

**MINUTES OF
WORK SESSION**

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

7:00 P.M.

**CITY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

JUNE 5, 2008

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Donald Coker; Anthony Coviello; Paige Roberts; John Rice; Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector; MaryLiz Geffert, Alternate and Norman Patenaude, Alternate

MEMBERS EXCUSED: Jerry Hejtmanek, Vice-Chairman;

ALSO PRESENT: David M. Holden, Planning Director; and, Lucy E. Tillman, Planner I
Robert Sullivan, City Attorney

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I. DRAFT REVISED ZONING ORDINANCE

A. Article 9: Site Development Standards;

Chairman Ricci turned the meeting over to Rick Taintor, of Taintor and Associates.

Mr. Taintor gave a quick overview. He explained this revision deals with parking and loading sections, landscaping, screening and outdoor lighting. In terms of parking they are trying to update the list of uses. They want to be as simple as possible. They have reduced the number of uses from 108 to 69 uses. They have defined some new terms and revised some. They have adjusted parking ratios and tried to make the calculations easier. They included a reserved parking area which gives the option of having the Planning Board permit that provided that the area being reduced is landscaped. There are some additional details on design areas. They have tried to update the requirements for off street loading spaces. Currently there are two broad use categories. One is called retail business and service establishments and the other is called wholesale and industrial occupancies. The office uses are treated the same as retail uses which needs revising. He will show that very large uses it is dramatically over-regulated and they have gone to other communities to look at their regulations and they have come up with a sliding scale. The landscaping and screening section is brief. The lighting section is very detailed.

Page 143 is simple and is the existing regulations with no significant changes. Mr. Hopley commented on the use of the word handicapped vs. disabled is on 10.912.14. The national trend is to use physically disabled.

Page 144, under Educational, Religious, Charitable and Cultural Uses, for Club/Lodge there is one space for four person of rated capacity. He is thinking about the Knights of Columbus function hall that has a capacity of 200. That would require 50 parking spaces with these calculations and he questioned if that would enough? Mr. Hopley believed that was a BOA restriction. Under the model codes it could be significantly more than that, depending on what is going on in the facility. These type of facilities tend to be a challenge as they can accommodate a wide range of uses which results in a wide range of occupancy. So, it's a moving target. Mr. Taintor indicated this goes along with the

Place of Assembly and place of worship. Would a club or lodge fall under a place of assembly. They have a federal law that you cannot discriminate between religious and non religious uses. Should they increase the parking requirement for both of those? Mr. Hopley stated he would have to try and pigeon hole club and lodge. Assembly occupancies in the building code have five sub categories and it is a process of elimination. It might not be an absolute answer, like a restaurant. Yoken's was a restaurant but more than a restaurant. He indicated that he probably was not answering the question but it's difficult. Mr. Coker had a concern that an applicant will present the minimum case. Mr. Hopley indicated it would be twice that in the building code. It is a huge variation. Councilor Dwyer thought it seems when the use is food and drink, there isn't as much difference then there is for a building that might have a club/lodge function. Maybe the underlying use has to do with some other things. The club/lodge is on their mind as they are thinking of examples that operate more of a restaurant. Mr. Taintor noted A2 is a restaurant with its own special requirements and people who are drinking are harder to get out of a burning building. Interestingly, neither of these have changed from the current ordinance. Ms. Tillman explained that the limitation was put on the Casey Home because the building would have required a lot more parking if the BOA didn't limit the capacity. They have offices that functions during the day and a use that primarily functions on the nights and weekends so it is a shared parking situation and is unique but a good example of shared parking. Other places where they have had assembly or function halls with unfixed seating, she cannot think of any problems they have had with them. The Casey Home building is slightly bigger but when you cross the building with the building codes and zoning, she has not heard of problems with the amount of parking out there but just problems with how they are exiting the site. Deputy City Manager Hayden thought there were two issues they have to balance between. One is not have a sea of parking or is there enough parking most of the time. Councilor Dwyer asked if the Casey home had not had a multiple use it would have only required 50 spots? Ms. Hopley stated that the 50 came from the 200 capacity which was a limitation put on by the BOA. That ended up making his job much easier as that building could have had far more from a building code issue. Councilor Dwyer pointed out that if the parking was raised they should think of the Route One problem. Chairman Ricci recalled that the question came up because they talked about seating and if they moved all the tables aside and they then said they had empty parking for the office building they could use. Chairman Ricci didn't think they walked away from the project feeling very good about it. Mr. Taintor stated that the question is whether one parking space enough for four occupants enough? Mr. Coviello noted that current Table 15 they break it out by fixed or unfixed. Ms. Tillman pointed out he was looking at meeting function rooms and this was for clubs and lodge.

