

**NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, OCTOBER 29, 2009**

The North Attleboro Planning Board held its Regular Monthly Meeting on Thursday, October 29, 2009 at 6:30 P.M. in the Planning Board Office located at 43 South Washington Street, North Attleborough, Massachusetts. Board members Scott Weymouth, Donald Cerrone, Richard Houle-chairman, Richard Thimot, Richard Peterson and Mary Burgess-town planner.

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PUBLIC HEARING
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Zoning Bylaw Articles and Zoning Map;

Ms. Burgess, Reading in applications.

#1- Zoning Bylaw Definition Change: Sign, Animated;

Bart Steele-38 Judith Drive, I am RTM member in Precinct 7, former member of ZBA and was co-author about 14 years ago along with Mr. Johnson and Dick Steele the current sign bylaw the way it appears today it was 13/14 or 15years ago. We worked with Mr. Johnson in getting bylaw as it currently is approved in bylaw for last 15 years. I'm also in sign business. Bill Smilie is colleague of mine who has lot of experience with the message centers. Reason we are here is to try to find out what it is that you're trying to accomplish. Reading the bits and pieces you are taking out and things you're leaving in and the items that you've chosen to pick and choose seem like you're trying to throw out the whole concept of type of sign. I'd like to find out from you guys what it is you are trying to accomplish and like to say to you there are ways of allowing message centers and still having bylaw that is plausible to business people who are trying to survive in this economy as well as satisfy any of the objections that you have for the signs. As resident and sign person I'd like to know what is the problem with sign bylaw way it is now and what is it you're trying to accomplish? Isn't there a way of adjusting the bylaw so that you're not throwing out the whole baby with the bath water?

Mr. Houle, When this was presented and we all talked about it the biggest issue I think the entire board had was that it is actually a public safety measure that we were looking at. When you go by signs and I could name few especially in South Attleboro it just seems that there can be so many of them with so many different colors blinking, non-blinking, going on and off it seemed as though the public safety part of it was really going to become an issue. You go up on Rte. 9 in Framingham take look at how those signs have all occurred. I see couple of them have happen over here I think that is what we were trying to maybe curtail little bit so that Rte. 1 wouldn't become sign haven here for anybody that has money to do it. Also I think trying to keep with the context of way the town looks the way our town is we were trying to keep that mold in place also. I don't know if that answers your question but I think that is what we were trying to do public safety portion of it was probably top priority.

Mr. Steele, If I can address that right down the street Plainville Police Chief and Fire Chief had us put in a message center sign in front of their building on Rte.1A. So obviously they didn't feel as though this type of sign was necessarily a hazard in anyway because obviously they wouldn't

have done it. I think that is matter of opinion Bill has some important data that might address the safety issue on it as well.

Bill Smilie- 17 Villager Rd. Chester, NH., I was in Pennsylvania last week met with three planning depts. down there. My background is 22 years. If Bart wrote this code so many years ago the code needs to be amended I agree thousand percent with what board is trying to do. I work for the manufacturer that builds electronic signs. We are family business in Illinois our claim to fame was time and temperature that you see at all banking industries. We made first one in 1961 my owners' father. We have lot of history with regards to these whole technology and how it works and everything that is going on. Fortunately or unfortunately for the last 22 years I've sat in thousand of these boards hearing, hearing the same type of concerns that you have addressed to me or my product they're not all my product out there but my industry. I can only share you with my experience to try to get your hands around what is going on because I hadn't had lot of time Bart e-mailed me this yesterday and asked for help to maybe get some insight around this because I got the feeling that someone said exactly what the chairman said, " we don't want our town to look like this and we feel there is safety hazard". Whether I disagree with that or not doesn't matter point is lets talk about technology for example because Bart brought up the Police Chief in Plainville uses them. About 30% of our business right now is the school industry they are putting them up in front instead of having manual read a board they use the LED technology to put messages in front. We've worked with hundreds of police depts., fire depts., across the United States right now where they're putting them in front of their buildings, putting them in their town centers telling whatever is going on in the community rather than hang banners across the main streets, these little read a boards you see on little stick poles. There are all kinds of ways that people are using right now to put messages out there. To take code that is 15 years old and take out one section of that code and say here is start. If you look at amended draft of code maybe it is the wording or whatever. Section D says, " those animated signs are not permitted, red, yellow and green color signs, lighting shall not be allowed". So McDonald signs aren't allowed they're yellow is that what that means?

Mr. Houle, Would you say they are animated?

Mr. Smilie, No there is period after that.

Ms. Burgess, That is meant to be light itself not sign. You know if people exterior lighting it can't be those colors.

Mr. Smilie, There is a way I'll give you example the Mass State right now just approved the same type of technology on your interstates. Billboards as you see as you go through Boston those soon in next 3 months will be same technology that you're banning. That was approved by the Mass State Dept. of Transportation. I think if they felt there was traffic safety problem they wouldn't approve them on the interstates on 290 and thru way going through Boston.

Mr. Houle, Let me stop you right there. There is big difference in what you're stating right now people going by at 60MPH with one color sign that maybe animated maybe not and having 15 or 20 in relatively short area with people looking at them that does create public safety hazard.

Mr. Smilie, You can use the same language and write the code so it allows the technology is effective. I could put before this board 100's of case studies of small businesses that put up this technology instead of having read a boards, hang banners in front of their building, put people out in front of their building and allow this technology exist and allow it to exist in clean, effective way. If you don't want signs changing and flashing I agree 100% maybe in time square that is where it needs to be. However this technology is clean and effective it certainly looks lot better. I tell you 80% of your businesses in commercial zone we are talking about commercial areas use some sort of manual read a board or signage to put some sort of message out there. I drove in with Mr. Steele today and people even though they are illegal put

all kinds of things out there. What I'm saying yes Mass. you say technology they allow those messages and I have the language and that is what I try to work with and that is what I think Bart was trying to get at. Allow technology to exist just don't arbitrarily throw it out put some restrictions on it yes but the technology is a good technology. It is like I said to planning board in Harrisburg, Penn the other day I said how many people use typewriter that all laughed they knew where I was going. Is this what we want in our community do you want banners let me give you couple pictures that may help you little bit. I understand there is bad technology out there but it is all the same. If you restrict how often that messages changes, if we restrict how this technology changes and say okay this technology is no good.

Mr. Cerrone, What's happen is we're going to have car dealers advertise their new models.

Mr. Smilie, If you allow technology to exist referring to pictures with bank and interest rate on there. There is case study on amount of revenue that it brought in to local bank. I have to tell you one story I was with Athol Savings 3 days ago in Athol, Mass with sign company and bank president. Sign company had done electronic sign in Grafton, Mass for Grafton Credit Union put it in about year ago. We were talking about case studies and Grafton Credit Union president said to sign company I ran we finance snow mobiles on our electronic sign I financed 200 snow mobiles in 1 week. Insurance guy down the street said we insure snowmobiles he insured half of them. Point is I don't think we can today iffy commercial market the way it is at least my opinion that we can put some handcuffs on small businesses. If small businesses or big businesses want this technology and it works why can't we find a way to allow technology to exist and draft code that is reasonable and solves all the problems as opposed to drafting code that just says we don't want it. In my opinion I've talked to schools, churches, hospitals, businesses and I understand there are some ways to draft codes. Reason why I brought up state of Mass is they researched it pretty heavy and those billboards you're going 65MPH you are correct. That is even more the reason why they want them to be safe.

Mr. Houle, They are also one color.

Mr. Smilie, No they are full color video board capabilities and they're going in Boston in next 3 months. There will be 12 of them put in state of Mass you see them in Providence, RI and in Connecticut. They are billboards and they change electronically what US Government said and I have the information they said, " anywhere from 5 to 10 seconds is reasonable amount of time to change" and you put restrictions on how the message can change. You can't have it move, have it animated it changes all I'm saying is that is billboard that is 600sq.ft. We're dealing with signs that are 4 x 8, 3 x 8 and 2 x 8 tenth of the size. Technology is good why not allow it to exist and let Bart and his professionals bring some people in we can work with planning dept. to draft something that allows the technology in the business area.

Mr. Steele, What I'm asking as resident/taxpayer as business man in the community and someone who represents multiple businesses it is absolutely no disrespect to way these 3 article are worded I'm sure the intention was there. What I'm saying is we can work together because I found out about this so late I talked to representative Poirier today, I put calls into Chamber of Commerce. I would like to ask you to IP this for now let us get together work with the planning board work with the professionals work with Chamber of Commerce work with our state representative to come up with bylaw that will allow the technology to exist limit the amount of times that it can move, etc. This totally throws it out this is not fair to those who have it already isn't fair to business people who want the added exposure. Allow us to work together with Mary, Chamber, work with sign guys, and work with professionals to come up with bylaw that can address some of your concern and still allow the technology to exist. That is what I was hoping to get across to you today unfortunately I didn't hear about this until very late or else I would have come with more people. In this particular climate there are certain

business that will benefit from this. I think you really should consider working with the community, working with some professionals, working with Chamber and let's work together as we did 15 years ago and come up with bylaw that will satisfy some of your concerns but also let business people survive and still make living.

Mr. Peterson, Can you give us some idea where we might start if we wish to change this? What kind of changes would you recommend putting in bylaw that would tailor the use of sign technology versus what we're doing? Right now basically they can put up just about anything.

Ms. Burgess, Basically there is a loophole and that is how those 3 signs get in and what is happening we restrict them of flashing and rotating but 5 on Friday they're flashing and rotating all through the weekend. It is all fine and great saying we can regulate them but we can't and that is the problem.

Mr. Steele, With the appropriate bylaw I believe you can regulate them and this has been done in 100's of communities some of the towns that you would be shocked that have message centers. I sold one in Lemonster last month with ordinance there the way it reads is they have to keep message stationary and I think it is 8 or 10 seconds before it is allowed to move.

Ms. Burgess, That is what this person's building permit said as a condition and at 5 on Friday they're flashing, streaming doing everything it is not supposed to. I understand where you're coming from.

Mr. Steele, That is more of enforcement.

Ms. Burgess, Exactly when he goes down and sees it is perfectly fine in complying and then he is supposed to come down on Saturday and write up a fine. That is what we're seeing as one of the problems.

Mr. Cerrone, That happens on everything not just signs.

Mr. Peterson, I would like to hear a few ideas of how we might start to do that if we were to change it. I can appreciate small businesses looking for the opportunity to try and increase their business but there are a lot of places I've been where you're only allowed a small sign hanging off building and yet people are able to make a living. I'm not saying that is what we should do here but I have to agree with the chairman driving down interstate and seeing these signs where it is a controlled situation you're seeing the same kind of sign all time same format same kind of informational type of sign set up versus driving down between beginning of E.

Washington to end of E. Washington and seeing a mirage of different kinds of signs and colors. It would be nice to have some sort of aesthetic sensibilities in many cases we haven't been able to pull off.

Mr. Steele, I believe we can as RTM member and taxpayer and someone who is concerned about the town as well as businesses in town. If you give me the opportunity along with some of the other professionals in town to work with Mary and work with planning board work with Chamber of Commerce we can come up with a bylaw that will address some of the concerns with public safety, address some of the concerns of aesthetic and still allow the technology without just tossing it out the window.

Mr. Peterson, I think one of my concerns about IP it now we're not sure how long this process might take and I'd like to see us stay with what we have now and then have committee come back and work with everybody to see if we can come up with some other solutions to tailor it then go back and revise the bylaw again. Right now we're going to have an open window for anybody in meantime to apply for permit for kind of sign we don't want that we don't think is appropriate.

