should not be included in this amendment; that she thought that Ms. Pelletier said that she would be okay removing that language and asked if there had been any further discussion.

Mr. Beckert said no.

Ms. Fox asked that that be considered. She commented regarding the discussion revolving around demand that she didn't think that should be the only factor driving how we look at growth in Eliot. She added that Mr. Murphy saying that there's a requirement that we meet demand as part of the State guidance for the Town, it's a suggestion. She said that the demand we are seeing right now is the result of the Greenbriar development, which was a grandfathered development, so it is something that would not be considered under today's planning that we have in place. She added that she talked about balanced growth last time; that there was a question from the PB that she hasn't been able to appropriately address in a written letter what she meant by balanced growth. She said that if we have the type of growth that we're looking at in Eliot we need to consider the impact it would have on wetlands, water quality, people's wells; that the people who live here have invested in those types of resources and, as growth increases, they will be impacted, they will be utilized, and that is where we need to look at – is there a balance of growth in Eliot. She said that she didn't believe we need to just answer demand for growth in Eliot. She reiterated that we need to look at what she defines as a balanced growth; that she promised the PB a letter pointing out some of the things she thinks are important in balanced growth.

**7:00 PM Mr. Beckert closed the Public Hearing.**

Mr. Beckert asked what our drop-dead date was to get our final draft to the Selectmen.

Ms. Pelletier said that the 23<sup>rd</sup> was the last Selectmen's meeting that they could push it through and April 27<sup>th</sup> is the date we have to get it to the Town Clerk.

Mr. Lentz said that we still have two issues – one being the number and the other the general ordinance, itself.

Mr. Beckert agreed that this Board had to make a recommendation of what the number would be.

Mr. Lentz moved that the Planning Board adopt the number 30 for growth permits for the fiscal years 2015 and 2016. There was no second and the motion fails.

Mr. Duncan said that, to Mr. Lentz's motion, the Public Hearing was restricted to 2015 so he didn't know that we could be making any motion on 2016 at this point.

Mr. Beckert said that the PB has already discussed and the Chair has made it perfectly clear to this Board that we were to come up with a number for 2015 and 2016.

Mr. Duncan said that was correct and, as of last meeting's minutes, we also agreed that we would get through 2015 before we discussed 2016 any further.

Mr. Lentz moved that the Planning Board set the number at 30 growth permits for the year 2015. There was no second and the motion fails.

Mr. Beckert asked where the PB wanted to go with the number for 2015.

Mr. Duncan said, for purposes of discussion, he would say, once again, that he believes a majority of the voting public has said that we shouldn't be changing the ordinance. He added that the public comments made during the last Public Hearing on this issue, it was the majority of the comments received through the public that this issue has already been decided and shouldn't be being discussed. He said that he realized that a majority of the PB last meeting defeated the motion to leave the ordinance as it is.

Mr. Whalen said that, perhaps, before we advance any further discussion about a number we ought to advance whether or not this Board has any interest in furthering the idea of responding to the BOS with any changes to the existing ordinance; that if we can't get beyond the recommendation part then we certainly aren't going to get to the number.

Mr. Dunkelberger said that he thought we decided that last meeting.

Mr. Beckert and Mr. Lentz said they thought so, too.

Mr. Dunkelberger said that we are flogging the same dead horse, folks; we've got to do a job.

Mr. Duncan said that the majority of the Town said that they don't want us to do that job at this point in time. He added that, if there was a group of people at the BOS meeting that were pushing for this, where are they when we are discussing what is sitting in front of the public for comment. He added that there are very few of them that even support this change based on the public comment in the past two meetings and he thought Mr. Dunkelberger was right that we are flogging a dead horse but that dead horse needs to be flogged because we are sitting here with the majority of the public saying no to this.

Ms. Pelletier said that she didn't think it was fair, just because those people aren't here tonight she didn't think we could completely discount what they said the first two workshops, which you didn't go to.

Mr. Duncan said that this was the second of the Public Hearings on this issue and not one of them is here.

Ms. Pelletier said yes, Mr. DeGrappo was one that was part of that and Mr. McMullen was part of it and representing people; that there's no requirement that they have to be here tonight; they've spoken already. She added that we can't just ignore them and only listen to people in this room tonight; that 1,500 is not half of the voters in Town, that's just half of the people that showed up. She said that Mr. Duncan said himself that, unless there's an exit poll at the voting booth, you don't know what the people are thinking.