Chairman Ricci asked Mr. Hopley how the parking calculations dovetail into his review? Mr. Hopley stated they have to communicate. At some point both the land use regulators and building inspectors have to agree on an occupant load and they may not be the same. It would be nice if they could but they don't always agree. Safety codes could allow for a lot of folks which results in a sea of asphalt. Deputy City Manager Hayden felt it was an art and not a black and white science. She thought they should go back to whether they have been problematic over the past years. Ms. Roberts agreed that the issue of balance and how often is it a problem. Mr. Taintor indicated that some communities have a presumptive standard, or something that is a worse case scenario and a provision in the Ordinance that the Planning Board can approve something differently and not even go through the variance process. Councilor Dwyer felt it seems there is a difference adjacent to residential or adjacent to other zones. They would be trying to prevent overflow parking next to residential. Ms. Tillman thought they will address that through the use tables. For example, you can't have a club or a function hall within 200' of a residential zone. Councilor Dwyer agreed that could be an exception.

Mr. Coviello felt the cut off should be quarterly, so it doesn't happen more than 4 times a year. St. Catherine's Church does not have enough parking every single week. The frequency and the location are the important things. But a church is not a bad thing in a residential neighborhood. Chairman Ricci noted that the church has changed how they run things which has created the current problem. Mr. Taintor added that they are probably not operating over capacity. They were probably under-

parked to begin with. If they allow it every week for a church then they have to allow it every week for a club. Mr. Coviello doesn't have a concern if there is a problem one day a year.

Page 144. Councilor Dwyer felt they should be thinking about housing alternatives and creating lots of options. A boarding house requires 2 spaces for a dwelling unit plus one space for every room where the essence of boarding houses is they probably won't have cars. They don't want to exclude options that make it possible for people to live near downtown. That seems excessive to her. Ms. Roberts asked if there are any boarding houses in town? Deputy City Manager Hayden doubted they will have any more new ones. Councilor Dwyer stated, having been involved in the ordinance, the testimony was that it was provided for people working in the restaurants and working downtown. This seems the legislation that is discriminating against a different type of housing. Chairman Ricci only knew of one boarding house and he thought it was all on street parking. Mr. Hopley confirmed there was parking out back. Deputy City Manager Hayden believed there are three boarding houses in town.

Page 145, Mr. Taintor noted there was not much of a change from the existing regulations, which itemized everything. The one change is the caretaker/dwelling unit is reduced to one space per dwelling unit.

Mr. Coviello asked if Item 6 was just left for future use? Mr. Taintor confirmed it was. Mr. Coviello referred to daycare facilities and asked where that number came from? Mr. Tillman stated it is one for every 4 students now. Mr. Taintor confirmed it was one per employee plus one for four. Mr. Coviello felt that the daycare on Rye Street is severely under parked. Councilor Dwyer noted that for infant care there will be more staff. Group day care needs more than a family day care as there is a lot of staff in infant care, per State regulations. The day cares are compared to primary schools. Mr. Coviello didn't think they are high enough for day cares. Mr. Taintor indicated that primary is one per eight students. For group day care is one per three students.