Mr. Houle, The other thing to be quite honest with both you guys the intent here wasn't to hurt anybody on a marketing scheme or anything else. I deal with marketing people every day. Last thing in this economy anybody wanted to do is to hurt them in anyway. However I want to

reiterate what I said before there is something about what this town looks like now and what it could look like if we don't be somewhat proactive. Is there room in there Bart for what you're saying maybe there is I'm not going to say there isn't. What I am saying is I would really hate to think that in 5 years from now or 10 years we're going to go down Rte.1 and there is going to be 50 of these down the street. You can say whatever you want but the character of this town will change that will change the character that is what I think we were trying to do obviously public safety issue before that. Character of the town that we have is what we were trying to keep in line. Nobody is trying to stop anybody from doing their business or conducting business.

Mr. Steele, This bylaw the way it is written by completely throwing out the technology even though the intent wasn't to hurt businesses it will. As far as timing is concerned the timing can be as quickly as getting it on May town meeting.

Mr. Peterson, Talking about annual town meeting.

Mr. Steele, This could very easily be accomplished by then and I'm volunteering my services and I'm sure we could get people from Chamber here and I'm sure that we can get other business people to work with you. Show you other bylaws that other towns have used that have this technology that do limit the flashing they do limit animation do limit the timing but they're not just throwing it out.

Mr. Cerrone, Can we hear from building inspector he is the one who issued those? I thought 14 years ago when Bart's father worked on this committee I thought we had pretty good sign bylaw all of sudden I find out there are all kinds of loopholes.

Rod Palmer-building inspector, Biggest problem I have with these and we only have four of them in town. Biggest problem I have is when we issue the permit we ask for something right now it is in form of affidavit that there be no animation, no scrolling, no flashing of any kind. I heard Mary talk about how on the weekends it changes. It is not just on weekends it is during week as well. Of four signs that I have I had to on numerous occasions contact the owners of the signs the sign companies that installed the signs because the owners aren't all capable of programming the signs. I've had to fight with red, green and yellow and I understand it is difficult to create sign without using those colors. What happens quite often is they will change it from red, green or yellow to color that is similar to that not in every case are those colors detrimental to where they are located. I think intent was to keep red, green and yellow away from intersections where there might be traffic light that might get confused with the colors of the sign. Maybe not in every case and every situation every location the red, green and yellow might be detrimental or a hazard. Those are the problems I have. I've contacted the owners and sign companies and said we'll take animation out and you go by next day it is gone, two weeks later there is new manager in store and animation is back. It is like pulling weeds you pull them out and they just grow back that is problem I've had. I don't know if it is possible to remove the software or technology within these signs that allows it to be flashing and scrolling and have animation. Maybe that is something that is in there that allows the sign to do that maybe it can be removed so sign is not capable of doing that. I don't want to run around and give tickets to everybody. I've seen waves with surfers on the waves you can pretty much do anything you want it becomes television.

Mr. Houle, Rod do you know what other towns are doing could you give us any insight on that?

Mr. Palmer, There are some towns that allow them by special permit only ZBA or permit granting authority whoever it might be maybe it is the planning board they can look at each individual application and decide whether or not that sign is detrimental maybe sign location maybe there is no residential houses around maybe there are no traffic lights maybe it is in

area where it may or may not be detrimental and allow it. Some towns do it through special permit and they will put conditions sign shall not flash, shall not be animation, etc. I'm sure that 30 seconds it is depending on location if it is in high traffic area with traffic lights maybe they would have conditions on the colors and flashing. If it is out in middle of nowhere maybe it would not be detrimental to have some type of moving or bright color. That is what some towns do by special permit.

Ms. Burgess, Then you have to enforce the special permit when they go flashing, waves and everything.

Mr. Peterson, Are we on televisions now?

Ms. Burgess, No.

Mr. Peterson, Reason I asked is if there is opportunity to ask business people of NA who have these signs to please follow the affidavits they sign and not change the sign so building inspector has to keep coming out and monitoring them.

Mr. Steele, To follow up with what Roger said is every town has its own bylaw, every location most businesses require signs. Every location is different, every item is different. I have 150 different town bylaws in my office as reference. We can work with National Electric Sign Association and some of the other associations to come forth and help with bylaw amendments that would work.

Mr. Smilie, I will try to answer Dick's questions the way federal government does it this is new technology first of all people think of these signs as time square and Las Vegas. 20% of our business we're hundred million dollar company and that is all we build everything we sold is in United States and built in US. We're selling them in lot more places than NA. The enforcement is always a question and it is very difficult one to say. I can say driving down this street there is 90% of the businesses that have temporary signs that aren't supposed to. Do you enforce those? I can say driving down the street 50% of people that went by me were speeding. Yes there is software that is compliant you can eliminate certain things, you can comply the software with brightness that is one of the big issues the brightness that it puts out. You can incorporate all of that into software. Second thing was the safety. I don't think we're putting them in all these communities around the country and all communities I think that they are unsafe. The aesthetic thing you brought up was look of the town. It is not Freeport, Maine.

Mr. Peterson, Why isn't it? Why should NA have an opportunity to be like Freeport, Maine?

Mr. Smilie, I will explain why and I hear it all the time. I live in Chester, NH we don't even have gas station or convenience store where I live.

Mr. Houle, Do you like living there?

Mr. Smilie, Not really because I like having convenience going shopping and all that. It is not the point we're talking about promotional districts Rte.1. You can't put 3 x4 wooden sign that is hanging on front of building out on Rte.1 and then expect car to go down and be able to read what that business is.

Mr. Peterson, We may not necessarily basically this bylaw is preventing us from having those signs at any location correct?

Ms. Burgess, Yes.

Mr. Peterson, Right now they can have them in other sections.

Ms. Burgess, Certain districts.

Mr. Smilie, You only allow them in commercial districts and certain areas they're not going into residential neighborhoods. If I can follow up my point now about aesthetics point of view we're talking about Freeport, Maine and that whole look. Rte.1 in Saugus they tried that. If someone has sign now they're never going to get rid of it as big as it is because they know how valuable it is. All those people with those larger signs that is all that really is. If you look at technology of

bank sign or picture when you see that it is LED on bottom that is technology that you're getting rid of. Why is it offensive? If it changes and intensity in light and moves it's offensive to you.

Mr. Thimot, Why shouldn't it not be offensive to us? I'm asking you a question now why shouldn't it be offensive to us?

Mr. Smilie, I'm asking if it is.

Mr. Thimot, What is wrong with us not liking that type of stuff? Is it something to be ridiculed and scorned?

Mr. Smilie, I wasn't ridiculing you I was asking.

Mr. Thimot, I'm asking you a question. You're making presentation I have right to ask you question that is what I'm here for. What is the answer?

Mr. Smilie, Do you have right to not like that? Of course you have that right. I guess I'm just trying to express my right and Bart is here to maybe bring some information that is all I was trying to do. Pass on that information and maybe open some eyes to it and you certainly have that right as voting board to go down your own road.

Mr. Thimot, We live in the town and we have certain value about way we want the town to look. It is not something that is just spontaneous came up just right now it is something that has been handed down from one family to another over the years. People come to NA because they like it people stay here like it people that don't like it go. I don't think that is bad statements I'm not saying anything against anybody.

Mr. Steele, No NA is best town in the world.

Mr. Houle, Having said that I don't think anybody had any ill intention towards any business or industry for that matter. I saw you roll your eyes.

Mr. Smilie, I wasn't rolling my eyes.

Mr. Houle, It was basically to try and keep it under control somehow. Public safety, keep it under control and obviously to offer maybe little bit of tenacity or keep the tenacity that we have going down Rte. 1 to maybe not be a Framingham. Not to knock Framingham if that is what they want they can have million of them that is their thing. Maybe to keep the nice town look that we have. Nobody doesn't want signs up there is there room for something in here I don't know I'm going to be honest with you. I just heard from our enforcement agent and he is already having a problem and we only have four of them. What would happen right now if we had 100? That is what we're trying to do.

Mr. Smilie, I live in a city similar to Attleboro I live on outskirts but my office is in the city. They struggle with the same thing there are 100 of them in city they're all in commercial districts, Civic Center and car dealers. They restrict time on how often the message works and it works. Framingham doesn't allow the technology to exist they have the most restricted sign codes in Mass. There are some communities that allow them. I guess it is to try to get you some information submitting SBA safety studies(United States Small Business Assoc.). You're allowing time and temperatures to exist in new bylaw?

Ms. Burgess, By special permit.

Mr. Smilie, This kind of addresses that and also talks about federal government safety. Feds have pretty good resource submitting feds. regulations on digital sign.

Mr. Steele, Purpose of my being tonight was I'd like to have opportunity to work with the board, work with the Chamber, work with town planner to come up with a bylaw that is little bit more reasonable and not throw the entire. We have town meeting on 11/9 I'd like to not have this article the way it is written now be presented to town I'd rather have it IP'd. Lets. Work together work with Rod, work with Mary, Chamber of Commerce some sign people.

Mr. Cerrone, We had the same problem about 14 years ago when we were trying to change it. We were having all kinds of signs I forget how it started those portable signs. Then planning board, building inspector at time Bart's father few other people got involved and we came up with what we have now. I think we should be doing that again get the businesses involved have committee meet few times have building inspector Mary town planner and get something that everybody is going to live with it. It is win/win situation for everybody.

Mr. Steele, Absolutely. It is ironic because the portable signs are the LED signs of discussion today the parallel is amazing and with way bylaw way it got changed it took little bit of time but you don't see those signs anymore and you don't have problems enforcing those signs anymore.

Mr. Cerrone, I think we should do something like that you have lot of businesses that depend on signs.

Mr. Houle, They will still have signs it is just type of sign they would have.

Mr. Weymouth, I've stated my opinion with respect to the signs previously. You are not going to get me to go along with huge sign. Animated, rolling cartoon signs no way. Other signs I agree with you the technology exists to make them look like classy signs because if we're going to allow manual read a board signs then I would rather see LED sign than I would manual read a board. Enforcement issue aside I agree with Mr. Peterson I don't think we IP it I think we go to town vote. I don't want us to be exposed over the next 6 or 7 months about what is going on in the town and then he gets 15 sign permits. I don't want that to happen. I'm fully in favor of LED read a board signs but I'm not in favor of going 6 or 7 months everybody knows what is going on in town now and we get slaughtered or slammed with 15 signs permit.

Mr. Houle, We won't have any teeth to enforce anything.

Mr. Peterson, I think it might also compromised us trying to come back and revising the bylaw to tailor it as we were just discussing because if there is 15 more of them out there that gives people 15 more reasons so say they have one why can't we have one.

Mr. Weymouth, Fully prepared to make committee after town meeting if they vote it in to come back to the table and modify it so that if you will little bit more business friendly for lack of better term.

Mr. Steele, I like that idea lot better.

Mr. Houle, Just so you understand we would go forward with bylaw article way it is not asked it to be IP'd. However we would keep it open that maybe I don't know if we would form a committee.

Ms. Burgess, That is why gas stations and banks are in there by special permit to come back with good bylaw for message board that is what our intention was. It wasn't to be just like forget everything we understand that those digital message boards they do look nice. Like you said you have to sit down and find all your loopholes and find everything and hash it out but in the meantime you're going to have 20 new sign permits. You will have Walmart blasting in blue and white.

Mr. Cerrone, Not just picking on car dealers but if I'm car dealer I'm going to show my new models coming in every 30 seconds have new car coming.

Mr. Weymouth, There will be picture of car rolling down on highway.

Mr. Cerrone, You have to be careful how you do this. If I have twenty million dollars invested in a place what is extra 500,000 to do that or whatever it is going to cost for the sign that 500,000 is going to bring 10 million. We should set up a committee meet once week until we get it done.

