ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Ed Cieleszko, Christine Bennett, and Melissa Horner.

Also Present: Doug Greene, Planner.

Absent: Casey Snyder – Alternate (excused).

Voting members: Dennis Lentz, Ed Cieleszko, Christine Bennett, and Melissa Horner.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

ITEM 5 – OLD BUSINESS

A. Marijuana Ordinance

Mr. Lentz said that it seems we've gotten a bit out of sync and that we should straighten out what we're going to do and which way we go forward.

The Planner added "Marijuana Establishment" to the Table of Land Uses, with 'no' in all zones except the C/I Zone, in which he placed 'yes'. 'SPR' will be added to clarify the 'yes'.

Mr. Lentz asked where we might put the note that social clubs are not allowed. He added that he sees it buried in the ordinance but should it be a note in the Land Use Table.

Mr. Cieleszko said that that is well-established within this ordinance that we're looking to adopt; that he doesn't see any need for redundancy.

The Planner said that this use is 'SPR' and, if an application came before the Planning Department, if the applicant didn't see it in the ordinance, it would quickly become clear or the applicant would be told 'social club' was not allowed.

Mr. Cieleszko said that, down the road if social clubs are established by the State, if they are, then we already have all the basis for it and 'SPR' control so he thinks we're covered right now.

Ms. Bennett said that, 20 years out, there will be other iterations of our code; that she wondered if we do want to be that explicit in the code, especially against social clubs at this time, because we have the straw poll from the voters that there would not be social

clubs. She added that, at this point in time, we have direction from the voters, so we could put it in there; that if the State-enabling ordinance changes in 20 years or 10 years or 5 years, we could explicitly put this before the voters. She said that, when she is looking to understand a town's ordinance, she goes first to the Table of Land Uses; that she advocates being explicit about this in the Table.

Mr. Lentz said that the other thing that even made him think about that is that we use the term 'marijuana establishment' and, if you look at the definition, it includes 'social club'.

The Planner said that that definition is from the State, adding that Mr. Lentz had a good point. He added that there will be an explicit footnote.

Ms. Horner asked why 'medical marijuana' is not in our Table of Land Uses; that she would advocate for that being added or added as part of the definition of 'marijuana establishment'.

Mr. Cieleszko said that it is, now; that in this ordinance, it already is added; that caregivers, etc. is all part of 'marijuana establishment'.

Ms. Horner said that she didn't read it that way.

Ms. Bennett said that she thought we had a separate section for 'medical'.

The Planner agreed it should be in the Table of Land Uses or included with 'marijuana establishment'.

Ms. Horner said that we already have the chapter for medical marijuana; that she had brought that up in prior discussions regarding whether we would strike that chapter and marry them together or are we going to keep 'medical' separate from 'adult use'; that, in the case of keeping them separate, she felt 'medical marijuana' should be added to the Table of Land Uses. She added that keeping them separate would, in her opinion, make it easy; keeping medical separate, even though there are similarities and overlap, to talk about them separately; that we already have 'medical marijuana'.

Mr. Lentz agreed.

Ms. Bennett agreed that 'medical marijuana' is already well-established and governed by the Department of Health & Human Services (DHHS); that adult use recreational will be governed by the Department of Conservation; that there are two separate State organizations that will probably have different licensing requirements, etc.; that she would argue for keeping them separate. She clarified that, even though they are both under 'marijuana', they are two totally different uses.

Mr. Cieleszko said that 'this' is going to make it harder on the Board of Appeals (BOA) when you have 'medical marijuana', 'medical marijuana retail', 'medical marijuana dispensary' laced all through this document; that everything else has its own – 'social

club' banned, "dispensaries' – SPR – and get rid of every part of 'this' that is medical-related.

Mr. Lentz reiterated the question of whether we have a separate section on 'medical marijuana' and a separate section on 'retail marijuana'.

After further discussion regarding the potential to merge 'medical' and' adult use' and future potential for divergence between the two uses, the PB agreed to keep 'medical marijuana' in Ch 33 §189 and add 'adult use marijuana' under the new Ch 33 §190.

Ms. Horner clarified that, in her edits of this draft, she will be striking anything to do with 'medical marijuana'. She added that that also means that 'medical marijuana' needs to be added to our Land Use Table. She added that we don't have a definition in our code for 'medical marijuana', suggesting they might refer from §1.2 to Chapter 11 (South Portland Ordinance definition section) that has all the marijuana definitions, if that is possible.