(M.L. Geffert arrived at the Work Session at 7:30 pm)

Mr. Taintor asked what they would be comfortable with in terms of the size of a day care facility. Councilor Dwyer indicated that typically it is done by group size. 100 children would be very high end. Mr. Taintor felt they are saying this seems to require a lot more parking than the existing ordinance. At max it would be 33 employees for 100 kids. Mr. Coviello confirmed it would be 25 employees for 100 kids plus pick up and drop off. Chairman Ricci added some is short term pick up. Mr. Taintor thought it sounds like they may have 25 spaces vacant most of the time. Chairman Ricci indicated there has been no problem with the Mirona Road day care. Deputy City Manager Hayden noted that the Rye Street day care was built under the PDA Zoning Ordinance. Mr. Coviello felt it was odd that the primary has so many spaces. Deputy City Manager Hayden asked if the source of Mr. Taintor's numbers were national? Mr. Taintor confirmed that was correct.

Chairman Ricci asked under private schools, are the schools governed by number of students or are the number of students governed by the space of the school. Mr. Taintor indicated this should be rated per student capacity.

Mr. Hopley added as food for thought. In terms of private, primary, secondary and college, thinking those schools may have students driving to school, once you get out of grade 12, the school then becomes a business. Would that also translate into parking and the parking capacities for offices which are based on square footage. That is typically what they are going to see. Chairman Ricci felt that number should be the highest of the three. He would assume a campus college would be low but not a night school.

Page 146. Mr. Rice referred to team sports and multi use playing field. He felt that any team sport would have a minimum of 22 starters, a bench, and spectators. How do they only allow ten spaces? Mr. Taintor felt this might be an old standard. He will look into that. Mr. Coker felt that the tennis

court requirement of 3 spaces per court seemed counter intuitive to him as most tennis is two people. Mr. Taintor felt it was an average of singles and doubles. Mr. Coker asked what are they trying to accomplish. Are they trying to provide enough parking based on all the uses or given the times with the price of fuel rising, there will be people who will start car pooling. Maybe the City should make it tougher to park to force people to car pool or bike. Mr. Taintor thought they would then have to watch out for people parking where they shouldn't be parking. Chairman Ricci stated he would like to see 100 spaces go to 75 and grass over the other 25 and they could pave over it down the road if they needed to. Ms. Roberts thought that was a great point. That is a case study of a new book called "Nudge". It encourages people to do what they may not do on their own. They have talked about sustainability a lot so it's a good idea.

Deputy City Manager Hayden felt they have to think about human behavior. Most would just park on the street. She didn't want to lose the forest for the trees. A lot of these are working pretty good. She asked where is a tennis court going to be built in this town? Mr. Coker reiterated, that is why he asked what are they trying to accomplish? They want sustainability and green so he would like to nudge. Councilor Dwyer thought they should stay tuned to team sports where they will be adding playing fields in different parts of the community. It was difficult for her to understand why they need so much parking for amusement parks. She felt they need to pay attention to the playing fields. They have to take national standards with a grain of salt as they are a particular type of dense community. National standards deal with suburbia. Ms. Roberts asked how will a team sport issue will actually play out? Would it be possible to apply the nudge philosophy because they will be in residential areas? Councilor Dwyer would like to see a half nudge because the two things will collide. Mr. Coviello felt that the City is not going to build a big field and only have 10 parking spaces. Mr. Taintor confirmed they will look at that and review it.

