

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Larry Bouchard, Greg Whalen, Ed Cieleszko, Christine Bennett, and Melissa Horner – Alternate.

Also present: Ms. Cole-Prescott, Planner.

Voting members: Dennis Lentz, Larry Bouchard, Greg Whalen, Ed Cieleszko, and Christine Bennett.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public comment.

ITEM 5 – REVIEW AND APPROVE MINUTES

Ms. Bennett moved, second by Mr. Whalen, to approve the minutes of February 6, 2018, as amended.

VOTE

4-0-1 (Mr. Bouchard abstained)

Chair concurs

ITEM 6 – REVIEW “NOTICE OF DECISION” LETTERS

No letters were reviewed.

Note: The Chair asked to take the agenda out of order to elect the Vice Chair position. There was discussion regarding adding the position of Secretary, as well. The PB agreed to take the agenda out of order as well as discuss the need for the Secretary position.

ITEM 7– PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED

D. Election of Planning Board Vice Chair

After further discussion regarding whether to elect the Secretary position, it was pointed out that the current by-laws require the Secretary position. The Planning Board agreed to elect both positions.

NOMINATION OF OFFICERS:

Mr. Bouchard moved, second by Mr. Whalen, to nominate Ms. Bennett as Planning Board Vice Chair.

VOTE

5-0

Chair concurs

Mr. Bouchard moved, second by Mr. Whalen, to nominate Mr. Cieleuszko as Planning Board Secretary.

VOTE

5-0

Chair concurs

A. Revise By-laws for completion

i) Revised By-laws (distributed at the February 20, 2018 Planning Board Meeting)

ii) By-law Revisions Compiled by Board Member Cieleuszko

There was discussion of the pros and cons of **1. General Provisions c.**, as amended, versus Mr. Cieleuszko's proposed wording.

Mr. Cieleuszko said that his proposal was to keep it as simple as possible for our duties, as a Board. Regarding 'conflict of interest', he said that when you have a specific list of 'conflicts', then anything outside that list is open to argument from attorneys and people down the road. He added that the other aspect is that there is no mention of bias and bias is an important part of recusal; that, as an example, a member is a friend of the applicant and they go out once in a while but the member doesn't feel it's going to affect his decision-making, then it's on the table and the PB can decide on it; that another example is if another member commented that he knows the applicant and the member goes with this guy all the time and that he hasn't brought it up, or, he's fought against an issue before and that history has an appearance of conflict then, again, the Board can ask questions, with the member only abstaining from the vote, because that member should respond to the discussion in looking for any bias. He said that, once the vote is taken, the member sits in the audience, if bias is determined.

After further discussion, the PB agreed to the following language: "*Any question of whether a member must be disqualified from voting on a particular matter due to a conflict of interest or bias must be decided by a majority vote of the members present, except the member who is being challenged. Any member of the Planning Board who has a conflict of interest or bias with an application may voluntarily step down. If there is a question of a conflict of interest or bias brought by another member of the Planning Board, or the applicant, or the public, the member may be asked to step down after discussion and a majority vote by all members, except the member whose potential conflict or bias is under consideration.*"

1. b. was accepted as amended.

1. f. was accepted.

1. g. was stricken.

2. c. placement was accepted.

3. a. ~~iii.~~ is amended to say: "...Attendance, alternate member voting rotation, and first edit of draft minutes shall be kept by the Secretary."

5. b. i. is amended to say, "...specified on the Town calendar ~~and open to the public.~~"

Special Meeting: "c. i. The Chair or other presiding officer, upon majority approval of the Board, may call a special meeting at any appropriate time, to conduct necessary Board business." The second sentence is stricken.

Emergency Meeting: accepted as amended.

5. b. ii is amended to say, "The Chair will read any written material after the application presentation but before the attending public speaks."