After further discussion, the PB agreed to have the definitions as part of the pertinent sections, with a reference from §1.2 "Marijuana" to Ch. 11, which would have all the different definitions under 'marijuana'; the formatting of this document will follow the standards of the Eliot code; 'medical marijuana' will be added to the Table of Land Uses allowable in the C/I Zone, only, as 'SPR'

Mr. Cieleszko said that, regarding (a) Separation from sensitive uses., he doesn't like churches holding us hostage to our businesses, so he doesn't like the 300-foot rule to "church, synagogue, or other house of religious worship" (2).

Regarding "The distance cited in this subsection shall be measured between the lot line of the proposed site for the marijuana store, medical marijuana retail store or medical marijuana dispensary and the lot line of the site of the use listed in (1), (2), and (3) above at their closest point.", the Planner asked if it was the building from the lot line of the adjacent property or is it building to building; that it seems like, if it is lot line to lot line, that is definitely very problematic and, if it's limited to the C/I Zone, he doesn't know if 500 feet would work lot line to lot line; that maybe it should be building to building.

NOTE: Appeal for Sweet Dirt, LLC was regarding the Sweet Dirt building to the abutter's lot line.

Ms. Bennett read, "No marijuana store shall be sited within 500 feet of the lot line of a public or private school…", saying that she read that as the building (marijuana store).

There was agreement.

Ms. Bennett said that the term 'entity' is really vague to her, and non-concrete, so she is having a problem with that…"A marijuana store is an entity licensed to purchase adult use marijuana from a marijuana cultivation facility and to purchase adult use marijuana

products from a marijuana products manufacturing facility and to sell adult use marijuana to consumers." (State definition).

Mr. Cieleszko said that that was not clear enough for planning purposes. He again suggested adding 'structure' directly after 'marijuana store'.

Ms. Bennett said that we would leave the definition the same in Chapter 11 but in the actual performance standards we say it's a 'structure'.

The PB agreed to add the word 'structure' to 'marijuana store'.

Mr. Lentz asked why the minimum distance was 300 feet for a church and 500 feet for a school.

Mr. Cieleszko said that he was proposing to get rid of the 'church' altogether.

Ms. Horner said that the distances came from the South Portland ordinance.

Mr. Lentz clarified that he was asking how we explain the difference.

Mr. Cieleszko said old-time Christian _____; that as a devil's advocate, and he hates this but, if it fails in the Town because they want their churches protected, we might be throwing the baby out with the bathwater

Mr. Lentz said that he thinks there are three churches on Route 236 where this could have an impact.

Mr. Cieleszko said that those people who go to those churches will be outraged if they think there's going to be a store next to them; that you'd lose the whole religious vote.

The Planner asked if those wouldn't fall into some kind of public facility in (3).

Mr. Lentz said that it seems that that covers it. He asked about (3).

Ms. Horner said that she added "(3)…500 feet of any public facility, residential property, or childcare facility." separately from the South Portland document; that that paragraph needs to be discussed because we added the word "structure" and is now conflicting.

The PB agreed to drop the paragraph that starts "The distance cited…". They also agreed to change the word 'city' to 'planning department' and the numbering related to Separation of sensitive issues.

Mr. Cieleszko asked for clarification of the next paragraph that starts with "The Planner will only verify distances…".

The Planner said that the Planner would confirm that the minimum distance is being recognized.

Mr. Cieleszko suggested that that put a liability on the Planner that is not called for.

Mr. Lentz suggested that that would be under the purview of the CEO.

Mr. Cieleszko said that it's the applicant.

The Planner said that we aren't supposed to be confirming dimensions; that we have to look at and review them but the onus is on the applicant.

Mr. Cieleszko said that he did not like this whole thing; that this adds a liability to us that is nowhere else in the ordinance

Mr. Lentz said that he didn't read it that way; that it's saying that he will only verify – he will not measure it but only verify.

The Planner said that that was how he took it but he did see Mr. Cieleszko's point.

Mr. Lentz agreed that he saw it, too.

Mr. Cieleszko said that his duties are within Chapter 33, everywhere, well-established within the SPR guidelines. He added that this paragraph is somehow more related to South Portland and has nothing to do with us.

Mr. Lentz gave an example of a scenario – if we get into a public hearing and we have said that this is 500 feet and the abutters says that it isn't, as he's had it measured, then somebody has to verify it.

Mr. Cieleszko agreed but it wouldn't be up to the Planner; that if it was for the PB, we would say to the applicant to bring us a certified measurement from an engineer – a certified, stamped site plan; that then the abutter can come in with his and, if it doesn't work out, then we choose one or the other and it goes to court, anyhow.