Mr. Hopley felt that the concept of taking a building and taking a look at adding various internal components, like Wal-Mart or any large retail building, is going to have a substantial storage area where there is product and not people shopping. The parking exercise takes the gross floor area so they are providing parking for storage space. Somewhere in the application they might want to look at net uses inside the building. Mr. Taintor stated those areas within the building can be flexible and can change. There was a shopping center where someone got a lease on a building with different rental rates for the storage and retail parts of the building so they shifted the whole building to storage and then the whole parking lot was vacant. So, that could change in that scenario. Mr. Hopley felt they could take a K-Mart and turn it into an amusement center. He is thinking across the board and wonders should the methodology for calculating the parking demand be based on net use and not gross. Mr. Coker felt that Mr. Hopley's point was great. The parking lot at Wal-Mart on Lafayette road is never filled as it is so huge. Ms. Tillman felt they put in more than they needed. Mr. Taintor felt that is where a maximum limit could be enforced. They could break down uses internally. Mr. Hopley thought they might want to look at retail space and apply the retail sales area to one factor and the storage to another factor. Ms. Tillman added it is going to fluctuate and it would be an on going problem. Ms. Roberts agreed they could just look at the standard in general. Mr. Taintor noted the standards they are looking at are not pulled out of the air but are from actual supermarkets. He has seen an example of wholesale uses with retail uses not exceeding 40% of the floor area and some kind of standard like that. It changes when they go from a 500 s.f. to a 5,000 s.f. and maybe they can look at those in general retail sales. They could look at a sliding scale for spaces per 100 s.f. when it changes when it reaches a certain size. Deputy City Manager Hayden thought that sounded good as they can't make it too complex. Ms. Geffert asked if there have been any development in recent history where it just doesn't work and there has been insufficient parking. Ms. Tillman referred to Millennium Borthwick on 155 Borthwick Avenue. The application came in for business space and they wanted to put medical uses in. They had to re-design their second building and put underground parking in. Mr. Geffert was comparing the old standards to these standards, and wondered there was a day care that had inadequate parking. She likes the new standards better when the parking standards are less. If what we have works, wouldn't it make more sense to default to the lower standards? Deputy City Manager Hayden commented that Ms. Tillman and Mr. Holden have been administering

these for many moons and they have given Mr. Taintor lots of input. Ms. Roberts thought that was an interesting point. If there was a discrepancy, she would prefer to err on the side of less parking. Mr. Taintor confirmed he was trying to reduce wherever possible. Ms. Tillman noted that they asked Mr. Taintor to look at the call centers, hospitals and how they function. Also, bars and nightclubs are usually in areas that don't require parking.

Page 147. Mr. Coviello referred back to Ms. Tillman's example. They did not experience a problem at 155 Borthwick Avenue as they corrected it before it became a problem. Mr. Tillman indicated that some companies, like supermarkets, Wal-Mart, and that is where you can't build over a percentage of what is required by the ordinance. So, that is a stop for letting the national companies coming in and overbuilding on parking like they are allowed to do now.

Mr. Hopley asked about conference centers? Mr. Taintor did a lot of research on the call centers and some actually want one space per 100 s.f. so there is a very high demand. They looked at out-patient and inpatient clinics also. Trying to think about in the use regulations, treating hotel different than the restaurant part and treat them as two different uses. If they had eating and drinking and lodging establishments, they would treat them differently. Mr. Hopley agreed and that would typically not fluctuate.

Page 147, Mr. Rice. Bed and breakfast. Being involved with marketing bed and breakfast, he doesn't know of any B&B that would be able to have two spaces for each unit. Mr. Taintor clarified it was two for the owner and one per rental room.

Mr. Taintor noted in terms of the hotel, the questions are coming. Mr. Hopley asked if the common area was part of the re-look of the hotel. Mr. Taintor was thinking of things like the pool and hospitality room for a continental breakfast and the halls. Not necessarily for things like the restaurants and meeting rooms. Mr. Hopley's thought was that those were concurrent uses. The meeting rooms that are being used by the guests but they may invite people in for a daytime conference. Councilor Dwyer thought that the common area was allowed for the workers? That is what she was assuming. Mr. Taintor felt it might be better to have 1.1 per guest room.

Page 148, Mr. Taintor stated they are looking at trying to look at things that the ordinance does pretty well right now, dealing things at different levels, such as Home Occupation I and Home Occupation II. He liked that model so he brought it to the level of the motor vehicles. Ms. Tillman raised the point of different types of motor vehicle services. Some have service bays and most convenience stores are without service bays. He created three levels of motor vehicle service and tried to tie them to the type of use. Then there are other things, such as motor vehicle repair (Jiffy Lube, service with no pumps). On page 147 there are some uses that don't require as much as a service bay. Installing a stereo is not the same type of thing as changing oil. He added uses to this section. Mr. Hopley thought this approach was well taken. He compared motor vehicle service II as it compares to motor vehicle repair. Maybe they could have pumps as well whereas in repair they will do it by square footage and he didn't see the logic in that. Mr. Taintor tried to base the motor vehicle service II on the existing regulations and motor vehicle repair based on national standards but they may want to just use square footage. Mr. Hopley did not want to make it more complicated but it just stuck out to him. Mr. Taintor agreed and it made more sense to keep it all square feet. Deputy City Manager Hayden noted on motor vehicle service I it just says 3 spaces so could they have a large service station with only 3 spaces? Mr. Taintor confirmed you could but there is no store and no service. Ms. Tillman indicated it would be like BJ's gas where they gas up and drive off.