6. **FORMAL PUBLIC HEARINGS** a. ~~strike of fact and law.~~ Accepted with this amendment.

b. is amended to say, "When an application requires a public hearing, the ~~Chair~~ Board shall specifically schedule a ~~formal~~ public hearing before a final decision is made. Notice of hearings will be provided according to the applicable ordinance requirement." Accepted as amended.

7. a. is amended to strike ~~updating~~ and replace with implementing.

7. b. is amended to say, "*Since the work sessions are for Board discussion, input from the public is generally limited, although input from staff, boards, the public, and groups is permitted at the discretion of the Chair or by consensus of the Board.*"

Severability – This will be made its own separate clause (9.)

Ms. Horner will make a clean copy for the PB's review and approval.

B. Growth Permit Ordinance: Timing of Ordinance/Public Hearing and Warrant for Permit Fee Revisions

i) Excerpts of Previous Planning Board Minutes

(1) February 28, 2017

(2) June 20, 2017

Ms. Cole-Prescott said that, as far as the timing of the ordinance for ordinances moving forward, her thought was to plan for the November Warrant, which would give the PB plenty of time for public hearing(s), with extra notice period. She added that she could put together a timing document on that, if the PB would prefer; that she is sure that there are some ordinances that were under discussion with the former Planning Assistant, that she does have some planning files in her office, so those are things she can bring forward; that if there is any input from the PB on what else should be prepared, we can do a timeline on those and figure out exactly how we want to move forward. She added that she could put together the proposed timeline for the PB's April 3rd meeting so you have plenty of time to prepare.

Growth Permit Fees

Ms. Cole-Prescott said that, after some research, she has found that there was the establishment of a \$500 fee in June 2015 and is in the ordinance; that it just isn't specifically listed on the CEO's fee schedule; that she thinks that that may possibly be where the confusion happened. She added that the language was to establish a \$500 fee for permits to offset the cost of administering the ordinance. \$400 of this fee will be applied to future building permit fees. She said that the CEO has been collecting those fees.

Mr. Lentz said that, also by next July, we need to get the next update for the growth permits.

Ms. Lemire added that the surveys should be sent out very soon.

Ms. Cole-Prescott said that it is not later than June 30th of each year that the Planning Board shall solicit via the Town Manager input from the different groups; that that is also one of the things on her April 3rd list for the PB meeting.

Ms. Bennett asked for clarification that we are not going to be taking up this new permit fee schedule because it's already been put into place.

Ms. Cole-Prescott said that she inherited a file dated June 13, 2017 to establish a \$100 growth permit application fee; but, after a lot of review and back-and-forth with the Town Clerk, and in our ordinances, the date of the Town Meeting where it was approved was June 9, 2015; so, as long as this was what you had in mind for that fee, it looks like what was proposed for the \$100 fee was language changes to amend the current 2015 ordinance; that so long as this was the same fee that was under discussion in 2017, it looks like what was proposed in 2017 was language revisions to clarify the ordinance.

Mr. Whalen said that the fee was bumped from \$100 to \$500.

Mr. Lentz said yes; that that is currently in place.

Ms. Bennett said that her recollection was that, at about this time last year, we were discussing adding a fee to the permitting process whereby, when people came up for

another application, they would take out a growth application just to hold their place and, when coming to the top of the list, deciding they couldn't go forward; that when they re-apply, to assess them another \$100 fee for all the paperwork that would happen in the back office associated with that; that it was an additional \$100. She added that we all agreed on it; that we failed to notice the public hearing.

Ms. Horner agreed, saying that she thinks that what Ms. Bennett is talking about is that the way our growth ordinance is working is that people are applying multiple times and there's no repercussion for that; that they are sort of bumping people off that might be able to move forward. She added that we had discussed adding a fee to every application that they submit, that they also have to submit a fee in order to hopefully deter people that were holding a spot, and that was the \$100 fee.