Ms. Bennett said that she thinks Mr. Cieleszko is right because this is going to go through site plan review and, as she reads this paragraph, it is stating that the Planner will somehow verify something that's already been permitted and approved by us; that the Planner is going to do this only "*once all the Town-required licenses, permits, and approvals are issued.*"

Mr. Cieleszko said that that's even worse; that now, after the fact, the Planner has to go to work.

Ms. Bennett agreed and she would strike that section, as well, the whole paragraph; that the distances from existing uses is going to be determined or discussed during site plan review; that we don't then need the Planner to verify it.

Ms. Horner said that she actually doesn't read this paragraph at all the way the other members are reading it; that she doesn't think the second part of this paragraph has been taken into consideration. She explained that, if a retail store opens up in, say, Eliot Commons, the Town can't stop a childcare facility from moving in next door; that that's on them because it says that the Town "will not preclude a sensitive use listed in (1) or (2) above from opening at a location within the applicable buffer zones." She added that she reads it that the Planning Department is going to verify the distances because everything's been issued to the childcare facility that wants to open up. She clarified that, to her, the Planning Department is going to say to one of the 'sensitive uses' listed that this has been verified so we can't stop you from opening within this verified buffer zone of 500 feet.

Ms. Bennett said, so, if there was an existing 'sensitive use' - a childcare facility, we would not permit the marijuana facility from being sited there; however, once the marijuana facility is sited there, a 'sensitive use' could choose to be there; that we aren't going to do the reverse of this ordinance and say that they can't be within 500 feet of this established marijuana facility.

The Planner said that he thinks the next paragraph states that more clearly.

The PB members agreed.

The Planner asked if we needed to keep that sense about not precluding a 'sensitive use' or does the next paragraph down kind of take care of all that; that then we don't need "the Planner will verify…".

Ms. Horner said that she thinks that having the Planning Department verifying it, that puts the responsibility on the 'sensitive use' and, in fact, not go to the store to ask if they have their radius approval for the 500-foot buffer.

The Planner said that, if they are coming in new to locate there with a site plan and may, or may not, have a professional service doing all of that, but that's on them; that the Planning Department is always going to review all that stuff, anyway, as a matter of course.

Mr. Cieleszko said that that paragraph (2nd) is not needed, still.

Mr. Lentz suggested we leave it in there, for now, and we'll come back to it again; that we'll think about it and we'll move on.

Mr. Cieleszko asked if there was no consensus.

Ms. Bennett said that, after reading both of them, she is seeing some similarities touching on the same issues; that in reading the next paragraph down, she is more concerned about it than the one before it. She added that she gets the first paragraph and just means that if it's got the right setbacks from a 'sensitive use', it gets sited and is fine; that, then, that does not preclude a 'sensitive use' from siting near it; great, period, she likes that. She said that, however, when you go down to this next paragraph and read it means that that 'sensitive use' can be co-located within the established buffer zone.

Mr. Cieleszko said that that only adds liability to our Planner for no reason; that if you put any public official in that sentence, it's not right; that we then attack that next paragraph. He reiterated that he thinks we should remove that paragraph and move to the next paragraph.

The Planner suggested keeping it simple by saying that any of the above listed uses, (1) or (2), may move into the buffer zone after a marijuana facility has established itself there.

Mr. Lentz said that that's what the next paragraph says.

Mr. Cieleszko agreed.

Ms. Bennett said that, however, it then has the caveat that by doing that that 'sensitive use' could actually be putting that marijuana facility in jeopardy, a permitted use, due to some other use.

Ms. Horner said that she heard what Ms. Bennett was saying but she thinks, even if we took that out, it still doesn't happen what could happen on a federal level; that this basically indemnifies the Town saying that, if that does happen, the Town's not going to get in trouble for allowing that to happen.

Mr. Lentz said that the risk is on the marijuana facility.

Ms. Bennett said that, then, maybe we shouldn't allow the 'sensitive use' to come in after the fact.

Ms. Horner said that might be illegal.

Ms. Bennett asked if it was, though; that we can say what the distance is of 'this' from 'that'; that we're saying that the marijuana facility can't be within 500 feet of a 'sensitive use'.

NOTE: Video stream jumped several seconds, which missed some discussion. Full text of paragraph under discussion:
"A marijuana store, medical marijuana retail store, or medical marijuana dispensary may continue to operate in its present location as a pre-existing use if sensitive use as listed in (1), (2), or (3) above later locates within the applicable buffer zone; however, the

marijuana store, medical marijuana retail store, or medical marijuana dispensary does so at its own risk, and Town issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, medical marijuana retail store or medical marijuana dispensary near a sensitive use listed in (1), (2) or (3) above."