Mr. Houle, Let this go to town meeting but we'll have understanding here on the board that we would be very open to forming some sort of committee or whatever.

Mr. Cerrone, If you want to draft something after just say I want to sit down with you guys this is what I think we should do.

Mr. Houle, Bart you brought up couple real good things having Chamber part of it I would be very interested in hearing what they have to say. Yourself also Bart you're doing business in this town I know how it is to do business today. I would be open to that and second of all I think you gave great presentation tonight. You gave some supporting things and you heard some supporting things on the other side maybe that will help you going forward I don't know. My personally feel is I'm going to agree with you Scott we have to be little bit open to technology and how it changes. However keeping characteristics of our town I think that can be accomplished maybe with committee we get together. You've been part of RTM for long time and bunch of other things you know how to get this done. Maybe we put this together and maybe we come up with better plan. Does board have any problem with that?

Mr. Peterson, No.

Mr. Houle, This would go forward as we speak.

Mr. Smilie, From legal point of view are you changing language about lights? I know you said it is meant to be interpreted that way but you talk about loopholes.

Ms. Burgess, Yes.

Mr. Smilie, I know you had attorney look at this. Other thing is time and temperature with special acceptance. You're allowing it to exist time and temperature are changing signs. If you read what SBA says I'm not going to get into legal thing here but there have been some case studies where 82 degrees, 7:30, School opening today, snow day no difference. You just want to be careful that is all.

Mr. Weymouth, What you just said meets the definition of flash.

Mr. Smilie, Way that it has been argued in the courts is freedom of speech. If it is 82 degrees, school is closing today you're restricting the speech. You're still allowing the sign to change why are you restricting what it says. What you said about picture and priest you wouldn't want to see that? If that is static sign just like internal luminated sign and you don't see it change because you've already driven by what is the difference?

Mr. Weymouth, Much more detailed viewing for drive by person to stare out.

Mr. Smilie, It is like any luminated sign.

Mr. Weymouth, Verses reading 4 words verses looking at big picture of somebody to me that is big difference.

Mr. Smilie, As you travel now as you work on this 80% of your signs on Rte.1 are poorly designed texts are too small just your internal luminated signs where they put too much information on there. Are you stopping to read that? There is some great information about how the government handles this the technology is there. There are other communities out there that do allow it. I wasn't trying to offend anybody. I was just trying to say listen there is some business area in here and around the country these people want the technology and it works and it does clean up some of the anislary stuff. If I'm car dealer instead of hanging balloons every weekend or having all those cones out in the street, which are all illegal putting banners all over the place. If I'm allowed to put digital sign let people know I'm having a sale today and it changes periodically to something else in the afternoon that reduces sign clutter so it can do good for a community.

Mr. Houle, I think you heard we are more than willing to look at this again.

Rod Palmer, I would be more than willing to be part of that committee.

Ms. Burgess, Berfore we close the public hearing would you like to amend that article do you want to vote on language? I'm not exactly sure how you would like to word it.

Mr. Weymouth, You mean red, green and yellow?

Mr. Houle, Are you suggesting that we take out the color part out?

Ms. Burgess, What if the intent of it is. I don't want the exterior to be red, yellow or green.

Mr. Weymouth, She's saying if you have lights on the ground and they're flashing up towards the sign they can't be red, green or yellow.

Ms. Burgess, How it reads now is are not permitted in red, yellow or green color lights shall not permitted. We could leave it like that I don't want flashing in there.

Mr. Weymouth, In your exception the banks and gas stations but you don't want those letters red, yellow or green you wouldn't want those bulbs to be red, green or yellow.

Mr. Cerrone, I think you have to make amendment to town floor for this.

Ms. Burgess, Yes we do but I just want to make sure that you agree on the language.

Mr. Cerrone, You could have town council check it.

Ms. Burgess, He has already looked at it so I just want to give new language that you agree upon.

Mr. Houle, Roger do you have any words of wisdom as far as verbiage of this?

Roger Ferris-town council, I looked at it as the form but not really as content if you want me to look at it in terms of content I will.

Mr. Cerrone, I thought he looked at it as content to make sure everything was in order.

Mr. Ferris, Everything is in order in terms of the form but I don't know what your intent was trying to do in terms of what you want to limit what you wanted to allow.

Mr. Weymouth, Because of way it is written I don't think he was wrong when he said McDonald sign would be in violation of it because internally lit signs have yellow outside. I think you're talking about the bulbs themselves.

Mr. Cerrone, Lets close the hearing if you want to make amendment on town floor just rewrite it.

Ms. Burgess, Do you want article by article first one sign changeable or close public hearing all together? We can't I forgot about Boch. Do you want to just vote on these three now or do you want to wait until the end?

Mr. Cerrone, You have vote each one of them do it now.

Mr. Houle, Article 1 zoning bylaw definition change: Sign, Animated.

Ms. Burgess, No sign changeable I'm going by the public hearing notice. Sign changeable to delete in its entirety.

Mr. Peterson, Make motion we approve article to change definition by sign changeable delete sign changeable, seconded Scott Weymouth.

All in favor 5 to 0.

Ms. Burgess, Change Section 9B animated.

Mr. Peterson, Make motion that we replace for following definitions for sign animated, seconded by Scott Weymouth.

All in favor 5 to 0.

Ms. Burgess, Section 6G sign general sign.

Mr. Peterson, Make motion to amend zoning bylaw Section 6G signs to general sign regulations part D, seconded by Scott Weymouth.

All in favor 5 to 0.

Mr. Cerrone, You should have article 1, article 2 and article 3.

Ms. Burgess, We can't do it that way.

Mr. Cerrone, You should have done something because it doesn't tell you which article if people are reading it that is terrible. When you advertise you should have article 1, article 2, article 3 that is how it should have been that is how I did it in past. This is first time I've seen this nobody knows which article you're reading very sloppy.

Ms. Burgess, I was told it had to be done.

Mr. Cerrone, I don't know who told you that but it is very sloppy we're getting to be like amateurs.

Mr. Thimot, One thing I know about town meeting if you present it in more than 10 words people can't understand it you've lost.

Ms. Burgess, If you notice also they rearranged them for me as well in the actual booklet.

Mr. Cerrone, I don't care about the booklet I care about when it went out to the paper.

Ms. Burgess, Is that article 1 on town meeting floor no.

Mr. Cerrone, I'm saying when these people come in here one advertised in paper it should have been 1, 2 and 3 then you can make amendment to article 1 from Free Press that is way its always been. You're not going to get articles from town meeting until you advertise it, submit the articles very sloppy.

Respectfully

Submitted,

Changing zoning district of land;

Ms. Burgess, I already read all articles at beginning of the meeting.

Roger Ferris, This is public hearing on zoning article itself. My understanding there is going to be presentation by Mr. Clapp regarding some terms that have been discussed in executive session with the board. In terms of the ongoing lawsuits in court. That being the case there has to be decision by board in terms of discussion that you're going to waive the executive session privilege of pending litigation to discuss it in open session so that you can discuss some of them conditions by which we've arrived at this possible resolution. In other words in plain english you can't jump in and out of executive session. Once you allow for instances as I said to the planner this afternoon at town meeting floor they're going to want to know what the elephant in the room is. There is going to have to be some discussion as to what the attentive agreement is and what it is conditioned upon. At that point you'd have to waive it or not waive it to explain it so if you're going to do it then you should consider whether you want to do it right now. For it to make sense so that the issue to be aired fully and comprehensively. My recommendation is that you waive the executive session and go in public my caution to you once you go public you can't now all of sudden go back into executive.

Mr. Peterson, Is there anything we can't discuss if we waive it? Anything we discussed in executive session in regards to this we waive it anything can be discussed that was discussed in executive session about this.

Mr. Ferris, You can discuss anything relative to resolution.

Mr. Houle, But even though that was part of executive session I guess that is what we're asking you.

Mr. Ferris, Yes. You can waive your executive session in interest of airing this issue because the issue cannot be aired fully without that component. Even the Finance Commission in their recommendation that it is pursuant to a settlement negotiation.

Stephen Clapp-attorney, I think they probably used the description of the article that I used. It says there are two lawsuits pending that will be dismissed if this article passes.

Mr. Ferris, Here is reference already to it.

Mr. Cerrone, I have question who submitted the article?

Mr. Clapp, I did.

Mr. Cerrone, Is this public hearing for zoning change article? Why are we worrying about executive session I mean court case? They have article in front of us we advertised this as public hearing.

Mr. Houle, That was my question I was going to ask Roger how can we have public hearing if we don't waive executive session.

Mr. Cerrone, We haven't got anything from court this is public hearing we can get any input anything we want from anybody. We advertised as public hearing this is not a mitigation to resolve an issue we are here about the article. This article has nothing to do.

Mr. Ferris, It does have something to do with it because they're going to be explaining to you a proposal relative to certain buffer area and they're going to discuss with you certain documents that they're willing to execute in exchange for this. To say that is not going to be part of the discussion in public you're ignoring the reality of it will be discussed and if it isn't going to be discussed then there is no reason for them to be here.

Mr. Houle, I don't think the question is whether it is going to be discussed I think it is how it is going to be discussed in executive session or in open.

Mr. Cerrone, It is going to be discussed in open public meeting that is why we have an article.

Mr. Houle, I've never seen an article yet where we had open meeting and it went into executive session.

Mr. Cerrone, Since when do discuss article that is going on town floor saying because there is mitigation. This is public meeting.

Ms. Burgess, There is just one thing I think Roger is trying to get the stuff we discussed in executive session you will now air it prior to litigation being resolved. If you discuss the buffer, the plan, deed restriction all that stuff. If you discuss that in open hearing you will now be violating the executive session. However if you say we will discuss the matters that we had in executive session at this hearing then you can waive it correct?

Mr. Ferris, I didn't say you were violating I said you're waiving it. If you want to discuss in open fine but you cannot discuss in open and next week go into executive session and discuss the same contents.

Mr. Cerrone, I want it open.

Mr. Ferris, No one is saying not to open the meeting I'm trying to give you legal advice on the open meeting law in Chapter 39. Once you open it you can't close it that is what I'm trying to explain. What have I said that isn't understood?

Ms. Burgess, This no longer becomes executive session of matter if you waive it.

Mr. Ferris, I don't understand what they are going to present that can be discussed without waiving what your thoughts were on executive session. It is not clear cut it is not whether this zone is going to be changed to residential or C30 it is question of yes it could be but what assurances do we have. The general public should be aware of that just like town meeting should be aware of it.

Mr. Houle, The only way to do it is have it in open session.

Mr. Ferris, That is my recommendation with the caution that you can't jump back into executive session.

Mr. Thimot, I make motion that we waive the executive session disclosures and everything in executive session will become open waived as far as planning board is concerned. Is that proper language?

Mr. Ferris, Yes or you can use word waive or vote that you want to discuss this resolution in open session.

Mr. Cerrone, Second it.

Ms. Burgess, Do roll call.

Mr. Weymouth, Can ask question of council? The executive session that this is lawsuit the executive session that we were in prior to this meeting. Were those considered settlement negotiations?

Mr. Ferris, Yes.

Mr. Weymouth, Not admissible in the court?

Mr. Ferris, Correct.

Mr. Weymouth, If we go public tonight everything if they go try to get their zone change it doesn't happen and the lawsuit continues all of what we discussed in open public hearing is admissible in court.