Ms. Horner said that her own personal interpretation of the last negative vote in Town was 'that' specific language of 'that' specific ordinance that we presented to the Town, not the general idea of no growth in Eliot at all. She added that we added two words to that ordinance and pitched it to the Town and they didn't like those two words.

Mr. Lentz agreed because 'or more' left it open-ended.

Ms. Horner agreed, adding that, personally, she thought this ordinance, regardless of the number and the limiting growth and all that, that we came up with that everyone worked so hard on is far better and far superior than the ordinance that is in Town now, which does limit growth immensely. She said that this ordinance that you seem to be blocking she thinks is better; that we've been tasked with changing it because the squeaky wheel gets the grease.

Mr. Lentz said that we are here, tonight, at least he is, because the agenda said that we are going to talk about 30 growth permits; now, are we going to talk about a number or, let's pack it in, one or the other.

Mr. Beckert said that the number 30 was thrown out tonight as a motion; that it didn't receive a second and he wanted to know why it didn't receive a second from the members of this Board.

Mr. Bouchard said that he didn't think it was high enough.

Ms. Horner said that she thought 30 was a good starting point; that she thought this was very important right now to a lot of people; that she thought that once things get settled down, just like the number hadn't changed for 30+ years, she felt it may go back to normal.

Mr. Lentz reiterated that he didn't want to throw a number out there without some kind of logic; that when he looks at the history over the 20 years he sees all those 48 permits that were issued but, on average, the new homes that were actually built were 29.7 so, without anything else logically that says to him to pick 'that' number; that at least he has a basis for somebody when they ask him why he chose that number.

Ms. Horner reiterated that she thought 30 was a good starting point; that she thought 30 was a good starting point for next year, as well, because you can't micromanage growth; that you have to look at growth over a certain amount of years; that if we're going to pick apart every year and pick a number every year for the Town to vote on then, over the course of time, we have nothing to reflect back on. She added that that was why she thought it was important to do 2 – 5 or 2 – 3 years of the same number so we can see how it goes.

Mr. Whalen said that he would reiterate his position but, perhaps, in a different way. He added that growth control ordinances, for all intents and purposes, are a mechanism for price-fixing and price controls; that you may not look at it that way but you had a classic explanation tonight about the net effect of imposing cost controls, price fixing. He said that it does artificially affect the market; that a lady tonight made a comment about Portsmouth facing all kinds of problems; that he knew this wasn't open for discussion at this point in time but he wasn't quite certain what she meant by that 'because of their explosive growth' but he suspects, quite frankly, with all due respect, she doesn't know what she's talking about. He said that the problems that Portsmouth currently faces, as you may ascertain them, are the very results 30 and 40 years ago of growth control being implemented in the City of Portsmouth, NH. He added that the very people today that are clamoring for affordable housing are the very same people who, 30 and 40 years ago, clamored for no growth. He said, so, what did it do – demand increases, supply decreases, prices go up and you freeze out the very people you would love to have in your community, which are our kids, that younger generation, an opportunity to replenish, a rebirth, regeneration, vitality, creativity, the breadbasket of the thriving-ness for every community on this globe. He said that here we are again today being asked to try to fix something that is, by its very nature, a broken mechanism; that the way to try to effectively balance is about attempting to deliver, again, a mechanism that will somehow balance the universe between those that have and those that do not; that if Eliot was the beneficiary of a more reasonable land use planning mechanism we wouldn't be faced with the issue of attempting to pick 30, 50, 150 growth control permits on an annual basis because you have already done it through the mechanism of land use planning; that all of those issues about the property rights of those who currently own property and those that want to take advantage of that opportunity would be adjudicated because where land use planning trumps the growth control side of it, it happens. He said that, in response to the Chairman's question, he is not supporting any

number because it is, again, attempting to artificially impose upon the system a mechanism that is not going to deliver what it is that everybody hopes it will.

Ms. Horner said that Mr. Whalen doesn't want any growth ordinance at all.

Mr. Whalen said that he didn't want a growth control ordinance based upon the issuance of building permits or the number of growth permits; no, he doesn't.