Mr. Cieleszko said that "Town issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a marijuana store, medical marijuana retail store or medical marijuana dispensary near a sensitive use listed in (1), (2) or (3) above." There should be a paragraph after that word (marijuana store) and the rest of it just gone; that that's a stand-alone sentence; then, for example, that the Town shall not he held liable for granting this license because we are granting a license for a federally illegal product.

Mr. Lentz said that we are in the State of Maine, where it is legal, so you can't use that as an argument.

NOTE: several minutes of video would not play.

It was agreed to get input from the AURCC (Adult Use Retail Cannabis Committee) on this particular discussion.

Ms. Horner said that, regarding the canopy limit, it would be limited to what you can be permitted at the State level; so, the "10,000 square feet" is struck and this will be tied into State tier levels.

Mr. Lentz said that that would tie into our licensing.

The PB was in agreement.

Ms. Horner discussed section (d) regarding separation of marijuana stores from each other. She said that the AURCC actually mentioned this and she thought we should have another discussion about this because it is another restriction. She said that her interpretation of the intent of this section is that, as an example, in Colorado, it used to be marijuana stores all down the street – blocks of stores – but, of course, supply and demand will change that – but she thinks the intent was so that it won't be like her example.

Mr. Lentz said that this one is different as far as how close it can be and the restrictions on that; that it's not a property line to structure but, here, it's measured between the closest points of the storefronts.

Ms. Horner said that she thinks we should take this out because, much like the church thing, she thinks it's a limitation on business and supply and demand and customer service; that she doesn't feel like Eliot should be restricting. She added that she had used the Eliot Commons as an example as a place where a store could go, anyway, but that's

pretty much one of the only places in Eliot that has multiple storefronts. She explained that it doesn't seem fair to her, as a business owner especially, that just because the first person got in there means that, now, she can't ever open a business there because they got there first.

Mr. Lentz asked if we would allow more than one store in Eliot.

Ms. Horner said that, as of right now, there are no restrictions at all; that the zoning is restricted.

Ms. Bennett said that she thinks it comes down to planning philosophy; that right now we have no restrictions and she is in support of equal treatment. She said that we don't restrict auto sales, or boat storage places; that they can co-locate and be right next to each other; that we don't differentiate uses, as far as having separation. She added that maybe we should; that the tone and texture of Route 236 would be different if we got in there and tried to tinker with it with our planning code; that in the absence of taking that intensive, pro-active stance on what our C/I District is going to look like, she would argue against having any sort of separation clause in here between retail marijuana facilities because, as Ms. Horner said, let the market and landowners decide.

Mr. Cieleszko said that also, in the State law, which was referenced by the AURCC, he thinks there are space restrictions…video cut out…

Mr. Lentz asked how you manage that.

Mr. Cieleszko agreed and said that he would say to get rid of that and let the market work that out.

The PB agreed to strike (d).

Ms. Horner discussed section (e) Areas of activities; control of odors and emissions; sealed walls; disposal plan; security. She said that (1) basically describes what the activities are and that they should be happening indoors; that they aren't permitted to do anything outside; that there is this 'shared' language. She added that she thinks we should leave that in here; that if we leave that in here then that needs to be added to the medical marijuana ordinance, as well.

Ms. Bennett suggested separating out the last sentence and make it its' own section in this because it describes the co-location.

After further discussion, the PB agreed to keep the first two sentences of (1) and strike the third sentence.

The PB discussed (2) Odors (and ventilation); that they would be interested in getting AURCC input, as this is an important issue to address but could be too open to interpretation.

Ms. Horner said that, to her, this is saying that, if you are growing it, you need a filtration system but, if you aren't, you don't need a filtration system but you need to meet the same standards; that it seems weird to her that the Town would say you have to have 'this' specifically.

This wouldn't pertain to packaged products.

Mr. Lentz said that he thought the first sentence was important but he doesn't see the need for the details after that; that we have an odor ordinance.

Ms. Horner suggested keeping the first and last sentences.

The PB agreed.

The PB agreed to keep (4), as redundancy was not harmful and noxious gases and fumes for marijuana manufacturing was different enough. They also agreed to keep (5) and (6).

The Town does not allow any drive-throughs (g). Home delivery is also part of this section.

Ms. Bennett said that "*medical marijuana registered caregivers and assistants may provide home delivery services*"; that that should be transferred to the medical marijuana ordinance.

Ms. Horner said that they do, anyway, because we don't restrict it.

Ms. Bennett said that, if it doesn't say we can't, then we don't need to.

Ms. Horner said that she is nervous about adding stuff to the medical.