Mr. Ferris, It is not admissible first of all it is not relevant as to where the line is. Whether you put buffer on there put trees or slope it is not admissible that is my opinion your not prejudice by it. Just because you have an executive session on something that is part of the exception to open meeting law doesn't mean you have to take advantage of it. You can discuss litigation in open session there is nothing wrong with it. If you wish to use the privilege of executive session you may and it is encourage so you don't get into situation where you say something that might be incriminating. You can waive it just like husband and wife it is marital privilege but your spouse can go to criminal court and testify against you but she doesn't have to.

Mr. Houle, We have second on the floor so in way of understanding we're going to waive executive session. We all understand that I'm going to do roll call vote;

Scott Weymouth- Yes.

Donald Cerrone- Yes.

Dick Houle- Yes.

Dick Thimot- Yes.

Richard Peterson- Yes.

Stephen Clapp-attorney, I represent EJB Trust prepared this article on their behalf and submitted it to B of Selectmen to be on the warrant. As the board knows this is to rezone lot 225, 63,92 and 64 so that they will all be in commercial zone regardless of what zone they're in now. This is not only to rezone those lots as commercial but coupled with that is deed restriction, which by time town meeting is convened will be in hands of town council and if this is passed the deed restriction will be recorded. We have members from Tilton & Associates the engineers and Erik Vangsness landscape architect here to either make presentation or answer questions. I know that we were prepared for larger turn out of neighbors than what came and I know the board has seen the details and may not want to be bored with long presentation. I will leave it up to chairman whether we should answer questions or make presentation. Board knows the details.

Mr. Houle, This being open hearing obviously if they have any questions they're going to want answers to them why don't you give version you want to give and open up at that point. We know where the zone line is going to be and Larry Tilton will focus on the buffer.

Larry Tilton-Tilton & Associates, In combination of Tilton & Associates and Veri Waterman have put set of plans of three sheets together that will go to record once our meeting has done their vote. The intent is that we do hearing tonight do vote tonight.

Mr. Cerrone, Do you have map of old zone line?

Glory Janick-2 Arthur Collin Circle, For your information I'm familiar with most of the background.

Mr. Houle, Could we please stop the additional talk? If you're going to talk just state your name for the record.

Mr. Tilton, As I mentioned we prepared set of plans combination of land surveyors plan reflects boundary lines and set back lines and legal documents that run with these plans and

they're stamped by myself and they will go to record. As part of legal documents it refers to buffer zones, landscaping and berms and they were prepared to registry standards and they will also go to record. The intent is that in time frame to do this construction. I would like to explain line work in the offsets and then I'm going to turn landscaping because question was ask about elevation of berm and oscillating portion and screening and fencing I will turn that over to landscape architect because the questions were asked. We prepared full set of landscaping plans as well as cross sections and planting details. Our intent is that this set of plans will stand alone although at same time obviously later on in months there will be full set of site plans coming before you for development of commercial side. We prepared article for rezoning to take zone line that is presently between R20 and C30 from where it is right now to along the Viscusi property lot 65 running it along its property line to westerly side line of Old Post Rd. traverse along the westerly sideline to intersection of easterly side line of S. Washington St. We are asking for whatever portion is zoned presently residential is on lot 225 Dunkin Donut lot, lot 63 Boch lot, lot 91 and lot 64. Whatever portion that is rezone it to C30. Then as a restriction so that the commercial C30 enterprise that will go here could never access Old Post Rd. Take back a deed restriction from the present owners to run to eternity with successors and title a buffer berm area of a 30ft. setback in parallel to the westerly sideline of Old Post Rd. Run that parallel to a point that is intersected by line coming along the Viscusi property lot 65, 70ft. to a point and run parallel to easterly sideline of S. Washington St. approximately 186ft. back make intersection and take that as a setback buffer strip to be fully landscaped as it will be explained what intent is. 30ft., 70ft., parallel and we'll landscape, berm and buffer that entire area to very dense vegetation remaining portion will be developed later on will properly approved site plan C30. The Dunkin Donut lot will then become all commercial as we thought it always was and problem is resolved. As typically example of a buffer presently right now in town similar to situation was done down on Draper Ave. Pride. When we were developing the then Witchi property into Pride there was situation where you could look from Draper Ave. right into Witchi property. Similar issue came up screen it, buffer it so from Draper and Norton Rd. couldn't look straight into their parking and garages they created through the planning board a screen and buffer. I took photos matured and put up for working example that is in town right now. Although what is being planned here is far more extensive and more detailed than other one.

Mr. Ferris, Could you explain also the access to 225?

Mr. Tilton, Lot 63 is owned by Boch, lot 225 is Dunkin Donut as part of the possibility of making and end run and getting access to Old Post Rd. you're going to take back a temporary no access line to be right on property line. There is temporary no access between two lots so nobody can make end run. The line will be labeled on westerly side line of Old Post Rd. as no access and deed restriction area so there is no way legally that anybody can go in that direction. It cuts it off so that Old Post Rd. as has always been stated is to be developed and maintained as a country style road, scenic way I think is what it is. As Erik will explain there are some existing mature trees that are being preserved he will explain how we design around them.

Mr. Ferris, It is referred to as being temporary because in the event that Boch obtains 225 then that buffer strip goes all way down to the apex so that it will preclude any access from 225 and then that temporary will be eliminated so that Boch has access to all his properties internally at least but no externally to Old Post Rd.

Mr. Houle, Do residents understand that? You're going to keep what is there it is still going to look basically the same way it does now. If they do every buy Dunkin Donuts they won't be able to access that onto Old Post Rd.

Mr. Cerrone, That curbing will be cut.

Mr. Weymouth, 30ft. buffer will be carried down through as well?

Mr. Tilton, That hasn't been thought through as that.

Mr. Cerrone, Only question I have is Viscusi side on corner any buffer on that side for them?

Mr. Tilton, If we can get to landscape.

Mr. Cerrone, It doesn't show here.

Mr. Tilton, This is plan of metric plan recording setbacks and deed restrictions, etc. You really need to get to sheet 2 and Erik should pick it up here. I took little liberty in area to make corner so there wouldn't look like a white gap.

Mr. Houle, I have one question before we get onto next sheet. Dunkin Donut lot 225 if you were to obtain that lot would you guys continue that 30ft. buffer?

Michael Clemmey, I'm not in position right now to answer that we don't own the piece of property. If we did buy it I was going to come back in front of this board so we would have to work something out. I don't own it right now and this has been long and hard enough on these 3 lots.

Erik Vangsness-Veri Waterman Assoc., Our project is actually twofold buffer. We want to create buffer in two separate ways. First way we're going to do that I'll get to the evergreens in a second. We have three large existing norway maples out there they are very beautiful they have been pruned up we want to preserve those and then we want to enhance those. One of the things that we learned when we last did this the town is interested in is preserving that gateway as you come down Old Post Rd. We don't want to just preserve it we want to enhance it that is why we're adding six more shade trees of similar variety. We don't want to use norway maple because they have tendency to die at fairly young age want to use little more hardy of species that is why we're proposing red maple. Once we have that alley formed if you will we can talk a little bit more about evergreen buffer. We are blessed to have existing trees some of those are 100ft. tall some of them are little 6" saplings. Most of them are norway maple there are some oak there some black cherry and very sick red cedar probably is going to make it too much longer. We have this benefit right across the street from this property at corner of Reservoir St. What we would like to do is within the woodland we'd like to just maybe take out couple maybe three saplings and infill with evergreen trees and then behind it. These are cross sections make it little bit easier. First section I'm going to talk about is B that cuts from house right through to end of our landscape treatment. Have existing dwelling there is slope down there are some mature trees there is Old Post Rd. As we all know elevation on Old Post Rd. on centerline varies in this case it is about 197 roughly. Based on the spots that I have I estimate that the first floor elevation of that house is about 206.5 roughly. From the road you're about 9.5ft. above when you are at house. There are existing trees have utility lines couple feet off the road we want to preserve this material then infill as we can with evergreens. Can't do too much in there because it is very dense and you don't want to take out the stuff that is already established. Behind it one of the issues we were facing it drops off with some existing boulders and I think there is transformer box on edge. We want to pick that grade up and we're proposing to do a retaining wall along the new line along fence line with fence on top. By doing that we'll pick up the grade of this and increase the buffer that allows us in the back kind of on canopy line on drip line of that existing vegetation to plant these evergreen trees. We'll plant dense row of them we're proposing norway spruce we propose it because it is hardy plant they grow very well up here grow very tall, which is what we all want here and they get nice and dense and they don't tend to limb up at old age. They tend to grow down to ground for pretty much the entire life white pine they can come up. We can't really do berm here we can do the wall we can fill then we can tie back in but we would kill these trees if we just put berm in and filled on top. You can't do that especially to oak and maple they are very sensitive. However

once we get out of this that is also why we proposed to put slightly taller material to help make up for that grade difference. Over where it is more open right now there is kind of natural hump that is formed at existing trees we just kind of want to accentuate that. In area we'll have kind of oscillating berm top of berm will range anywhere from about elevation 202.5 to maybe 203.5, 201.5 maybe being in more narrow part. This goes from Plante property straight through best we can. Old Post Rd. is little bit lower about 18" lower it sits about 195.5 exiting residence first floor elevation is up little higher. What we proposed to do is at 195.5 make top of berm like I said 201.5 to 203.5 that is going to give us about 6 to as much as 8ft. just in earth above the road. That also does is again I estimated the first floor elevation of house based on my photographs and analysis I think it is around 200.5 roughly. If we do that means that this berm would actually be couple feet for most part higher than first floor elevation of that house that is just earth part of it so then we put the trees on top. There is example of nice allay type trees that we'll put in there help accentuate that road as you come down there is existing vegetation here that remains because it is on other property. You can see current line there would be fence line and again we're going to run that retaining wall. Our main goal of all this everything that I talked about tonight is to use earth and plants to make very dense buffer not just where evergreens but also to take focus away even from that with these large shade trees that hopefully will create nice visual effect as you head down Old Post Rd. When we turn the corner we're going to feather this back in right now there is large existing I think it is another norway maple beautiful existing tree certainly intent to preserve that. Where we can around here you can see the wall we will turn that wall that will end and it will grade back down to however it grades out and we'll just extend that evergreen buffer all along driveway and wrap it around the tree. We're planting three different types of evergreens we're doing that because they are all native species we have american arborvitae, have eastern white pine and we have norway spruce it isn't native. We're planting the three to create a bio diversity so that if for some reason anything should ever happen to one of these species you don't have all the same species, which is very important.

Mr. Tilton, Wall will have solid fence that we all talked about from day one.

Mr. Cerrone, Are you going to carry solid fence around the corner?

Mr. Tilton, These plans are being revised as that solid fence is continuing down not now. This set of plans is prepared to stand by itself to go to record.

Mr. Cerrone, What I'm saying is come back to zone line in corner?

Mr. Clemmey, No you're going to come down further the corner.

Mr. Weymouth, That plan doesn't show the fence wrapping.

Mr. Houle, Fence actually stops.

Mr. Tilton, We were going down zone line.

Mr. Clemmey, There is chain link fence put new fence there. Once I come in front of board we're going all way down.

Mr. Houle, What is height of wall?

Mr. Tilton, 4ft. landscape wall we're talking geo block it is gravity block solid vinyl fence.

Mr. Clemmey, We'll take that white vinyl fence put that on top of wall you won't see it anyway there will be so much landscaping in front of it.

Mr. Vangsness, 4ft. is plus or minus.

Mr. Tilton, Wall even though from the street if it constructed today you'd probably see it but you will never see it. We mistakenly didn't put detail of wall on the plans it was pointed out to us but we'll add it.

Mr. Vangsness, I should mention quickly I think I glossed over it. Where these proposed shade trees are we would have grass area that would go through.

Ms. Burgess, Is there any problem with trees you're going to plant behind the wall? Root problems that may compromise that retaining wall is there any possibility that things like that may happen?