Ms. Cole-Prescott read the ordinance language for clarification in §29-42 (b) "A nonrefundable application *fee* in the amount specified in [section 1-25](#) (*fee schedule*) shall be paid within five business days of the date of issuance of the *growth permit*. Nonpayment of *fees* within five days of issuance shall nullify the *permit* and a new application must be resubmitted for consideration." She added that the ordinance fee schedule says "\$500.00/dwelling unit (upon replacement with a building *permit* to construct a new dwelling unit, \$400.00/dwelling unit shall be credited toward building *permit fees*)."; that it's at the issuance of the growth permit that you pay the \$500.

Mr. Lentz added that the \$100 was for the administration to process the growth permit.

Mr. Cieleuszko commented that the whole \$500 is non-refundable, if they don't get that building permit.

Ms. Cole-Prescott said that the ordinance calls it a non-refundable application fee in the amount specified in §1-25; that this is what is in the current ordinance right now and, if there is a revision proposal that the PB wants to see move forward, she'll include that on our April 3rd timeline. She added that the text from Ms. Pelletier's file says, "Purpose under Code Enforcement Growth Permit Application...\$100 application fee due upon submission of each growth permit application." She asked if the difference was that you are submitting it upon application rather than upon growth permit issuance.

Mr. Lentz said yes.

Ms. Cole-Prescott said that that is the change that needs to be made in the ordinance; that the ordinance does call it a non-refundable application fee at this time; that she thinks that's where the confusion is coming from.

Mr. Whalen said that, if he has a growth permit, paying the \$500 fee, and his 90 days starts to click; that upon the 89th day, he comes in to say he's not ready to build yet and he wants to extend his growth permit.

Ms. Cole-Prescott said that she would have to do research with the CEO.

Mr. Whalen asked if the \$100, as discussed, the fee to be paid to the Town to extend the right to pull a building permit after that first 90-day period expired.

Ms. Bennet said that her understanding was the fact that people are applying for a growth permit because they are limited; that they're just putting in their application and they may not really have anything they can actually do.

Mr. Whalen asked, in order to submit the application, don't they have to pay the fee.

Ms. Bennett said yes.

Ms. Cole-Prescott said that it's called an application fee in the ordinance; that in the fee schedule, it calls out "\$500/dwelling unit upon replacement with a building permit to construct a new dwelling unit, \$400.00/dwelling unit shall be credited toward building permit fees)."

Mr. Whalen asked if, right now, he can just continue to come in and request another 90-day extension and have it go on in perpetuity.

Ms. Cole-Prescott said that she didn't want to say yes or no because she wasn't sure.

Mr. Whalen said that he thinks that's the reason why the discussion led itself to thinking about how to stop that continued perpetuation of the 90-day right to pull a building permit; that, again, that individual or entity is staying in que and not allowing anyone else to move up the column. He added that, as he recalled, the discussion about that \$100 fee is that, every time you want to extend a growth permit, you have to put out another \$100. He asked, if his growth permit expires after 90 days, his only option to pull a building permit, moving forward after that 90-day expiration, is to re-apply for another growth permit (yes) and another \$500.

Mr. Lentz said that that was correct.

Mr. Whalen reiterated that, if he has the option to extend that growth permit with not having to pay another \$500, he's going to continue to do that; that that is what he believes has happened in the past.

Ms. Bennett said yes and what we are trying to stop. She added that the way the ordinance is written, you don't actually pay the application fee until you get the growth permit; that you can put in application after application and go in and tie up the CEO, getting back in line, filling out another application without paying the Town another dime; that this was to put in a fee for application at the time of application. She said that, when you put in the application, you should pay a fee.

Mr. Ciesleszko read "Sec. 29-43. - System for ranking applications and permits. The system for ranking growth permit applications and for ranking growth permits shall be as

follows: (1) Each growth permit application shall be date-and-time stamped upon receipt of all required information and shall be reviewed on a "first come, first served" basis. (2) Growth permits will be issued in the order in which full approvals are reached, not necessarily in the order that applications are received." He said that the CEO uses a ranking in their time and date stamps. He added, as an example, that somebody who comes in January 5th, with a time-date stamp, gets a permit – somebody comes in the 6th and has a time and date stamp on theirs – when the guy from the 5th 90 days later hasn't pulled his permit, he can't say he wants an extension; that he re-applies and, now, his time and date stamp is 90 days later and the guy with January 6th is next in line. He added that there is a ranking by the CEO and seems like a solution to a problem that isn't there, unless he isn't hearing...he's not sure there is a problem; that he doesn't know if people are doing this.