The PB agreed to keep note of what they might want to add for later.

The PB discussed striking (i) because it's redundant to say that the manufacture of marijuana is only allowed in 'this' zone (C/I) because it's already in the Table of Land Uses. The PB agreed.

Ms. Horner discussed (j) Inspections. She said that she had an issue about limiting the number of inspections because this means, to her, that you just have to show up every day of the week looking for violations; that we don't do that to any other business but she's not sure of what laws might be applicable to the meaning of 'intervals'.

Mr. Lentz said that we included all the fire codes from the Fire Chief, which is good. He added that, to Ms. Horner's point, the CEO or Fire Chief will visit the facility to give them the Occupancy Certificate; that, to him, that would say that they're going there every year to give them their updated certificate, not dropping in whenever they want to.

Ms. Horner read the last sentence as they can do that.

Mr. Cieleszko asked how that is related to our regular businesses; that it shouldn't be any different than any other business. He added that he didn't know what set off an inspection by the Fire Chief.

Mr. Lentz asked if the fire code wouldn't cover the amount of visits he has to make.

Ms. Bennett said that, typically, random visits come from the State; that when she was producing food, State inspections could happen randomly but not locally; that it came as part of her State licensing.

Ms. Horner said that that is at a federal/state level and this is giving provision at our Town level; that it makes sense that the health inspector would come in at any time to make sure they are wearing gloves, they have hair nets on, etc. but it bothers her that the Fire Chief or CEO of Eliot can just pop in to make sure of…what.

Mr. Cieleszko recommended that we ask the Fire Chief what the standard protocol is; that it might be in the State codes, asking what he has to do for every business in Town as a current practice.

Mr. Lentz said that there is a list of things they are going to inspect so you would think that there is a schedule of how often that would be done.

Mr. Cieleszko said that this might be needed, here, because of the sensitivity of the product; that he would like clarification from the Fire Chief what is mandated for him to perform his job.

The PB will leave this in until they get something back from the Fire Chief.

The Planner said that he would ask the Fire Chief.

The PB agreed to keep (k) and (l).

(m) Parking is based on §45-495 Schedule of minimum parking requirements. The Planner will need to add this to this section in the code, listed as marijuana establishment use. (m) will be struck and then needs to be restructured into §45-495, as the different facility types will have different requirements. After discussion, the PB agreed to keep parking in this with a reference to §45-495(15).

(n) Signage and advertising.

Mr. Lentz said that the Planner, as well as the PB, had an issue with this wording.

The Planner said that it gets complicated; if you can't show a symbol and you can't use the word, how do you advertise.

Mr. Cieleszko said that this is a retail establishment; that we can't do that to anybody.

Mr. Lentz said that the State says that you can; that the State says that you can't use symbols or the word on the sign, if he remembers reading it right.

Ms. Bennett said that she's inclined to say that you can't; that we shouldn't be discriminating against them, but, if the State…

Ms. Horner asked why not; that we don't allow adult establishments in Town. She added that she's actually for keeping that in.

The Planner asked how they would advertise, then.

Mr. Cieleszko said that liquor stores are allowed to advertise with the word 'liquor'.

Mr. Lentz asked the Planner if we could get a reading on that from someone higher up.

The Planner said yes.

Mr. Lentz said that maybe Southern Maine Regional has a feel for that.

The Planner said that he would like to know what the State says, specifically.

Mr. Cieleszko suggested we could come up with a reading on that for the next meeting.

Mr. Lentz agreed that we should do that.

Mr. Cieleszko said that we should then be as liberal as possible.

Ms. Horner said that (o) is going to be struck because we already have it in the definitions (social clubs prohibited) for land use. She added that (p) is the catch-all at the end just in case we miss something; that what we added was the State and local licensing. She will revise the document based on tonight's discussion and include the revision date.

Mr. Lentz said that we decided the definitions would go right into the code.

Definitions would go into the chapter with reference in §1.2 to the chapter.

Mr. Lentz said that, along with that, all the licensing for a public hearing; that that might be a bit premature.

The Planner said that he thought we should probably have all this condensed into one, have our tables and everything ready to go; that he thinks we still have a few questions unless the idea is to work those out in public hearing.

Mr. Lentz said that the question still is, regarding the application package, is do we have a separate site plan application for marijuana or is it one application that is modified to cover marijuana now; that that is going to be in-house for the Planner to do; that we can criticize what is done or we can endorse it but we can't do it.

Ms. Horner said that she had pulled that on her own because she was doing a bunch of research into writing it.

Mr. Lentz said that he thought it was great; that he thought it was a good piece. He added that he kind of kept it in three pieces.