Mr. Vangsness, We make sure our general rule is you don't want to plant tree any closer than about 5ft. from back of a wall. Based on final dimensions of the material chosen as wall we'll plant them accordingly and if we have to squeeze them little bit together up in front we can do that.

Ms. Burgess, With that 5ft. you'd shrub it or something?

Mr. Vangsness, With the 5ft. the trees are going to get so big if you planted them right up against fence they would knock fence down.

Ms. Burgess, I forgot about the fence.

Mr. Clemmey, There is Mrs. Chen lives there and I've spoken to her she wants to be involved in placement of the trees and I told her I would be more than glad to position it. I've already offered that to her she is very particular it was only 10ft. at first but now we went 30 I still gave the same opportunity to her that I did when I committed to do 10ft. now I'll do 30ft. of landscaping. I told her what Erik's plan is she can go out with permission of the board. I want to work with her she lives there I'm not looking at it you're not looking at it she is looking at it. If I need extra tree there where she lives I will give her another tree I want to be good neighbor.

Mr. Vangsness, It should be noted that these locations are hopefully pretty set because that is what is going to create that wall behind. These are kind of subject to change because we don't have actually trunk locations of every little tree and saplings in there so these are going to have to be retrofitted.

Mr. Cerrone, You have some good size trees going in 10 to 14ft., 12 to 14ft. have some 8 to 10ft. Norway pine 12 to 14ft. those are big trees they are not cheap trees you're spending some money there for trees.

Mr. Peterson, What would be maturity height of some of these trees?

Mr. Vangsness, Norway spruce you can find ones that are 150ft. tall those probably won't get that tall. When I'm gone and we're all gone and everything they will be 50 to 75ft. anyway. Good thing is Norway spruce grow reasonably quick foot or so year, white pine and arborvitae they grow even faster, which is one of the reasons they're used out here those can get you even 18" a year and we'll make sure that they're in conditions suitable.

Mr. Houle, Are white pine subject to little bit more disease than other ones?

Mr. Vangsness, They are but they're still native tree and what you try to avoid is same thing with trying to plant American elm just try to avoid planting lot of them. We've only got ten white pine and we're going to protect them with other things. Any tree can come down with disease at any point you hope it doesn't happen. Way we try to mitigate against that is to plant three or four different kinds of trees just to give them all the best chance. Even the Norway maple that are existing right now we'd never want to plant those because I know those would die in 25 years. You plant red maple they can grow for 100 years.

Mr. Clemmey, House labeled A is David Plante I've had opportunity to speak with him he is in favor of plan and he is going to write me letter before town meeting on 9th. I just haven't had time and I apologize to the board I'm not getting that letter right now but he's basically sick of me going over there and showing all different plans. He likes this plan he liked plan before and he will write me letter in support and there are three or four other neighbors that also want to support me. I basically knocked on doors on most of neighbors I haven't got to everybody but most of neighbors I have knocked on their doors and talked to them and they are in favor of the plan.

Mr. Houle, Is there anyone that is not in favor?

Mr. Clemmey, Guido's brother can't understand why he lost section. I'm not saying he is favor not saying he is opposed. But piece when I initially went over there and in front of this board he said why did he lose piece. I explained to him during our negotiations the town would have liked 30ft. verses the 10ft. so he's still deciding he is not in favor and he's not against he's seen this. Guido is in favor of it, Maralynn and Joe in favor, Millers are in favor, we own one house. We want to get it done and we want to come back once this is done we'd like to come back in front of the board with new plan to develop property. It has been long road and we appreciate all hard work everyone has put into it hasn't been easy.

Ms. Janick, You brought up house you own one of my questions is what are you going to do with property. Other question is I'm just jumping ahead are you going to talk tonight about exactly what you're going to put on other side of the berm.

Mr. Clemmey, On one side of berm it is going to be zoned commercial and we're going to have to come back in front of this board when we finally get our new plan together. We're not working on right now because we can't do anything until this gets approved.

Ms. Janick, It was going to be parking on original plan.

Mr. Clemmey, It was but as it is with all this being zoned commercial board working with us we're going to be able to use that as open space now is greenery. When we put new building up we're going to have to have percentage of greenery. What I've offered to the neighbors Guido's brother and his son that when I come back in front of board and have to have open space first place I'm going to put open space is right next to his house. There will be parking below but once again I can't sit here tonight and tell you exactly what is going to be there because we have to go back and go to drawing board and do plans see how much open space we need and obviously I need as much parking as I can. At same time I still want to be sensitive to him and so I will put greenery space that will be first place I will instruct Larry to put greenery right outside his door. House you're referring to 125 we recently purchased 185 Old Post Rd. If you go by there, there is sign with my cell phone number on it so anytime you want to call me please feel free. I'm personally handling that rental property myself we just put new roof, renovate it and carpets cleaned it all up. 185 I'm interviewing the people who will live there and Kelly Malone is my neighbor I wanted to tell you good rentals. 125 Old Post Rd. we bought many years ago we weren't quite sure what we were going to do with it at this point I know I never will get that rezoned to commercial so we're going to fix it up and will have to rent the house.

Mr. Tilton, That is the presentation. Remaining sheet on the set is the detailed planning scheme and is missing wall section but we will add that.

Mr. Peterson, This is presentation that will be done at town meeting?

Mr. Tilton, Yes.

Ms. Burgess, How does this effect zoning decision are you going to have to go back to zoning?

Mr. Tilton, When we come before you with development of site I think we're going to be back in front of ZBA because we have conditions in place right now. We're better off to go back and get them reaffirmed and then come back before the board.

Mr. Clemmey, We had told them if something changed dramatically we would come back and let them know. Once this is done and we come with final plan we will go back to zoning board and update those order of conditions then we'll come before this board and hopefully be successful.

Mr. Cerrone, How come it took you 2 ½ years to come up with plan like this? We asked you from day one.

Mr. Tilton, Blame it on me.

Mr. Clemmey, I'm slow. It's all Larry's fault he likes to get paid. I thank this board very much we worked hard on this and I appreciate the support when we go 11/9th. hopefully get this resolved I think it will be best for neighborhood.

Ms. Janick, If I could just say I can't speak for the other neighbors because I don't live on Old Post Rd. I drive that back section every single day several times and we work here in town so back and forth between our office and our house. It looks like good plan to me as long as it is kept. For several years we've been going through this so we know the pain that everyone has been through with this. I think it is important to keep Boch Toyota in town I don't think we want them to go somewhere else. As long as look of Old Post Rd. is preserved and neighbors' view are hidden from a parking lot. It is unfortunate that Old Post Rd. is so close to Rte.1 but that is way it is. I think the guys have done great job in presenting what we hope it is going to look like. As long as it is maintained I think it will be nice.

Mr. Weymouth, What is building height restriction in this zone?

Ms. Burgess, 30ft.

Mr. Weymouth, Question to board. Does board feel that we're approving settlement/litigation in a vacuum? We don't know what development plans are for that parcel.

Ms. Burgess, I think the two concerns of the board were the no access and buffer regardless of what goes there because there was a Deli there.

Mr. Cerrone, There was two story colonial too that was about 30ft. up.

Mr. Houle, I would say 25/30ft. easy.

Mr. Peterson, I think Mr. Weymouth's point is well taken but I think considering we're bordering commercial zone it is going to be virtually impossible to screen out completely. I was thinking that too that is why I asked about height of trees and your description of height of street and houses across the street. I think it is going to give it pretty good buffer particularly when the trees grow. I don't see how we can mask it all out I really don't.

Mr. Houle, I agree and answer to your question Scott I don't feel as though I'm doing that. I think we had chance to enhance a scenic way I think we did it. I think with all input from everybody that lives over there from previous meetings I think we've heard from them most of them were positive. I think perseverance pays off because I think it is going to end up looking very well.

Mr. Clemmey, There is no doubt it is going to be gorgeous.

Mr. Peterson, Other thing to is it depends on how you design your build. Unfortunately many people who design buildings have the attitude it is like old wild west when you only have a pisode of building but here you have building that is going to be seen from several different ways so hopefully you will take that into consideration some attractiveness all way around.

Mr. Cerrone, Make motion we close hearing, seconded by Richard Thimot.

All in favor 5 to 0 hearing closed at 8:28 P.M.

Mr. Cerrone, Make motion to support the article for.

Mr. Clapp, I think it is article 9 on town meeting warrant.

Mr. Cerrone, To support the article from Boch Toyota for lots 225, 63, 91 and 74 with deed restrictions that we include no access deed restriction, buffer zone on Old Post Rd. coming down plus temporary no access to lot 225 and plus putting buffer on side of Sabatini Vescusi to zone line lot 65.

Mr. Houle, One other thing the fence is going to brought down.

Mr. Clemmey, I told the neighbor that.

Ms. Burgess, It is to rezone to C30.

Mr. Ferris, We have memorandum of understanding that we want you to look at and that incorporates everything. So if you're approving this and you're going to support then I would

ask this board to consider signing that because Boch entered into as well so we have executed document before we go to town meeting. I reviewed it any changes that you make we should initial the changes on the plan.

Mr. Cerrone, Only thing that little buffer.

Mr. Clemmey, I've already committed to the neighbors.

Mr. Cerrone, That is included in that motion do we have it all?

Ms. Burgess, As stated in the memorandum of understanding.

Mr. Peterson, Second the motion.

All in favor 5 to 0.

Mr. Thimot, When do we go to court with Mr. Clapp?

Mr. Clapp, It is all over if it passes.

Mr. Clemmey, It is on hold.

Mr. Ferris, Deed restriction that will go away with memorandum of understanding.

Ms. Burgess, Do you want this memorandum to reflect this plan? I think it reflects original plan doesn't it? Not deed restriction the memorandum.

Mr. Ferris, This is new deed restriction change that I have we added that deed restriction we have to enforce it I'll put down town of NA. The only thing on memorandum of understanding is that we have to make sure we have right plan.

Ms. Burgess, The way that Stephen explained it to me is references our easement, represents original plan that Larry did the worksheet, which is basically is almost the same thing.

Mr. Houle, It has to represent this.

Mr. Clapp, It says subject to us delivering a deed restriction that is satisfactory to the planning board. Deed restriction is what is going to record and that references these plans. I had deed restrictions signed by Ernest Boch but Roger had a change today it was on last page so I have to have it resigned.

Mr. Houle, He doesn't have a valid copy anyway.

Mr. Cerrone, Write draft then sign it.

Mr. Ferris, Is that the right one Oct.28th?

Mr. Tilton, I can edit this and initial it if you have to.

Mr. Cerrone, You can put all the changes then we can sign it. Make changes and we'll sign it.

Mr. Ferris, Only change is the fence?

Mr. Cerrone, And buffer on side.

Mr. Weymouth, What are you asking for Don are you asking for 5ft./10ft.?

Mr. Cerrone, Whatever he has here whatever the width is 15ft.

Mr. Clemmey, Said we would put solid fence and then trees on side. That is not what we agreed on Larry threw that on there after.

Mr. Houle, That is not what we just voted on.

Mr. Tilton, We can negotiate the trees. There is 10 we just turned the corner to get around corner it can be whatever you guys decide.

Mr. Clemmey, Nothing on corner we're going to end it at property line.

Mr. Cerrone, From property line to there what is it now?

Mr. Tilton, 15ft.

Mr. Ferris, Is this depiction correct?

Mr. Cerrone, Mr. Houle, Mr. Tilton, Yes.

Mr. Clemmey, That is not what we agreed on we agreed on executive session was straight we did agree on that.

Mr. Houle, But we just voted on this.

Mr. Weymouth, These plans are referenced in that.