Page 148. Mr. Taintor pointed out that the industrial is currently an industrial occupancy use and a general manufacturing use. They are eliminating one.

Page 149. Mr. Taintor took mini storage out. He did not know what to do with aircraft so it just left it in. Chairman Ricci asked if Pease has parking requirements for aircraft repair? Ms. Tillman felt that

they must. Mr. Taintor felt that raised the question of whether they want to have something dealing with airports and parking regulations? Ms. Tillman indicated they always had that section in just in case the PDA resorted to the City. Deputy City Manager Hayden asked Ms. Tillman to check with Pease to see how they do that.

Page 149, Reserve Parking Area. The Planning Board may approve fewer spaces than what is required if the Site Plans clearly delineate the reserve parking area. Mr. Coviello noted that the maximum seems to set the bar at 20. Mr. Taintor noted they are going through different times. Is this more likely to happen with the "biggies" but it really doesn't matter. It is still a Planning Board decision. Ms. Geffert asked why limit it at all? Chairman Ricci agreed that was a good point. Deputy City Manager Hayden did not feel they wanted all of them to come in before the Board. She didn't think it was an issue except for the Wal-Mart's of the world. Nobody wants more parking unless they have to in general except for the national chains. Mr. Taintor asked if they want to make it a reserve parking area? Deputy City Manager Hayden felt she would be comfortable with 20 but not go any lower than that.

Ms. Roberts asked about reserve parking and was wondering if there was any location implied or is it just the lot itself. Mr. Taintor referred to Item B where it says the plan will clearly delineate the reserve parking area. Basically the Planning Board would be looking at how the spaces would be laid out on the lot.

Mr. Coviello asked if the reserve parking area could be the snow storage area? Deputy City Manager Hayden wouldn't think so as everyone would be doing that. Mr. Hopley thought they might want to put that in the regulations to eliminate the temptation. Chairman Ricci thought he brought up a good point. Mr. Coviello asked if they are they going with a calculated snow storage area? Deputy City Manager Hayden thought they should say they cannot use snow storage on the reserved parking area. Mr. Taintor felt it is more a matter of getting access to the snow storage to take it away.

Page 150, Mr. Taintor referred to the general location of vehicular use facilities. The first section is that it basically has to be on the same lot unless of a specific situation approved by the BOA. These are primarily from the existing regulations. The second section is the location of parking facilities on a lot should be discussed. They are trying to push parking to the back. Mr. Coker asked if a house in the South End burns and they want to rebuild on the same footprint, would this apply? Mr. Taintor confirmed it would not apply for the reconstruction after a catastrophe. Ms. Roberts felt that raised an issue when she served on the HDC. She believes there was a proposal to move a house to accommodate a car between the house and the street. They did not approve it but they came back and it ended up getting approved. She would like to strengthen their hand. Mr. Coviello was trying to understand the required front yard. Mr. Taintor stated the house has to be setback 15 feet from the road and they can't then park in that 15 feet. Mr. Taintor indicated they need to talk about whether they are exempting single/two family homes? This is a question for the Planning Board. Would they want to exempt single family homes for both requirements? Deputy City Manager Hayden asked about parallel parking? It was not a good look for Atlantic heights. They have been getting rid of those illegal driveways by redoing the streets and it looks much nicer. Mr. Taintor felt there was another question as well. The first was that parking shall not be permitted in a required front yard and the second is required parking spaces shall not be provided in any front yard. He felt perhaps the wording is wrong. Maybe required parking spaces should not be permitted in the front yard. Ms. Tillman indicated that she never even thought of anything except commercial. She was thinking more of something like Rite Aid. Chairman Ricci asked about one and two families and he again goes back to Deputy City Manager Hayden's comment about how many new dwellings are they going to have built? Ms. Tillman thought maybe a setback from the side property line but she thinks that is covered under the driveway ordinance. Deputy City Manager Hayden noted even if they didn't exempt them and there was some little infill lot it might not be a bad thing to park out front and they could go to the BOA. Mr. Coviello asked if they would be creating current houses that would be violating the ordinance. Chairman Ricci agreed that would be correct. Mr. Taintor felt they could say except for