Mr. Dunkelberger said that he was going to call the Board to task and that this is with all due respect to everyone. He said that Mr. Whalen wants open-ended, no growth permits and no growth permit program; that Mr. Duncan wants the other end of the spectrum. He added that he understands and has heard your opinions; you have a job to do. He said that Mr. Bouchard missed the last meeting when we had a discussion and, again to the PB, this is why you should be video-taping it. He reiterated that Mr. Bouchard missed the last meeting when we had a discussion on the number and, initially, he was thinking 48 because that's what we've always had; that it gets rid of the problems that Mr. Whalen points out that you are artificially limiting and creating a false environment because the supply now exceeds demand. He added that Mr. Lentz came up with a way to provide some science and some background and a logical reason to come to it, which is taking a look at the 20-year-plan.

Mr. Bouchard said that he read the minutes of the last meeting, thoroughly, a few times. He added that his problem with 30 is that it is the average so you can never go above it, if you leave it at that; that it would always be below it.

Mr. Dunkelberger disagreed, saying that, if you take a look at it, it exceeds the 20-year average and you can change it every year; that 30 was a good compromise between the 48 and the zero, at least, he thought, from the sense of the PB. He added that they needed to realize that they're all at different ends of the spectrum; we can't play democrats and republicans; come up with some compromise and 30 is a good compromise.

Mr. Beckert said that we have heard everyone's opinion and asked how the PB intended to deal with that number. He added that if this wasn't dealt with he would schedule another meeting next week.

Mr. Bouchard moved that the Planning Board set the number for the year 2015 at 35.

Mr. Beckert asked what that was based on.

Mr. Bouchard said that, in his opinion, that is above the average to allow permits needed this year to be filled.

There was no second and the motion fails.

Mr. Lentz moved, second by Mr. Bouchard, that the Planning Board set the number, for 2015, of growth permits at 30.

**VOTE**  
**2-2 (Mr. Whalen, Mr. Duncan)**  
**Chair concurs in the affirmative**

Mr. Beckert asked what the PB wanted to do for a number for 2016.

Mr. Lentz moved, second by Mr. Bouchard, that the Planning Board set the number for 2016 for growth permits at 30.

**VOTE**  
**2-2 (Mr. Whalen, Mr. Duncan)**  
**Chair concurs in the affirmative**

Mr. Beckert said that the growth permit number is set at 30 for 2015 and 2016 and is what this Board will recommend to the BOS and to the Town. He asked if the PB wanted to have discussion on the ordinance, itself, based on what the public has given them for input.

Ms. Pelletier said that what she heard was the allocation of building permits, whether that be an 8 limit on subdivisions, 2 a month, however you want to do it differently; the appeal section and making it appealable, which she is fine with; putting in a sunset provision or requiring a vote every year; and the actual number, which you just decided on.

Mr. Beckert said that they could leave it in that it is appealable and, if the court throws it out, then that's up to the court.

The sense was to leave the ability to appeal in the proposed ordinance.

Ms. Horner said that she thought it was a good idea for the PB to be forced into a discussion to talk about the number because, if the past PB's had been talking about numbers every certain amount of time, then we wouldn't be in this situation right now because someone would have caught it many years ago. She suggested, in Section 29-5 (b), where it says "Not later than June 30<sup>th</sup> of each year...", it say Not later than June 30<sup>th</sup> of every third year; she asked if that wouldn't force the PB to visit this and, if the number stays the same, that it could still go to own vote; that if it changes, it would be forced to go to Town vote because that is written in the ordinance.

Ms. Pelletier said that the way it's written now you are actually required to review growth every year but you only have to go to the Town if you want to change the number from the last year, She asked if Ms. Horner was trying to change how often it went to a vote.

Mr. Beckert said that he thought what we've heard is that the public wants it to go to a vote every year.

Ms. Horner said that why she said three years was because of her earlier comment about micromanaging the growth process; that she didn't feel you could get a good grasp because then you're falling into the "demand is what's fueling this conversation". She added that, if we are looking at it every year and it just happens that, every year, we're running out of permits then every single year we will think we need more permits; that if we can look at a couple of years she thought it would give them a better perspective on what is actually happening in Town. She added that she also felt that doing it every three years makes it more important versus doing it every year; that she is in her thirties and she can't imagine having to vote on a number every single year for the next 20 years.