Ms. Bennett said that we do have a waiting list for growth permits; that it was conveyed to us by the former Planning Assistant that, with this waiting list, it was causing an additional workload for the CEO and that they felt, sort of, that people weren't serious about going forward with the application.

Mr. Cieleuszko said that he thought we would have to wait to see what the new Planner sees as a problem and what our CEO sees as a problem. He added that the last he heard is that we still have growth permits left over. He added that he would rather get it from the Planner and the CEO before we proceed.

Mr. Pomerleau said that it was a problem when it was proposed, which may no longer exist; that, at that time, the growth ordinance was on a downward trend when you use that 10-year average. He discussed the dramatic impact from elderly units being built on the number of growth permits just following the minimum formula, by law, which was going upward towards the 40's and 50's within a few years; that at the time this was proposed it was in the 20's and going down; that with the senior units impact, people were standing in line trying to get their application in and what happened is that we were spending a lot of time processing applications and nothing was coming in for it..

Mr. Lentz asked if we are chasing our tails.

Ms. Cole-Prescott said that her question is it is referenced as a non-refundable application fee in the ordinance but, yet, you pay it upon issuance of the growth permit; that she thinks that the point of the proposed ordinance revision, previously, was to clarify that language to when the payment happened. She added that we can get more information together on that to see if it is something you would like to pursue to move that forward with a clarification.

Mr. Lentz and Ms. Horner agreed that that would be a good start.

Ms. Bennett said that she wondered why we are not collecting an application fee when we receive an application; that when staff is spending time on something and we have an

agreement that a person can be charged for this, why are we not doing this, why are we waiting 6 or 8 months to collect that money until that permit actually gets issued.

The PB agreed that they would like Ms. Cole-Prescott to do some more research on this. It was also requested that the PB get an updated waiting list for the growth permits and how many have been issued.

At this time, the Chair jumped to discussion of the budget.

E. Review of Proposed 18/19 FY Budget

Mr. Lentz said that last month someone asked about the PB budget and if we had a budget. He clarified that it is \$13,615 approved by the Town Manager coming up in this budget cycle. He added that it includes the recording secretary, classes, MMA membership, and that kind of thing; that if the PB would like the details, he would get those details.

Mr. Whalen discussed the line item for professional fees; that one of the things he believes we've been missing over the years is requesting that third-party information. He added that the Board has relied on its own devices to provide to determine technical matters that are clearly well beyond all of our pay grades; that there has been resistance in the past to tap into those funds on the judgement call that it will be taxpayer money. He said that that's exactly why those monies are allocated, so that the PB has the opportunity to seek that third-party advice; that there are two ways to handle it – either put it in the budget and have it as a fallback or write it into the ordinance that, for any application that comes before the PB, it requires that sort of thing, with the appropriate language; that it would automatically a developer of record to pay for that third party from a preferred list of Town vendors.

Ms. Bennett said that our subdivision ordinance has that but site plan doesn't.

Ms. Horner disagreed that someone coming in to open up a small business should be responsible for paying the fee of the PB that has a question to contact a lawyer for \$700/hour.

Ms. Bennett said that she didn't think the PB would be doing that; that it is common to have peer review of technical items (engineering, stormwater, etc.) in developing a site.

Mr. Whalen said that it was a judgment call, relying on common sense regarding a small home business versus the complexity of the liquid gas storage facility on Route 236. He added that that application was 2 inches thick and he guaranteed that none of us on this PB understood much of what was presented to us; that he knew that the issue came up of using our resources that were in the budget to hire a third party and we simply relied upon the applicant to provide the answers, not having a technical background to challenge those answers. He said that he thought we all did our best to make sure there

was an appropriate check-and-balance but that would have been an ideal situation for the PB to bring a third-party review into the dialogue.