one family and two family residential structures. Ms. Tillman felt that got back to the break where they change how commercial parking lots are designed with turn around and not backing out into the street. Councilor Dwyer asked if there is any particular exemption for a handicapped family where they may want to park very accessible. Ms. Tillman felt a problem would go through the BOA. If it was being built, it would be designed and built that way to provide for handicapped parking. If it was a rehab, then it would go before the BOA. Councilor Dwyer was thinking of demographics, making that type of accommodation is more of a likelihood. Mr. Rice went back to Ms. Roberts, if a house could be moved back with parking between a residential house and the street in the HDC, that would certainly pull the legs out from the HDC who is trying to maintain the historic integrity. He would like to see an exception for everything outside the HDC.

Mr. Coker asked why are they talking about only one and two family structures? Ms. Tillman answered because in the current ordinance one and two family parking can be arranged one behind each other. When they get to three they have a different requirement and different design of parking. That is where the break point is. Mr. Coviello noted, anecdotally on Dennett Street they put the parking between the street and house and it looks horrible.

Mr. Taintor indicated that the next section has to do with setbacks of parking lots served more intensive uses from less intensive districts, at the bottom of 150. They are trying to protect the less intensive district from the more intensive district by setbacks and screening. A similar thing is setbacks from lot lines in certain types of district, industrial districts and home occupations in residential districts.

The next piece is similar to the current regulations but more detailed and it has a table. Section 914.40, 41 and 42. Ms. Roberts referred to 10.914.30, it says parking areas and access drives shall be surfaced with a durable surface and she is wondering how that conforms to their concerns about pervious pavement. Chairman Ricci referred to the second line with identified the types of surfaces. Ms. Roberts didn't feel they were particularly pervious to her. Deputy City Manager Hayden suggested adding to the list pervious pavement to the example list. Mr. Taintor stated he will look at the site plan review regulations and make sure it conforms.

Mr. Hopley asked about the design of off street parking and assumed it will be in this document and not the Site Review document. Ms. Tillman confirmed it has always been in the Zoning ordinance and it needs to be here. Mr. Hopley referred to page 143 where they made the general statement that they should go to the building code to find out how many and how to build them but they are not mentioning it in the design section, 10-912-14. Mr. Taintor thought they could put it in both places.

Mr. Hopley thought they should probably reference the ANSEE standard s well. They can talk about that later.

Councilor Dwyer wondered if, on page 153, if 10-014-50 was an area where they may want to exempt one and two family. Ms. Tillman agreed. Mr. Taintor also agreed and felt that all of 50 should be exempt. It may be easier to put it in a section that only applies to one or two family. He will make a note about materials and accessibility.

Mr. Hopley thought they might just want to do a pre-amble statement at 910 that these standards apply to all uses except one and two family houses. Deputy City Manager Hayden felt that some of the regulations do apply. Mr. Taintor also agreed.

Section 10.914.42, Mr. Rice was concerned about vehicles can enter or leave the parking area without backing into or from a public street or way. Having worked a lot on Ocean Road, that is one of those streets that you are rolling the dice when you back out of your driveway onto Ocean Road. Lafayette Road is the same. Perhaps part of the driveway should have a turn around behind the house on busy streets. Chairman Ricci asked how do they define a busy street and enforce it? Mr. Rice thought they

have traffic studies that may show that. Ms. Tillman thought that would be micro-managing the situation. Property owners will learn to back out safety. Councilor Dwyer agreed and stated that they only have so much flexibility and it is a choice for the owner.