Ms. Pelletier agreed that when there was no longer a demand no one would care.

Ms. Horner added that there would be no perspective; that if you are voting on it every single year that it would always pass because people would say this is fine.

Ms. Pelletier said that her concern was that people wouldn't think that's frequent enough and that they'll throw the baby out with the bath water.

Mr. Dunkelberger said that his only concern, as we talked about this when we started writing it, was taking a look at recent history and how quickly economic conditions changed. He added that you can do it every three years but you don't necessarily have the ability to react; that he didn't see any reason why we don't put it out every year, that there's nothing wrong with it. He said that if everything is chugging along smoothly you get reports from all the appropriate agencies, from the PA, the Town Manager, they would give some recommendations on where they think we're at and, then, you can either put some brakes on it or open it up a little bit, depending on how it goes. He added that just by eliminating "If different from the prior year's allocation..." from paragraph 3 (29-5), then that number the PB reviews every year now goes in front of the voter on a warrant article.

Mr. Lentz commented change or no change.

Mr. Dunkelberger said exactly.

Ms. Pelletier said that she didn't honestly think it would pass with the 'every three year' wording in it; that what we've heard in terms of input, even though it might not be what she preferred, that she was fine with every year. She added that, for now, she thought that was how it should be written; that that didn't mean that in a couple of years, if the system is working out great and people are happy with the way it's going, they may vote to change the ordinance, again, and make it every two years or three years. She added that she thought this was a good compromise.

Mr. Duncan said that, right now, we have a requirement, if this passes, to review the number every year; that as it is written right now, if we go from 30 to 35 or 30 to 25, then that requires that to go to the public; that what he's hearing from the public is that, if it is 30 for the next three years, then they want an opportunity to express an opinion on

it. He added that, if there is a concern that every year is too much, we could leave that parenthetical phrase in paragraph 3 in place but add something that says that if the recommended number remains unchanged for a three-year period, that that number be put forward to the community for confirmation.

Ms. Pelletier agreed that was another way to do it, too.

It was the **consensus of the PB** to revisit the number every year with the voters.

The PB discussed the allocation issue (8 permits).

Ms. Pelletier said that she thought that what they came up with was brilliant; that she thought it takes care of that by allowing anyone who is interested in non-subdivision lots to take them all until the subdivision people take 50%. She added that she thought that was a really good solution.

Mr. Dunkelberger agreed that that was a great solution but that we have an 8 in there because 8 has been in there.

Ms. Pelletier agreed but, again, 8 has never been an issue until now. She said that even when, in 2002, which was the year Mr. DeGrappo was talking about and the first year she worked here; that she would never forget it because there were people lined up to the Fire Station; that, again, 8 never came up then. She added that this is the first time this has come up and she doesn't think we'll have this situation again with Greenbriar. She did say that she couldn't say it would never become problematic but she just can't think of a better way to do it.

Mr. Dunkelberger asked what if they cut that in half and said 4.

Ms. Pelletier asked when do we start offering them to people when there are some in a category nobody wants. She added that it would be at the 1<sup>st</sup> of December, now, instead of the third week and asked why.

Mr. Dunkelberger said that he wasn't advocating for that but just tossing it out there and she could shoot holes in it.

Ms. Pelletier said that she thought that limiting them to that degree for that length of the year; that she didn't want to say that half go to the first half of the year and half go to the second half of the year because, again, the building window is so short here; that it's hard enough building a house.

Mr. Dunkelberger agreed.

Ms. Pelletier said that she has thought about it for an entire year and she has seen it written lots of different ways – two a month, one a week; that she just doesn't know how to get around the short building season.

Mr. Dunkelberger said that he thought we had a lot of safeguards in the way it is written.

Mr. Duncan said that right now we are saying 30; so that says that no more than 15 can go to lots within a subdivision and only 8 per subdivision, maximum, per year.

Ms. Pelletier said that it was per person or entity; that someone is always going to get around it unless you want an individual lot owner for every single property in Town, there's going to be some repeats.

Mr. Duncan said, as an example, there are 20 lots in a subdivision; that we're saying that if there is a single developer that person can only get 8 in a year.

Ms. Pelletier said yes, and subdivisions can only get 50%.