The Planner asked if they used a specific application or just a standard.

Mr. Lentz said standard. He asked if we want to move on a bit; that he didn't want to keep everyone much later but we need to do something about subdivisions.

B. Ordinance Revisions

1. Subdivisions

The Planner said that this all came about because of a couple of subdivisions that are existing in Eliot; that one is just being finished, and he thinks it was originally approved 20 years ago, and one is about 1/3rd of the way through and it was approved about 15 years ago. He added that, as it is currently written, we don't have any expiration on subdivision approvals, which is unique. He said that he has been using Saco and South Portland as templates and the standard there is either one or two years; that he is proposing using Saco, which is two years for substantial construction, three years for completion.

Ms. Horner asked, just out of curiosity, what is South Berwick language.

The Planner said that he didn't know; that he's not familiar. He added that our CEO said that it's pretty typical to have that in there and, in section 33 for any other development, there's an expiration date that is existing. He said that, in §33-59 Expiration of site plan approval it says, *"The approval of a site plan review under chapter 33, article III shall expire if the work or change involved does not commence within two years of the date the planning board makes its determination of approval under section 33-131, or if the work or change is not substantially completed within three years after such date. This provision shall not apply to subdivisions."*

Mr. Cieleszko asked if we could use that same set of criteria within subdivisions.

The Planner said that we could; that subdivisions are typically a great deal more laborious to get together for permitting and approvals so he thought providing that 2-year extension, as Saco does in their ordinance is reasonable and sensible. He added that the whole thing is that what it is really doing is, if someone wasn't done after 4 years, then they would just have to come back in

for site plan approval and unless the ordinances have changed substantially or the understanding or thinking has changed or attitude in Town, then they should get approved again, if necessary.

Mr. Cieleszko said that he thinks that, after all that legwork where they're actually waiting for the starting gun in getting their permits and stuff, by the time that all the changes the PB has asked for and everything that goes through it, they can't start the next day, they then lay down their work schedule, etc, and probably doesn't start for six months after the permit. He added that, even in a small project in Town, in Chapter 33, we're giving them 3 years for a substantial start to any ordinance changes.

The Planner said that that's really the meat of it, to give them the necessary time, a fair allowance of time, but also there is a cut-off point.

Ms. Horner said that, if this ordinance change goes through and it is passed in June, does that mean that it would take effect in a subdivision that's not finished and they would have to adhere to these rules.

Ms. Bennett said no.

The Planner said that it wouldn't affect them retroactively. He added that he thinks it's a good protection for the Town.

2. Fence

The Planner said that this was a recommendation from our CEO but he was told we should hold off on that, right now, by the Town Manager. He added that the CEO doesn't like the ordinance, that it could cause the Town some issues, and he hasn't seen it anywhere else.

3. Septic

The Planner said that he did discuss this with our CEO; that this would be any new system or modification to an existing system and would require a septic design by a licensed individual.

Mr. Cieleszko said that there was another part that referenced different ordinances that had to be changed; that we actually have that coming up. He added that there were 5 or 6 things on one page and, then, the septic on the second page; that all those things had to be addressed to get our ordinances up to snuff with current State law.

Mr. Lentz said that he doesn't know what the Planner wants us to do with all these documents we got today, other than they are references of what he is working on. He asked if the Planner wanted PB comment or wait until he had finished working on these.

The Planner said that we have fairly-well exhausted ourselves on the marijuana; so, if we want to spend more time on this, that's fine.

Mr. Lentz asked what the PB wanted to do; that there's a lot to look through here.

The Planner said that some of this is only language change; that the substantive stuff is only in regard to the subdivision, the master fee schedule, and the septic.

Mr. Cieleszko said that we have worked through a bunch of these; that the Planner has to find Ms. Prescott's work on the contingency fees and the subdivision things the Planner is going to present to us at the next meeting.

Mr. Lentz said that he would suggest that things like punctuation, and things like that, that the Planner go ahead and change but anything of substance we need to look at.

The Planner said that he would find Ms. Prescott's earlier work on the application fees.

Ms. Horner said that she likes to see some continuity about how the documents are being edited so, typically, things get struck out but stay, new language is in bold and, then, personal notes or ideas are usually highlighted, with all in black. She added that that would be easier for her to sift through everything knowing that everything that she's looking at is the same edit.

Mr. Lentz asked if the Planner wanted to take these, one-by-one, and review them with him; that that's the question, still.

The Planner said that he is game for that, if the PB wants to do that.

Mr. Lentz asked if that was what the Planner was looking for.

The Planner agreed that that is what he was looking for.