Ms. Horner asked if it was within our scope of work to dive into the technical aspects. She added, not to make it too simple, but we're supposed to just make sure they have a stormwater plan, not see the specifics of the plan; that that's up to the ACE, the CEO, the DEP, and the State; that we are just supposed to make sure they have enough of that in the application; that it's not up to us to be experts or to call in experts the way the land is sloped, for example; that we are supposed to believe the applicant when they present the information.

Mr. Lentz said that we are not the Fire Inspector, the CEO, don't judge the thickness of concrete or how sturdy the pilings are; that that is not our responsibility; that we are a land use board.

Ms. Horner said that, if they are allowed to use the land and they have the things they need to have for the other departments in the State and the Town, then that is what she has been taught is our scope of work; that we aren't responsible to see which way the water falls off the property, that we need to make sure they can show somebody where that water goes.

Mr. Lentz said that he agreed when it came to attorneys and legal help but he doesn't think we've ever been refused any kind of legal advice.

There was further discussion regarding the PB's scope of work and when the PB might need to get third-party review.

Mr. Lentz said that, if we can come up with a decent line item, he doesn't have a problem submitting it in the budget, if we can define what it is we are looking for.

Mr. Whalen said that, moving forward, he doesn't think the PB ought to shy away from utilizing those dollars in the budget; that he believes they ought to be considered for utilization and not to shy away from seeking that third-party advice, whether it happens to be legal, or a civil engineer, or whatever.

Ms. Cole-Prescott said that she would be happy to get information on what other towns are doing; that she can reach out to other planners, as well.

Mr. Lentz agreed, saying that we will look into this and see what others are doing.

C. Policy Update Status/Process

i) Procedure for Sending Planning Board Applications for Staff and Other Commission's Review

ii) Planning Board Process/Workflow

Mr. Lentz said that he had asked the Town Manager if we could put together a process that not only defined the PB, itself, but the staff behind the scenes; that Ms. Lower and the Planner have started working together. He asked the Planner to take us through her memo.

Ms. Cole-Prescott said that her priorities are going to be process, communication, collaboration, and transparency; that we will work on what goes where, who is doing what; that once that process is a bit more defined, we're going to work hard to communicate that to the public and make it more available on the website. She added that we will be building out the website, meeting on that this week; that the Planning Office will have control of our sections of the website and we will work with the Town Clerk on that to communicate that better as well as applicants coming in the office, there will be better communication because we'll have the process on line. She said that we will be working on collaboration, communicating that to the different departments and working with the different departments of the Town, and this especially comes into play when we're talking about comments from reviewers. She added that the last thing is transparency; that all these processes will all fit well into being very transparent to what is going on in the office and making it very easy for the public to access us, having an open-door policy to get things done and done in an efficient manner. She briefly discussed a spreadsheet listing proposed submission and agenda distribution dates, notice filing requirements document, application checklist tracking request for PB action, and PB summary process/areas of responsibility. She added that we would be posting this, as long as the PB agrees to it as a process change, on the website so that it's very clear to applicants when items are due.

Mr. Lentz encourage PB members to take a good look at this; that it is a draft and we are still learning and changing; that we are heading in the right direction.

It was the consensus of the PB to move forward with the Planner's proposal to move up submission and agenda dates.

Mr. Lentz reminded members that they had two site walks on March 20, one at 3PM and one at 4PM.

ITEM 8 – DISCUSS STATUS OF OUTSTANDING ACTION ITEMS

There was no discussion.

ITEM 9 – CORRESPONDENCE


There was no correspondence.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board Meeting is scheduled for March 20, 2018 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 9:49 PM.


Dennis Lentz, Chair
Date approved: 3/6/18

Respectfully submitted,

Ellen Lemire, Recording Secretary