Mr. Duncan said that if there are 12 owners of those 20 lots, because the lots have been sold off, theoretically, all 20 could get permits.

Ms. Pelletier said no; that, regardless of how many owners there are, it is one subdivision.

Mr. Duncan said that there are 20 lots, there are 15 permits for subdivisions and that 20-lot subdivision can only get a maximum of 8 per year.

Mr. Beckert said that that was correct.

Mr. Duncan said that that means essentially two, plus a little bit, subdivisions could get permits for the year maximum.

Ms. Pelletier said yes, if there are that many lots in a subdivision.

Mr. Duncan said that for non-subdivision, depending on who is in front of who in the line, theoretically all 30 of these could go to individuals that individually own non-subdivided property.

Ms. Pelletier said yes, as long as they don't take more than 8 at a time in a year, until December 1<sup>st</sup>.

It was the **consensus of the PB** to leave the 8 maximum in place.

Ms. Pelletier will wordsmith the document and the PB will take it up at their April 21<sup>st</sup> meeting.

Ms. Horner asked, if the ordinance passed and the number doesn't, then what.

Ms. Pelletier said, again, that there are two separate warrant articles – one to change the ordinance and one to allow 30 growth permits for the year. She added that the wording

is in the title of the article so that there is no question that the 30 does not become effective unless the ordinance passes; that if the ordinance fails we go right back to where we are right now. She said that, if the ordinance passes but the number fails, then again, we go down to the State minimum requirement, which is 105%, and that would land us at 16 next year; that that assumes that all growth permits are converted to building permits.

#### **ITEM 7 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS**

There were no outstanding action items discussed.

#### **ITEM 8 – CORRESPONDENCE AND PLANNING ASSISTANT, AS NEEDED**

Mr. Lentz said that there was one more issue he has heard raised from the public and asked if they could revisit video-streaming.

Mr. Beckert said that it was up to the PB; that he has asked them numerous times.

Mr. Lentz said that about a year or year and a half ago he was against it only because this was a quasi-judicial Board and his question at the time that was that, in case there are any legal ramifications, what is the record that would count – is it the written record or what comes off the video.

Mr. Beckert thought they didn't get a clear answer.

Mr. Lentz said that he thought they said the written record but he wasn't sure.

Mr. Dunkelberger said that right now, unless the State statute has changed, he thinks it is still the written record.

Mr. Lentz said that that was what he read so, based on that, he sees no reason why we shouldn't use it; that the other groups all seem to be using it, and that is what he heard the public say. He added that he would look for consensus on that.

- Mr. Beckert asked Ms. Pelletier if the video has to be kept as part of the record.

Ms. Pelletier said that no, it does not; that just minutes are all that's required by the courts.

Ms. Lemire said that the Board of Appeals had the same issues along with comfort for the applicants; that we've been video-streaming for a while, now, and we have not noticed any difference, no change, the meetings go the same way they always have; that it has worked well, actually.

Mr. Duncan asked if the BOA was just recording or streaming.

Ms. Lemire said that they were live-streaming and recording.

Mr. Duncan asked what happens to the recording.

Ms. Pelletier said that it goes on the internet; that there is no hard copy.

Mr. Dunkelberger added that it is kept on the server for one year, unless we tell them otherwise.

Mr. Duncan said that he guessed he wasn't against it but not necessarily for it for the reasons we have voiced in the past.

Mr. Whalen said that he would like to understand the benefit. He added that his feeling was, and maybe unfairly so, that it makes it too easy to avoid the citizen, who has something to say, from coming. He said that he preferred one-on-one; that he preferred to have everybody that has the capability of getting here to come and voice their opinion. He said that he understands that not everyone has the capability to come for a variety of reasons, but, is there a benefit to having the only forum for a discussion and debate and a dialogue; are we giving that up and is it worth it, for the process, to give it up. He added that maybe it is; that he didn't know. He said that he has never been the recipient of someone arguing in favor of having video-streaming and would love to hear the argument for it; that he has heard plenty of arguments against it.