Mr. Cieleszko asked, if we are going to do that, is 'this' your list.

The Planner said yes.

Mr. Lentz said that one of the things he thinks would help is one of the emails the Planner sent to him that had a laundry list of all the files we were touching; that we would then have the documentation and could see which ones we are checking off of the list as we go. He added that there are 20 or 30 of these and each one is a separate portion – chapter or section. He asked the PB if they wanted to go through the list and say which ones we are saying okay to.

The PB agreed.

§41-36 – Filing, recording of plan

Mr. Cieleszko said that it seems to him that this is giving less time for a subdivision than it is for a single project.

This was held for more discussion.

§41-91 - Preliminary procedure

This change is okay.

§41-141 – Submission of application and required notices

This change is okay.

§41-142 – Application fees

Mr. Cieleszko said that this is the one that Ms. Prescott did work on and should be set aside for further discussion.

The PB agreed.

§41-178 - Appeals

This was held for more discussion to compare to §33-82.

§41-182 – Plan revisions after approval

This change is okay.

§33-59 – Expiration of site plan approval

This change is okay.

§33-82 Appeals

This will be held for further discussion.

§33-126 – Application for review

This change is okay.

§33-128 – Application fees

This will be held for further discussion.

§33-129 – Public hearing generally

The Planner said that the reason he put 129, 130, and 140 in here was in reference to the conversation that Ms. Lemire, Mr. Lentz, and he have had in regard to the last application. He explained that Dubin and XNG were really amendments to existing, approved site plans and he wasn't familiar with §33-140, which defines the process whereby you administratively approve that without public hearing; that he said that we've

given the go-ahead but h told the applicant we're going to have them go to a public hearing just so there's total transparency. He added that Ms. Lemire had expressed the concern that we've made this decision and now we're having a public hearing so we'll have to rescind the decision so we can have a public hearing so that, if there was a comment or a problem that needed to be addressed, it would then be a 30-day window to appeal that; that the solution to this was that we would have a public hearing but, if somebody has a concern and they come to the meeting, we will hear it and try to address it; that it really wasn't open for an appeal because it was really an administrative decision; that it was an approved site plan and it was so minor that we had all the information necessary to render a decision.

Mr. Cieleszko said that he was totally confused. He asked if we were going to have a public hearing on XNG in the near future.

The Planner said that it's scheduled for February 19th.

Mr. Cieleszko said that this is the first he's heard about it; that we didn't do that at the meeting.

Ms. Bennett said that what she thinks she's hearing is that, when the application came in, the Planner assumed that it would go to public hearing and then we heard and decided the application that night.

The Planner said that he had had abutters noticed and done the procedure for a public hearing but, because the 30-day appeal window ends on the 16th, we couldn't then have a public hearing…….he basically included this information so that we were all on the same page as to why it transpired as it did. He said that, if an abutter comes with a concern, we'll hear them and address it but there is no recourse because the decision has been granted.

Mr. Cieleszko said that a lot of decisions are made without public hearing, minor things are made, that there's still an appeal date.

Mr. Lentz said that when he found out what happened he said to The Planner that he didn't realize we were on different tracks; that in his mind not everyone, every application requires a public hearing and, when the Planner read it, he thought it did so he went ahead and scheduled the public hearings; that the Planner contacted all the people and they are okay with coming. He added that the issue becomes, if there is something critical that comes up from an abutter that we didn't think of, then how do we kind of get out of that mess – we've already approved it, we missed something, they found it…..this is the process, this is what we should be doing.

§33-132 – Performance guarantees

The Planner said that, with one of the projects in Town, we haven't had as-built plans from them until we put their feet to the fire to get them and no one knew when the bonds

or sureties lapsed on that. He added that we have proper language for performance guarantees, so he's not concerned with that, but he wants to make sure that we don't release the guarantee until we have as-built plans and we can actually confirm that the infrastructure that was built, for which that bond is acting as surety, has been done properly before it's released.

Ms. Horner asked if the highlighted words were the only new language.

The Planner said that it was and everything else is as it is currently written.

Mr. Lentz asked if, with that new addition, are we okay.

The PB agreed that they were.

§21-2 – Designation, duties of building official

Mr. Cieleszko asked how this change came about.

The Planner said that this was part of an earlier packet that was discussed with the PB and Ms. Prescott; that he talked about this with the CEO and he said that this falls under his jurisdiction; that he would want a new soils test done for any modification to an existing system or new construction.

Mr. Cieleszko asked what was wrong with the old one with just new construction.

The Planner said that he thought the language, as it is written now, is gender neutral and simpler.