Mr. Clemmey, Okay.

Mr. Clapp, The deed restriction goes on and it says, "we've got to within 6 months build it according to the three plans" and that is on one of the plans so that has to be built within 6 months. Without doing anything he has to do it.

Mr. Clemmey, That would be used for open space.

Mr. Cerrone, You gain anyway you needed that.

Mr. Clemmey, I told him because on the plan I showed them what we agreed on and I told them when I go ahead I would do it anyway.

Mr. Cerrone, Yes you might want to call and say I did it already for you.

Mr. Tilton, I want to show a fence.

Mr. Ferris, This is memorandum of understanding it references the deed restriction, which has been reviewed.

Mr. Tilton, I want that fence here.

Mr. Weymouth, Why is that?

Mr. Tilton, Because I want to keep these people from coming over.

Mr. Clemmey, There is chain link fence right now I told him I would replace it go straight back to property line.

Mr. Houle, Do you want to see memorandum Don?

Mr. Cerrone, No Roger reviewed it I'm not a lawyer.

Ms. Burgess, Dick you need to sign that as chair?

Mr. Ferris, No you want motion before that motion to adopt.

Mr. Clapp, It says we're going to dismiss lawsuit if this gets passed.

Mr. Ferris, This basically addresses the presentation then it refers to a deed restriction, which I have.

Mr. Cerrone, Make motion to adopt memorandum of understanding, seconded by Richard Thimot.

All in favor 5 to 0.

Mr. Houle, Roger do you want somebody to sign this plan?

Mr. Ferris, No it is all referenced it is all set. I'll have the deed restriction he signed it already but he didn't sign it with my change I will get that tomorrow.

Mr. Cerrone, As long as you get it for town meeting.

Mr. Ferris, If it passes it is no good if it doesn't pass.

Mr. Cerrone, Some people will say how do we know they're going to do this.

Respectfully

Submitted,

NORTH ATTLEBOROUGH PLANNING BOARD
REGULAR MONTHLY MEETING
THURSDAY, OCTOBER 29, 2009

Wayne Patterson;

Ms. Burgess, He wanted to know if he could have member's phone numbers.

Mr. Houle, If he wanted to he could get it out of phone book anyway unless we're unlisted.

Mr. Cerrone, He knows my number he called me before.

Mr. Weymouth, I don't have home number.

Ms. Burgess, You don't want him to have your cell number?

Mr. Houle, Wayne Patterson is on zoning board.

Mr. Weymouth, I don't care.

Ms. Burgess, I just like to check with you guys before I give out your numbers.

Glenfield Malacy Brown;

Mr. Cerrone, He passed away.

Ms. Burgess, Shawn Jorde wants to move this forward. Plans have never been endorsed it was approved but they had to do so many conditions and stuff they're done. Plans are now 4 or 5 years old. I don't know how you've done that in the past. You approved it but who is signing it?

Mr. Cerrone, Whoever is on the board that is how we've done it in the past.

Mr. Houle, Do you have anything stating that it was approved?

Ms. Burgess, Yes I have decision.

Mr. Cerrone, You should have it on the minutes too.

Ms. Burgess, Decision passed.

Mr. Cerrone talking to Larry, One more thing town floor.

Mr. Houle, Town floor depending I think I've been on town floor, he has been on town floor, Dick has been there long time presentation is everything you know town floor.

Mr. Tilton, Been there before.

Jill Marie Estates;

Ms. Burgess, Is just about ready to sign just going over final draft now I got it today.

Mr. Cerrone, You have all deeds, easements?

Ms. Burgess, I have all that I'm double checking the degrees and everything. Roger has already approved it so now I'm just double checking the numbers to make sure easements are represented. I will go to Roger again get final approval then that will be all set. John has already looked over the technical issues.

Mr. Cerrone, Is any money owed to John from those projects?

Ms. Burgess, I had them give me an additional \$2000 to cover additional review.

Fitzgerald Bally Heather;

Mr. Houle, Any update?

Ms. Burgess, They're paving tomorrow John or Jeff will be there.

Rezoning article for Boch;

Mr. Thimot, One thing I want to have little bit of understanding this board is not here to negotiate remember that. We're not here to negotiate we're here to say yes or no. Anymore of that baloney I'll raise hell and I will go to newspaper and everything else.

Mr. Houle, I know exactly what you're talking about but I would like to say something after that comment. Dick is pretty much right there we weren't the one that solicited the negotiation nor did we ask for it, it was brought to us. Just like a plan would have been brought to us I would just like to mention that. Dick what I'm saying is I agree with what you said in theory but keep in mind we didn't solicit the negotiation it was brought to us just like any other plan.

Mr. Thimot, We're not here to tell people how to do their work, participate in designing or anything else. We are not here to negotiate we do not negotiate we're here to say what they've done is proper or it is not proper acceptable to the board and regulations as they exist. It has never been any different and as far as I'm concerned never should be any different unless you want idea of these boards out and go to one man rule.

Mr. Houle, Hopefully that is not going to happen.

Mr. Thimot, This is what this town is talking about some of these stupid people.

Mr. Cerrone, We told them to do this 2 ½ years ago the rezoning.

Mr. Houle, Were you on board when they first came here Dick. You told them I don't want to put words in your mouth you said you should be going to town meeting and getting it rezoned.

Mr. Thimot, We told him that.

Mr. Cerrone, Yes.

Mr. Houle, For some reason we ended up where we were we told them what to do.

Mr. Cerrone, Go to town meeting we have public hearing and we'll listen to the neighbors then board would make recommendation on that one or the other. That is right way to do it not any negotiations. That is how you get in trouble negotiating.

Fitzgerald Bally Heather;

Mr. Houle, Is any money owed on that other than what we talked about before to John?

Ms. Burgess, There is \$300 outstanding.

Mr. Houle, How are we going to handle that?

Ms. Burgess, I'm not sure.

Mr. Houle, There will be money left over on other one right?

Ms. Burgess, We haven't given a dime back we still \$64,000 in cash.

Mr. Houle, I just want board to be aware there is little issue there.

Walmart;

Mr. Cerrone, How are we making out with the money \$1 sq.ft. what is status?

Ms. Burgess, I found out about all the charitables. I have talked to them and I guess the lawyers are sticking to the direct conditions of approval that state \$1 sq.ft. to the town of NA Planning Board. I told them I would be willing to write letter saying that because we can no longer accept this as planning board we would suggest that this money go here, here and here. She is not sure if that is going to fly or not.

Mr. Houle, Are they checking with their council?

Ms. Burgess, Yes.

Mr. Houle, When will we hear on that?

Ms. Burgess, I'm not sure I talked to her yesterday.

Mr. Cerrone, That check was supposed to be here before CO.

Ms. Burgess, Project manager Tara has the check.

Mr. Cerrone, You should have check sitting here and then if we have to change you bring check back. What happens if you don't get the check?

Ms. Burgess, It only has temporary CO they have not met all the stuff they have to do.

Mr. Cerrone, There is no such thing as temporary CO we won't through that with Corliss.

Mr. Houle, We didn't let him have the temporary CO.

Mr. Cerrone, How did that happen?

Ms. Burgess, Building dept. gave it I can oversee that.

Mr. Houle, Since when is there such thing called temporary CO?

Mr. Cerrone, Corliss we tried to do that with him we said yes building dept. said no. I don't care its not my problem but how can you do for one guy you can't do for other guy? That is how you get in trouble.

Mr. Houle, That is when you get sued.

Ms. Burgess, I'm sorry nothing I can do.

Mr. Cerrone, We're not blaming you.

Mr. Peterson, Might have to do with perhaps extent of work that still needed to be done.

Mr. Weymouth, Other thing you can do issue a conditional CO you can do that too what is the difference.

Mr. Houle, No matter how that money is going to come one check, three checks whatever we need to have firm understanding from the board. I'm assuming we're still going to have a say in it or there is chance it may have to go in general fund am I correct?

Ms. Burgess, Tara said that at their grand opening they made \$53,000 worth of charitable donations she is project manager for Walmart. She said she will send me the list and I said that doesn't satisfy our condition of approval then she said we went on about mitigation can't accept the money, etc. it had to be a gift not tied with any sort of project, etc. She knows the same things we do. They're concerned because that was set up on town meeting floor as well.

Mr. Cerrone, That was article I'll give you the article that was to rezone the land. That was deal to rezone that land from residential to commercial.

Ms. Burgess, They're afraid that the selectmen are going to come back and say where is \$66,000 you agreed to on town meeting floor.

Mr. Cerrone, It is planning board.

Mr. Houle, I'm not going to agree that they have nothing to do with it. Do I want them to get it? I would like to see it go to whatever charitable organizations we feel. However I'm not so sure it is going to work that way.

Ms. Burgess, I told her like I said I would write letter and she said as long as we have letter saying that we comply with the conditions of the approval that specific condition saying that it has been waived in lieu of Dept. of Revenue legal circumstances, etc. get language from Roger and they will donate X amount of money.

Mr. Houle, If we all agreed that such amount goes to A, B and C such amount goes to X, Y and Z and we give that to them in writing. Do you think they would then issue those checks to those people?

Mr. Thimot, Get hold of John.

Mr. Cerrone, I talked to John Kokot the other day.

Ms. Burgess, It is not John it is Walmart.

Mr. Cerrone, I talked to John about putting couple rocks between fire hydrant and transformer on Allen Ave. that is dead end because people are going over the curbing and going across. He said he would go out there the next day and next question he asked me has the board invited to grand opening?

Ms. Burgess, I mentioned that too. We weren't invited because she said all municipal boards have been invited I told her we didn't get invited.

Mr. Cerrone, John asked me Tuesday morning I called him left him message about couple rocks so cars and trailers don't go over there. When I talked to him Tuesday and we talked about few other things he said he'd get rocks done. Next question out of his mouth was have you guys gotten invitation for grand opening.

Ms. Burgess, I knew grand opening was yesterday.

Mr. Cerrone, Did the invitation go downstairs?

Ms. Burgess, No.

Mr. Houle, Did selectmen go?

Ms. Burgess, No nobody went.

Mr. Houle, Was Betty Poirier there?

Ms. Burgess, I don't think so it wasn't even in the paper.

Mr. Cerrone, He said to me I'm going to tell them to make sure they invite you guys.

Ms. Burgess, This was brought up on Tuesday when Rod and I went. I'm not sure how grand of an opening it was. I think they will probably do a grand-grand opening when they get their CO and when they finish all the outstanding work.

Mr. Cerrone, I knew they were going to open yesterday but I didn't think it was grand opening it was just trying to get everything make sure everything was working. When he asked me I didn't ask him what day.

Mr. Houle, That is what it is. We have couple pretty worthwhile things the town is trying to get housing for animal shelter.

Ms. Burgess, I think they're putting addition.

Mr. Houle, I think some of that money would be well served going there maybe to help animal shelter and other part is they're looking for money for Lenore's Pantry that maybe good place to put it too. They service people for Thanksgiving they're down to almost nothing over there it may be good way to really help some people that could actually use it rather than salary and whatever.

Mr. Thimot, With all due respect I understand what you're saying I think first think is to put it to animal shelter definite amount we know where that is going. If you want to give rest to Lenore's kitchen just remember once you give it to them it is going to be gone just like that. I don't mean it nasty.

Mr. Cerrone, I suggest animal shelter first I agree with that give them some money but we have to do something for Allen Ave. school.

Ms. Burgess, I spoke with them.

Mr. Cerrone, That is the area that money was supposed to be used. That mitigation money when that rezone came all that money was supposed to be used for that area. Not for administration maybe build them basketball court, tennis court give some money to something that is going to be there forever. Not a computer that 2 years down the road it is trash. If they need something for the kids outside playground, swings that is what I want to see.