Mr. Dunkelberger said that Mr. Whalen already pointed out one of the bigger benefits and that's for those people that cannot be here, whether it be members of the PB or the public at-large; that they can't always be here to get a feel for the issues. He added that we do a wonderful job on the written notes but that doesn't always convey the passion or even some of the inferences that are made; that, as somebody who utilizes it and has utilized it in the past to kind of keep himself apprised of what is going on with the BOS or the Budget Committee or whatever, he finds it a very useful tool because, whether he is in Colorado or here or in Arizona, he can go right online and see what's happening.

Mr. Whalen said that he wondered if it would have made a difference to any of you out there tonight; that if you had had the benefit of a streaming mechanism, would you have stayed home tonight to watch it or, irrespective of that, would you have come.

Ms. Bennett said that she would have come but she would have been more educated along the way as to what the conversations were when there was not a public hearing; that she really does enjoy and making a point of coming so that she can be apprised of what's going on.

Mr. Lentz said that, to Mr. Whalen's point about the public sitting in front of you and the feedback, that if you think about it our PB meetings, normally, the discussions are all between the PB and the client who is out there with his plan; that there are very few people who ever come unless it's a public hearing. He added that if the public knows

there is a hearing and they have something to say, they're going to come, even if you are video-streaming.

Mr. Pomerleau said that for a public hearing, for public participation, there is no substitute; that you have to be here to be heard. He agreed that most PB meetings don't necessarily involve public feedback but it is about opening yourselves up to the public as to what goes on here for people who really can't make it. He made a point that, at one point, PB minutes were almost eight months in arrears so if anybody really wanted to know what was going on here and couldn't make it, they were just in the dark for eight months. He added that they are caught up now, to some degree, but meeting minutes have a lag period and, especially with an issue like this that has been a hot topic and people who can't be here, they can go on the video and see what was discussed tonight on a timely basis. He said that information delayed is information denied; that if you don't get information and facts on a timely basis it is often useless to you because it is too late to act on. He added that, for him, it's a question of open government, transparency, inviting the public in to what's going on without having to be here. He said that many a times, like Mr. Dunkelberger, he couldn't make a meeting but he could sit there at 11 PM at night when things had settled down and go on video-streaming and watch the meeting. He said it's just a huge advantage for people who want to take interest but the part of that is that you might stir interest by having people watch and think they might go to that next meeting; that he saw no downside to it whatsoever.

Mr. Beckert said to put it on the agenda for the next meeting.

Ms. (Roseann) Adams said that she often uses it to see what's going on with the boards and committees; that it keeps her informed of what they are talking about and what their issues are. She added that, normally, it isn't a one-shot deal and the board is going to talk about it again and again. She said that she may have the agenda but to be able to then, because she can't come to all the meetings to see what's being discussed, that will then prompt her to want to come to see what the next discussion is about and hear about it. She added that minutes are something that are wonderful but, for whatever reason, they don't get done in a timely manner it throws you out of the loop of what's going on in Town; that she didn't think, with our lifestyles and the way things are with families, that we can get to every meeting that occurs in the Town. She said that it is really helpful to her to have that ability.

Ms. Meyers said that she hoped that Mr. Beckert, in his position as Chair of both boards, that you are hearing us because it's really alarming to hear that there's talk of eliminating video-streaming, overall, in the Town and cutting it out of the budget.

Mr. Beckert said that that was brought up by one Selectman at one meeting, so far, and it hasn't been discussed any further.

Ms. Meyers said that, if it is, she hopes the PB has heard us.

Ms. (Donna) Murphy said that she would like to say to keep in mind that there are many people who work or have jobs that sometimes require them to work late unexpectedly; that she had intended to be here at 7PM but had something come up with her work that prevented her from getting here until 7:30 PM and has no way of watching a video to see the conversation that happened from 7PM to 7:30 PM.

Ms. Horner asked if we could find out how many people use that service every month.

Ms. Pelletier said yes.

Mr. Beckert said that he would like to know how the legislature handled this, as they had this in committee, this issue of video-streaming, and he never heard how that came out, if it ever came out of committee.

Ms. Pelletier clarified that they were discussing participating in a meeting via video-streaming and she would find out.

#### **ITEM 9 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for April 23, 2015 at 7PM.

#### **ITEM 10 – ADJOURN**

There was a motion and a second to adjourn the meeting at 9:05 PM.

  
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Steve Beckert, Chairman  
Date approved: 5-5-15

Respectfully submitted,

Ellen Lemire, Recording Secretary