Mr. Cieleszko said that he doesn't see it as simple; that he sees it as way more…

Ms. Horner said that it's a really big addition.

Mr. Cieleszko agreed that it's a big addition to the current rules. He added that, instead of new construction where there's no history on the site and you're putting in a septic system, you want verification – the soils test; that now you're saying that some farmer who has been on his 100 acres for 50 years says it time to move the septic, or whatever; that that's his gig.

The Planner asked if that wouldn't be like a subdivision approved 40 or 50 years ago with the understandings and code impact from those days, permitting that now.

Mr. Cieleszko said that it's still new construction…

The Planner clarified that he's talking about requiring the soils test…the CEO said, and he would agree with this, that you have to determine what the soil-bearing capacity is;

that, if you are modifying an existing system that was deficient to begin with, how are you going to determine that.

Ms. Bennett said that you are also requiring a modification to adhere to the current plumbing code.

Mr. Lentz said that what it is saying to him is that if you require a septic system design to be done, new construction or modification, you have to get a soils test.

Ms. Bennett added that it would have to be done by someone licensed by the State of Maine.

Mr. Cieleszko said that he sees it s an unnecessary restriction on existing systems.

Ms. Bennett said that she appreciates that; that she has a 30-year old system, asking if she should be allowed to not even tell the Town that she's going to modify her system and do it however she wants to do it and not look at what the current code is.

Mr. Cieleszko said that you still need a construction permit from the Town for that.

Ms. Bennett said that right now it says only new construction.

The Planner said that the CEO can verify some plumbing, electrical, and construction work but he can't verify soil capacity and what potential impacts a system is going to have on a particular area.

Ms. Bennett said that you need someone on-site who knows the code to know how far the distances from groundwater to know what the perc is to modify your system.

Mr. Cieleszko said that modification includes repairs, too, a broken pipe, a new cover…a new soils test.

The Planner said that he thought there was probably some discretion involved; that if you're replacing a flange or a stretch of pipe, that's one thing; that if you're changing a tank, a bed, a leech field, that's something else; that he thinks this is talking about a wholesale modification of your system.

This change is okay.

4. Master Fee Schedule

Mr. Lentz asked if the Planner wanted to talk about the fee schedule.

Th Planner said that that is not commonly built into the code so that it can be amended as necessary; that the proposal is to take the fee schedule out and have it be a stand-alone document that we would reference in the code as the Master Fee Schedule.

Mr. Lentz said that this document would not only be land use fees but it could also be permitting for 'this' and permitting for 'that'.

The Planner agreed; that the Town Manager has asked the departments to go through and reassess their fee structure.

Mr. Lentz said that he sent a copy of that to the Budget Committee because it may have a revenue impact.

Mr. Cieleszko asked if this was §41-142 Application Fees.

The Planner said that it references fee so he was changing the language so that it would correspond and reference.

Mr. Cieleszko questioned the draft wording of §33-128 Application Fees.

The Planner read the draft language, "The applicant shall continue to replenish the account to fund any independent, third-party engineering inspections required by this code to assure that any approved streets or improvements are installed according to the specifications of the application. The Board shall continue to notify the applicant and require additional funds be deposited, as necessary, whenever the balance of the account is drawn down by 75 percent of the original deposit."

Mr. Cieleszko said that that was dropped.

The Planner said no, that it was rewritten so that it wasn't so specific.

Mr. Cieleszko said that the way the Planner wrote that, the PB decided was not for us.

The Planner asked what was for the PB.

Mr. Cieleszko said that it was language written by Ms. Prescott; that he was going by memory but it was more case-by-case to demand monies, when needed, and no emergency fund; that that work is somewhere back there.

The Planner said that he has seen it; that he just saw it today.

Ms. Horner said that she thought we had agreed to work some language in there about it being above-and-beyond the scope of the Town employees that we have, not willy-nilly we hire someone but that we had to go through a procedure where we talk to the CEO, DPW Director, etc. and then, if we were not satisfied, we would hire an outside expert.

Mr. Cieleszko said that he thought there was a 10% add-on just to cover some things (ex: underpaid fees) that would be reimbursed if not used.

ITEM 6 – NEW BUSINESS

There was no new business.

ITEM 7 – REVIEW AND APPROVE MINUTES

Due to the lateness of the hour, approval of minutes was deferred to the next PB meeting.

ITEM 8 – CORRESPONDENCE

There was no correspondence.

ITEM 9 – UPDATES

There were no updates.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for February 19, 2019 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 9:15 PM.

Dennis Lentz, Chair
Date approved: 3/8/2019

Respectfully submitted,

Ellen Lemire, Recording Secretary