Page 153, Off street loading. Mr. Taintor pointed out in the existing ordinance it is a blunt requirement, divided into two categories. One loading area is essentially for 10,000 s.f. of floor area. This is more detailed and more complex but they can use the table to determine spaces. He compared what might have happened in different scenarios. It is a different approach. In most cases, if a site needs more loading areas, they will build them.

Mr. Coviello asked if the minimum vertical clearance was the same as now? Mr. Taintor confirmed it was. Mr. Coviello noted that New Hampshire is 14' but Maine is 14.6' and being so close, they might want to consider that. Mr. Taintor asked if it would hurt to add 6"? He will change it.

Landscaping and screening refers them to the Site Review Regulations.

Ms. Tillman referred to the dumpster. She thinks all dumpsters should be screened. Also, apartment complexes might be residential. Deputy City Manager Hayden noted that they removed this to the site review regulations for a while. She asked which makes more sense? Ms. Tillman felt it would apply to them here as well and she reiterated that she felt all permanent dumpsters should be screened. Mr. Taintor asked about dumpsters in place for 30 days? Councilor Dwyer noted that construction could last longer than that. Ms. Geffert felt if they added permanent people should know what that is. Deputy City Manager Hayden wasn't sure that was the case and agreed they will work on that.

Page 155, Outdoor Lighting. Mr. Coker did not see the term Dark Sky Friendly. Mr. Taintor agreed they should probably have that in there. Deputy City Manager Hayden asked if that is a real standard or another word for the standard? Chairman Ricci asked if they could put the term in. Mr. Hopley indicated that he didn't know what a luminaire was. Mr. Taintor explained it is not the bulb but it is the lamp and the fixture. It is defined in the back.

Ms. Geffert asked if they were preventing degradation of the night sky with dark sky friendly. Mr. Taintor confirmed it was the same thing.

Page 157, 944-30. Mr. Hopley stated he gets uneasy with words such as inordinate as it is unenforceable. Then, on .40, that is not code or regulation text. Mr. Taintor stated these are all from the model dark sky lighting ordinance. They could take this out and just make a general statement. Mr. Hopley thought it appeared to be different from anything else that had been written. Mr. Taintor thought they could do without that paragraph altogether. Deputy City Manager Hayden agreed that was a good point.

Councilor Dwyer, along the same line, in section .30 she thought maybe they could just get rid of the first sentence as the last sentence is the real point. Ms. Roberts was wondering about the validity of the security issue. By focusing the light it creates areas that are even darker. Mr. Taintor asked what if they kept in the first sentence up to the word intensity. Ms. Tillman commented on the recess lighting, if it is in the Historic District that would be under their purview but it is addressed here as well. Mr. Rice indicated that lighting is not within the purview of the HDC, only externally and internally lit signs. Ms. Tillman noted that sconces just went to the HDC for 55 Congress. Deputy City Manager Hayden confirmed they would look into that.

Page 158. Mr. Coviello noted hours of operation, if they are going to allow after 11:00 pm – 6:00 a.m. for security purposes, they should require a separate lighting plan. Chairmen Ricci felt they could just add one sentence. Deputy City Manager Hayden felt, related to that, going back to paragraph .30 on Page 157, if they want security lighting they will say they are allowed to have lighting because it is for security. She asked if that last sentence gives them too much control. Board members liked that idea.

Page 157, Section .50. Councilor Dwyer referred to sports fields being exempt and she was thinking about residential areas. For example, the Doble Center is right in the middle of a neighborhood and lighting up to 11:00 pm would be a nuisance. Ms. Tillman referred to page 159, at the top, where it does talk about recreational lighting. Deputy City Manager Hayden thought maybe they could get ride of the Section .50 on Page 157 as a sports venue is different than a recreational facility. Councilor Dwyer was thinking of playing fields. She asked what is a recreational field? She thought they need to be alert to it. Mr. Taintor asked if they took out Section .50, would Section 946 take care of everything? They would need a provision for special provisions for recreational fields found in Section .46. Chairman Ricci asked why would they have to reference it? Mr. Taintor explained because what they are saying is in a residential district the maximum lumens are a certain limit. They might want to say regardless of what happens here they should look at Section 946 for recreational facilities. Chairman Ricci noted that they do reference the IESNA (Illuminating Engineering Society of North America).