Mr. Houle, Are we all in agreement give some to Allen Ave. school, some to Lenore's Pantry and some to animal shelter? If that is all agreeable why don't we all come up with figure for each one right now.

Mr. Cerrone, I want to see what they need.

Mr. Weymouth, What does animal shelter need?

Mr. Peterson, They need more than \$66,000.

Mr. Cerrone, At least you make donation.

Mr. Houle, Even if it buys them kennels on the inside.

Ms. Burgess, I spoke with Kyle Kummer about Allen Ave. schools he does their charitable donations. The donation would be made to PTO and they don't need playgrounds right now, they don't need repaving but it would go towards those things. They don't need anything right now.

Mr. Houle, Is there possibility it would go back into any type of general fund?

Ms. Burgess, No it can't the PTO is separate it is for charitable donations.

Mr. Cerrone, Board is going to want to know what it is going to be spent on. I'm not releasing the money just to PTO I'm telling you that right now.

Mr. Houle, So as they need it maybe we give them a check but where it is going to stay.

Ms. Burgess, I can't do anything with it.

Mr. Cerrone, We want list we want to know what they're going to do with it.

Mr. Houle, You tell them that watch how fast they will come up with a list.

Ms. Burgess, I can't control what they spend it on.

Mr. Cerrone, I can control because that is how the subject was to be spent in that area I want to know where it is going that is my feeling.

Ms. Burgess, Donation isn't coming from us.

Mr. Cerrone, No donation was coming because part of this board's mitigation.

Ms. Burgess, I understand that but donation will be coming from Walmart.

Mr. Cerrone, We're going to want to oversee where it is going to be spent.

Mr. Houle, I think we do have a right to ask them could you tell us what you're going to spend. Say we give them \$10,000 we'd like to know where that is going.

Mr. Cerrone, That is right it is going to be ear marked for that project.

Mr. Houle, I'm not sure that is way this can go I have feeling this may have to go into general fund. I don't know that for a fact.

Mr. Cerrone, Put three articles in for those.

Mr. Peterson, Has Roger Ferris made any comments?

Ms. Burgess, I'm working on this with Roger discussing it so I don't even know if they will accept a letter relieving them of that condition of approval. We're still in very early stages if they say no we can't accept that letter we're going to gift to the town in form.

Mr. Cerrone, We have the article.

Mr. Houle, If that is the position they're going to take that gift of \$66,000 is going to come to planning board correct?

Ms. Burgess, No can't come to planning board at all.

Mr. Cerrone, We're going to put three articles because we explained to those people where the money is going.

Mr. Houle, Rich what is best way to do that on town floor used to be the chair?

Mr. Cerrone, We're not using it for salaries and wages.

Mr. Peterson, I guess reason I asked about Roger is what do you call this money now that one time it was quote mitigation.

Mr. Cerrone, This is gift now.

Ms. Burgess, It is unassociated with any project in town.

Mr. Weymouth, This is generous donation is what it is.

Mr. Peterson, What is their legal responsibility for paying this now?

Ms. Burgess, The conditions of approval and the town enforcing \$66,000 or whatever \$1 per sq.ft. to town of NA.

Mr. Cerrone, Walmart is cutting the check not John.

Mr. Peterson, I think it is going to general fund.

Ms. Burgess, That was other thing I was going to contact Jacobe and Kokot and see what they think we should do see how we can go down this road in different ways. He might be able to say Walmart look this is what we're doing with this money I agreed to this when rezoned the property so this is how it is going. I was going to contact them as well these are all conversations that are just taking aside even if I did send letter.

Mr. Cerrone and Mr. Houle, Don't send any letters.

Ms. Burgess, We recommend would be the only language. I am going to call all them but I'm just saying the only language I would be able to do is say we can no longer accept this we recommend.

Mr. Houle, We can't even accept check then?

Ms. Burgess, No that is why when he said check I said no I can't put it anywhere.

Mr. Peterson, I don't see how it can go any place but the general fund. I can't see how money that is supposed to go to town of NA would be town legal would be allowed to turn it over and give it to charitable organization.

Mr. Houle, We did fight this on town floor last time and we all got up and we said money was supposed to go and it was mitigation money and we won that fight.

Mr. Cerrone, I have the folder this is last piece of the pie.

Mr. Weymouth, Is Walmart going to be obligated to make check out to town of NA or can they make it out to separate individuals?

Ms. Burgess, That is what I'm trying to find out.

Mr. Houle, Get hold of John Kokot he is guy to talk to.

Ms. Burgess, That is what I'm trying to set this all up.

Mr. Peterson, If town meeting approves getting \$66,000 to be paid to town of NA.

Mr. Thimot, Has nothing to do with town meeting.

Mr. Cerrone, Used to be before check to planning board.

Ms. Burgess, What is going to happen is be gift given to town of NA it is going to be done as free cash when free cash is summed up the next year that is when it comes out.

Mr. Houle, Only way we'll have any say as to how it gets spent is if we put couple articles in same way we did before when we got up and we won those. RTM all said wait a minute everybody starting saying this is what this money was meant for lets send it there.

Mr. Peterson, Yes it has to go to something I would think as part of the town.

Mr. Houle, You have animal shelter, Lenore's kitchen these are all part of the town then you have Allen Ave. school.

Mr. Peterson, School is all other things are completely town run?

Mr. Houle, Yes animal shelter must be town run.

Mr. Cerrone, Animal shelter is town of NA that is not private.

Mr. Houle, She is paid by the town.

Mr. Peterson, I'm just double checking.

Mr. Houle, Only one that might not be is maybe Lenore's.

Ms. Burgess, Ann Marie runs that.

Mr. Cerrone, It is not town budget thing that they budget money for that is where you have to be careful. Animal shelter is budget you have animal control officer we have to have vehicles and school is in that area.

Mr. Peterson, I was not clear except for really the school or even PTO. How could we give it to PTO isn't town entity?

Mr. Houle, Lets not look at who is going to get what. Are we in agreement that those are the three places we'd like to see it go?

Mr. Peterson, I think they are great places for it to go if it can go there.

RFP Workshop with Planning Board, Conservation and BOH;

Mr. Houle, Other night at meeting at police station Scott you weren't there. We all heard what was said we all heard why it was said and I think we heard everything that could possibly be said on this subject. I'm going to make a suggestion that we go forward and have Mary draw up letter of memorandum.

Ms. Burgess, Memorandum of agreement.

Mr. Peterson, No it wasn't agreement it was understanding.

Mr. Houle, Memorandum of understanding. I'm going to suggest that one of boards BOH put something forward that echoed very strongly what Paul Belham chairman of selectmen said. In essence the way they said it I think was almost identical. Do you agree Mary?

Ms. Burgess, Yes I fine tuned it a bit at the end.

Mr. Houle, Which would basically be we form sub-committee I don't know how many people we can decide that but it is going to have people from all three boards. If we get 10 people they're going to take that and bring two of them and those two will then come to planning board and we will choose out of those two. RFP for engineering firm.

Mr. Weymouth, Two separate proposals.

Mr. Cerrone, I want three.

Mr. Houle, If there is 8 that come in they are going to bring it down to two or three. They will then send it to planning board and we will then take look at what three are there and choose.

Mr. Weymouth, Who is going to bring it down to three?

Ms. Burgess, Sub-committee is being constructed of the BOH and their agent, Conservation agent, vice chair and chair or whom they appoint two members and same with Planning Board. Three for Conservation, two for BOH and three for Planning Board including myself no majority.

Mr. Houle, That is if we want dept. heads there that was something that was in there but I can't see why that would be problem they do work with guy on daily basis in some cases or gal. What I would say this gives the biggest thing Scott you weren't there rest of board was there was that everybody wanted representation in this and the way we worded the RFP they felt it kind of left us with most of the authority. We all have the authority in other words ConCom has right to do their thing, BOH has right to do their thing. Mary I'm assuming that right is same way we have ours from state and bylaw I don't know that?

Ms. Burgess, Its federal of wetland protection act allows for that for Conservation we don't have local bylaw. I'm not sure what BOH does I've read their bylaws but they also don't have town bylaws but I'm pretty sure they have ability to I don't know if it is through Mass General Law or through town bylaw. I haven't seen anything so I'm not exactly sure.

Mr. Houle, In interest of many trying to get this somewhere this memorandum would state that committee would be formed same way she just said certain members from each board plus dept. heads. Correct me if I'm wrong this is my understanding of this they will decide on best three the best three will then come to planning board and we will choose from that.

Mr. Peterson, That is where you're going to lose it because everybody wants to have say.

Mr. Houle, They did have a say they had say in final two or three.

Mr. Peterson, They're not having final say.

Mr. Houle, The BOH and Paul Belham who was speaking for the selectmen both said the same thing. Only one that had a problem with this was ConCom.

Mr. Thimot, And me I don't like the whole thing I think it is stupid.

Mr. Cerrone, Problem is they think they're going to save money.

Ms. Burgess, We're not saving any money.

Mr. Cerrone, It is going to cost more money because now Mary calls John Lavin doesn't get billed. When these big firms get hired the time clock will be on the phone. Mary calls for question will be 1/2 to 1 hour. All of sudden these developers are going to say what is this 1/2 hour Mary is going to say I had to call them I'm not paying for her to call.

Ms. Burgess, E-mails, inspections.

Mr. Houle, I made public statement that I haven't seen one thing that says we'd save money.

Mr. Peterson, I think we discussed this before so why isn't someone doing some analysis to prove it is going to save some time and money.

Mr. Cerrone, Mary what do we pay for John an hour?

Ms. Burgess, \$120.

Mr. Peterson, Has anybody every done like mark project or actually taking project and gone back?

Ms. Burgess, I don't have to do mark project I can do one right now.

Mr. Peterson, Take project this is process, this is how much time, this is how much money it cost the applicant. I think I mentioned to Dick one time just because you have one engineer taking care of whole project doesn't necessarily mean because of scheduling with the other boards and stuff that there isn't going to be lapses of time. Things aren't necessarily going to move along smoothly.

Mr. Houle, I think their idea that there is going to be maybe one engineer to do all of it. I think whatever firm if we pick one I think there will be several people involved in my honest opinion.

Mr. Peterson, I think the sticking point and I don't know BOH I thought at end was little questionable on it too.

Mr. Houle, No they put this forward.

Ms. Burgess, I thought too John Donahue and Bob Davis were shaking their heads.

Mr. Peterson, I just want to throw this out but in whole process you just described when the committee gets together Mr. Fisher talked about doing evaluation sheets.

Ms. Burgess, I did those.

Mr. Peterson, If it is done with evaluation list then no necessarily a board isn't really going to be able to trump the process. Once we decide come down to say two candidates and Don is very concerned about us all being able to vote on it and I agree. We're going to have three boards why can't those two candidates come back be submitted to each board and each board votes on them and we have to have unanimous decision between three boards.

Mr. Houle, We're never going to get anywhere.

Ms. Burgess, That is good idea.

Mr. Houle, What if one board wants one and other board wants another?

Mr. Peterson, It has to be unanimous we give them chose of two candidates.

Mr. Houle, It is never going to be unanimous we can't even agree on how to do it.

Mr. Cerrone, You know what this is all about I'm going to tell you plain and simple. This is going to fail even if we approve it and they're going to want a town engineer dept. That is how they're going around the corner. I want to know what has been wrong for 18/20/30 years. How many subdivisions have we done in this town?

Mr. Peterson, Then we have to cut our losses and just say look we don't see this working.

Mr. Cerrone, Let the Conservation and BOH get whatever they want for engineering firm.