Ms. Geffert asked why would they call it a recreational facility when they have outdoor display lots and outdoor lighting? She doesn't think they need to cross reference it.

Mr. Taintor asked regarding outdoor display lots, recreational facilities have a time limit. Should outdoor display lots be subject to the hours also? Mr. Coker asked for an example of what this is? Mr. Taintor indicated car lots. Mr. Coker felt one could reasonably argue that this only applies to recreational facilities. Mr. Coviello suggested saying, for hours of operation, see recreation. Deputy City Manager Hayden asked if they thought they should add a 947.13 that they will only be lit during the hours of operation? Ms. Tillman felt they were working towards trying to reduce to a security lighting at night to protect them but close the evening lights down one hour after closing and look into the security lighting. Mr. Taintor suggested saying outdoor lighting shall not be illuminated between 11:00 pm and 6:00 am except as permitted in 946.13. He asked if they should take away the recreational exemption? Deputy City Manager Hayden didn't think so because it could be on until 1:00 a.m. Chairman Ricci added that ball games are not going on until 1:00 am. Mr. Coker indicated that the City leaves the tennis court lights on all night. Mr. Taintor asked if they should take out Section 946.13? Ms. Geffert felt 914 is okay but maybe they have it say 11:00 pm for security lights somewhere else and maybe they should say turn it off when activity is completed. Mr. Taintor suggested moving 946.13 under Hours of Operation which makes it one of the exceptions, so that clarified that. Then they say for business uses they have the exception not more than one hour after the activity ceases and then they deal with security lighting. Maybe they need to coordinate those two to work together. Then the third exception is the recreational exception. That would put all of the exceptions in one place.

Page 160. Prohibitions. Mr. Coker asked what is wrong with a search light? A friend of his has a couple of WWII era search lights and he donates them to events and it's kind of neat. Deputy City Manager Hayden stated they are not dark sky friendly. Mr. Coker felt the point was they are harmless as they are pointed up and not pointed at anything, unlike parking lots. Mr. Taintor felt that LED spotlights would be coming soon. Ms. Geffert thought that sometimes things change and because of the need for dark sky, maybe they don't need sky lights anymore. Chairman Ricci thinks they are extremely annoying. Ms. Roberts thought it was light pollution.

Mr. Taintor noted that under temporary lighting, the BOA could allow anything that is not permitted on a temporary basis. Deputy City Manager Hayden stated that the new thing is the laser light advertisements. All of these lights are prohibited in the proposed ordinance.

Mr. Coviello asked if the Site Development Standards in the Zoning Ordinance that currently exist are grandfathered? Mr. Taintor confirmed they are grandfathered if it is there. Councilor Dwyer asked if she was currently operating and leaving her lights on until midnight then she can continue to leave them on. Mr. Taintor confirmed that was correct. They could probably adopt the whole lighting

ordinance in the City ordinance and have the police enforce it. Ms. Tillman was not sure per State Statute that the BOA would be reviewing so they need to check the temporary lighting.

That concluded the Boards review of Draft Article 9.

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Mr. Taintor passed out an outline for discussion purposes on the sign section. There are some enforcement and administrative issues that are very difficult. They should think about issues that they have with signs around the City. Deputy City Manager Hayden indicated they have three Thursdays left in June and then they will have July and August off. Next week they will continue with what they didn't accomplish tonight. There will be a one hour work session before the June 19th regular meeting and on June 26th there may be a Borthwick Forrest draft to review.

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II. ADJOURNMENT was had at approximately 9:10 pm.

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Respectfully submitted,

Jane M. Shouse
Administrative Assistant

These minutes were approved at the September 18, 2008 Planning Board Meeting.