Mr. Peterson, If no one is going to say we have to think of different way of doing this.

Mr. Cerrone, Then selectmen are going to say see we told you it wasn't going to work now we need this.

Ms. Burgess, Only problem with doing actual financial analysis I know for fact that I won't get accurate from BOH because they went over their \$5000 with Mill River in like a week with Cushman Village.

Mr. Cerrone, This is all about certain things.

Ms. Burgess, They don't have a contract with them.

Mr. Weymouth, I'm trying to think of all projects I've done and communities I've done them in and review engineers. I'm not so sure it is going to save money.

Mr. Cerrone, No I don't think so.

Mr. Houle, I said it publicly at the meeting I haven't seen one document that is going to tell me this is going to save money.

Mr. Weymouth, I'll tell you what if each board stay within their jurisdiction it is not going to cost applicant or developer another dime more.

Ms. Burgess, That is the problem that came about one board is going out of their jurisdiction.

Mr. Cerrone, Look at BOH they want to do retention. BOH has nothing in that RFP.

Mr. Peterson, That is next point we have to know who is responsible for what before we even go.

Mr. Cerrone, Right then they said they were going to do perk test it is not in RFP.

Mr. Weymouth, Only reason it would cost an applicant more is if each board is reviewing stormwater and having their engineer review it all over again.

Mr. Cerrone, That is right BOH have stormwater and we have stormwater. Now the new engineer is going to say I have to review two stormwaters.

Mr. Peterson, I would imagine there is some overlap. Everytime we get review by one of the boards they start with same thing.

Mr. Weymouth, BOH has stormwater.

Mr. Cerrone, On RFP they do retention pond look at RFP. Engineer is going to say I have to review for BOH.

Mr. Weymouth, BOH is like septic.

Ms. Burgess, Not anymore legally the public health and welfare have to do with where the stormwater.

Mr. Houle, Okay but state law says we have it?

Ms. Burgess, No state law does not say we have stormwater. Wetland protection act it is Conservation is to do stormwater. What we look at for stormwater is capacity.

Mr. Weymouth, ConCom has no jurisdiction over project because it doesn't meet setbacks and your not anywhere near this or that. How is their regulations over stormwater.

Mr. Cerrone, We're under subdivision control.

Ms. Burgess, I understand that we've been doing it over stormwater we've been doing that. That is why we need to update our regulations to include that because that is where people are saying. We have to have public hearing for rules and regs.

Mr. Houle, That would curtail that argument right away.

Ms. Burgess, Exactly and that is what we need to do because we run into that problem.

Mr. Weymouth, Stormwater is probably the most expensive situation for review engineer to review that and traffic.

Mr. Peterson, What would be negative to having town engineer?

Mr. Weymouth, Who is his master?

Mr. Cerrone, How much is it going to cost you?

Ms. Burgess, Is he going to be at my beck and call?

Mr. Cerrone, Why should taxpayer pay for him?

Mr. Peterson, His salary would be paid by the fees.

Ms. Burgess, You can't.

Mr. Weymouth, You could you could raise fees and do all that.

Ms. Burgess, Last year we paid John \$12,000.

Mr. Peterson, There are lot of communities that have town engineers and I don't know if they're doing badly or not.

Mr. Cerrone, What did we spend last year with John Lavin?

Ms. Burgess, \$12,000.

Mr. Cerrone, Can you get engineering dept. for \$12,000 in town?

Mr. Weymouth, Did you get tremendous out of that \$12,000? \$12,000 is all the review engineering fees last year?

Ms. Burgess, We didn't have a lot.

Mr. Cerrone, Even our busy years we've done like \$50 or \$60,000.

Ms. Burgess, One year we did \$123,000 I think that was 05.

Mr. Cerrone, That was 30 projects. If we had 30 projects in town we would have four engineers, three assistance, million dollar salary.

Ms. Burgess, Other situation to is inspection. Is that one engineer going to be able to do our inspections? When I call John Lavin he's there and he has his crew and they do the inspections.

Mr. Peterson, Other thing just because you hire and engineering firm that does multiple task that doesn't necessarily mean that one that really would be good for planning review for the planning board.

Ms. Houle, Here is suggestion we had several meetings. Why don't we put this memorandum together based on sub-committee if it goes through fine if it doesn't then why don't we just go there and say we tried to make this work it is not going to work.

Mr. Weymouth, Then why do you want to go through the motion of memorandum of understanding?

Mr. Houle, Because I don't want it in the paper it to come out that the only people that don't want to work with us is the planning board and that is exactly what they're going to do.

Mr. Thimot, Who cares?

Mr. Houle, I care.

Mr. Peterson, I think you have to give it a shot.

Ms. Burgess, I agree give it a shot.

Mr. Cerrone, Tell them how many members too you want to tell them right out.

Mr. Weymouth, Play it through put memorandum of understanding together.

Mr. Cerrone, Tell them how many members you want.

Mr. Weymouth, Then you still end up at same spot. Why are they not going to then point the finger at you again.

Mr. Houle, If they do I'm going to say we all sat in this meeting two of groups that were here selectmen and BOH all agreed to this now the planning board is agreeing to it. Now I'm going to point to someone else and say why aren't you?

Mr. Cerrone, They're going to say we need Mark Fisher as town administrator...(inaudible).

Mr. Houle, He just got reprimanded they're not going to do anything that way.

Ms. Burgess, Selectmen doesn't even matter what they say. BOH and planning board agreed to this that is majority two out of three.

Mr. Houle, You heard the board we have to move forward because we have to get out of here. Put memorandum together and do me a favor as soon as it is done. She is going to put it together how many members do you want to have?

Mr. Cerrone, Should have two members from each board.

Ms. Burgess, Except for BOH they will have a majority.

Mr. Peterson, I thought this memorandum was supposed to describe what we discussed at the meeting. That is what we discussed that is how we're going to break it down?

Ms. Burgess, That is how I broke it down at end of meeting.

Mr. Houle, I'm going forward with what BOH said what selectmen said now we're going to say it. There is only one party abstaining now and it won't be us. Our comeback will be we tried to make this work it is obviously not going to work.

Mr. Weymouth, Lets say they come to the table.

Mr. Houle, Then we go forward with it.

Mr. Cerrone, What kind of agreement?

Mr. Weymouth, I thought we just came to consensus that it is not going to work.

Ms. Burgess, We're going to try it and we're still going to bring three people to planning board for approval and leave it at that. Then if one of the boards does not want to participate in it then it fails.

Mr. Weymouth, It gets that far you're at point of no return.

Ms. Burgess, But I don't think we're doing anything we don't want to do.

Mr. Houle, We've all discussed this we need an engineer and if we can all work.

Ms. Burgess, I also told Paul Belham look if this isn't resolved by April I'm going out for new engineer because I have to. My three years is up with John Lavin so I have to go out again so regardless.

Mr. Cerrone, We have to go out before April.

Ms. Burgess, If we don't have decision by April I'm putting in my RFP and then we're going to make our decision probably interviews in May.

Mr. Houle, That is our ace in the hole. If they keep this going like this we're going to tell them we're going out for our RFP because we have to.

Ms. Burgess, They will know this is open office. People overhear things so Conservation knows I have to go out to bid in April. I'm not doing it to under mind anybody I have to do this.

Mr. Houle, We're not going to say anything to anybody. If we put this memorandum of understanding it is going to forward soon as it is done please show it to me we'll show it to board. As soon as we all agree on it members we just talked about for planning board. One thing we have to talk about were we going to invite anybody from selectmen? My personal thing on this they don't have anything to do with this.

Mr. Peterson, No there is liaison necessary.

Mr. Cerrone, No nobody.

Mr. Houle, It is going to be three boards you know numbers it has to be then it will come back to us as stated.

Ms. Burgess, We're not having any selectmen liaison.

Mr. Cerrone, On final recommendations it is going to be final three not two to us.

Ms. Burgess, If I end up throwing out because they're not complete and not qualified and I only end up with so many.

Mr. Houle, I'm going to be honest I don't think we're going to get but 4 or 5.

Ms. Burgess, I actually just talked to one of my planner friends who went out to bid for engineering services she got 35. It is the economy now.

Mr. Houle, At same token she just brought up good thing I don't want to have to sit here and sift through 30 people. Lets let these people do their job.

Mr. Cerrone, Three qualified candidates doesn't have to be big firm. Problem we're going to have we're going to get some of these companies they're going to go back that is how we got in trouble with big company when we first started these inspections. They were out of Boston Dale MacKinnon work for Earth Tech it used to be Whitman and Howard they were good then Earth Tech bought them. When they bought them out they used to send kids to do inspections used to charge regular rates and these guys were complaining. This is going to be unbelievable cost when you go for big companies.

Mr. Weymouth, You limit it to within 30 miles of town of NA.

Mr. Cerrone, If every dept. knew what to do on subdivision review their own stuff won't be any problem. They have review then send thing don't overlap certain things that is what problem is right now. Nobody is doing their job.

Mr. Houle, Everybody is trying to get in everybody else's.

Mr. Cerrone, Conservation says to us we'd like to have your engineer review this fine we'll get it reviewed and send copy.

Mr. Houle, There are certain people that want to take over everything that is why this is happening.

Ms. Burgess, I know what I'm doing will draft of it. We're meeting next week. You have to let me know who is going to wake it is here. There is memorial in Community Field.

Mr. Houle, I'm going.

Mr. Peterson, I think it is disrespectful.

Mr. Houle, Why don't we just cancel the meeting? Well redo meeting at different time.

Ms. Burgess, We have one 19th. have one the 12th. but I set that aside for SRPEDD.

Mr. Cerrone, Push next weeks meeting to the 12th.

Ms. Burgess, Problem is I have couple public hearings on the 5th. I have aquifer protection permit, have Woodridge Estates. My problem being I have to republish letting them know we canceled this meeting. Following week we have SRPEDD we really do have to set aside this time for SRPEDD because we need to get that done by 12/31.

Mr. Houle, Put it on for Thursday we'll give SRPEDD plenty of time two hours or whatever he is going to need or she and then we'll do whatever business we have to do.

Ms. Burgess, You guys will have information ahead of time so as long as you come with all your comments and everything like that we should be able to get that done in an hour but he has to go first so we can do public hearing first Thursday and be done. I'm just trying to establish time on record I'm saying 6:30 to 7:30 we'll do SRPEDD and then from 7:30 to whenever we'll have special permit hearing for aquifer protection district. It is very simple very straight forward they're moving into a building they're not doing anything they're not supposed to it is Ride Away moving into building off of George Levin. I talked to my person in DEP and got all my aquifer protection things in a row so we should be all set with that it shouldn't take that long.

Mr. Cerrone, What are we doing for floor drains?

Ms. Burgess, That is not our dept.

Mr. Cerrone, I thought BOH was having hearing on that.

Ms. Burgess, Floor drains they haven't got to that yet. They're going through draft form I contacted them they have no date for public hearing they're going to send around the other draft. They didn't give me any dates to return anything like that.

With aquifer protection I'm going to put that on for 7:30 and then I'm going to put Woodridge Estates on for 8:15 then we'll just go with that.

Mr. Cerrone, Are they ready?

Ms. Burgess, They will be ready by then. They're ready they've got all their revisions in to me actually it would be better for John to have more time to review and I don't have to rush him.

Mr. Houle, If we need more time we have to stay little later we stay little later.

Mr. Weymouth, We're going to delete the 5th.

Ms. Burgess, I'm going to put a notice in the paper that we're moving public hearings to that date.

Mr. Peterson, Make motion to adjourn, seconded by Richard Thimot.

9:35 P.M. all in favor 5 to 0.

Respectfully Submitted,