



## Planning Board - Minutes

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June 8<sup>th</sup>, 2023, 6:30 pm

### Council Chambers - 1 Portland Avenue

Dave Walker: For June 8th, 2023. My name is Dave Walker. I am the chair, and I will lead tonight's meeting. This meeting is now called to order, and we always begin by a pledge of allegiance to the flag. Please join me.

Audience: I pledge allegiance to the flag of the United States of America and to the republic for which it stands for one nation under God indivisible with liberty and justice for all.

Dave Walker: All right, Mike, you're prepared to do the roll call?

Michael: Yes. Mr. Kelly?

Jay Kelly: Here.

Michael: Ms. Hubert?

Robin Hubert: Yes.

Michael: Mr. Winch?

Winch: Here.

Mary Dube: Here.

Michael: Ms. Dube and chair Walker?

Dave Walker: Present. Let it be known that absent tonight is, Sam Dupuis and Chris Hitchcock and Jay Kelly will be stepping in, for Mr. Hitchcock as a voting member. All right. We didn't receive any minutes, so there's no minutes to approve, but, we do have some regular, two items of regular business.

1 The first is, a proposal for ordinance amendments, chapter 78, article 6, section 78-488, 518,  
2 548, 578, 608, 717, 747, 803, 833, 869, 903, 963, 993, a 1003, a 1023, 1134, and chapter 78, article  
3 7 section 78-1272, housing opportunity program ordinance. Tonight is discussion, and the  
4 applicant is the town of Old Orchard. And, could staff just please update us?  
5

6 Michael: Yes. The planning board, you first saw this last month, and here it is again. And the  
7 council had their introduction to this ordinance on Tuesday. And this is the housing  
8 opportunity program as you mentioned, and this conditional use ordinance is to bring us into  
9 compliance with the state, legislation law that came out of, LD 2003.  
10

11 And there's really three main parts to this, to the ordinance here. And this is the affordable  
12 housing density bonus, the dwelling unit allowance, and the accessory dwelling units. And  
13 then the other part in the initial beginning of the ordinance that I added in was a requirement  
14 that dwelling units created under this section shall not be used for short term rentals.  
15

16 And there, you know, why you might ask? It appears that units created under the affordable  
17 housing density couldn't be used for short term rentals with the restrictions, written into the  
18 affordability requirements. But this would be another way to help ensure that if for some  
19 reason that didn't. This would also keep other new units created under this ordinance from  
20 being used as short term rentals.  
21

22 And since some growth areas, of the way these apply, all but the ADU are in growth areas,  
23 are tied to identified growth areas in the comp plan. And those growth areas, especially when  
24 looking at the dwelling unit allowance, really covers a majority of town. Also, the where  
25 multifamily are allowed, which is what the affordable housing density falls under. That's also  
26 most areas of town except for I believe, the rural district, and I'll get into that.  
27

28 So the impacts to neighborhoods could be increased if there's short term rentals, and they're  
29 operating more like lodging establishments and the accessory dwelling units. We can't  
30 require additional parking for those under the state law and in this ordinance. And that's a  
31 concern as well. And since we didn't have a short term rental ordinance that seemed one way  
32 to address that with this.  
33

34 I don't know that it's the best way. I don't believe it was the recommendation of the state,  
35 from the state in their guidance document to regulate short term rentals in this way. But  
36 without us having an existing ordinance and especially thinking about some of the potential  
37 concerns with parking, this was one way I saw we could address it in this ordinance. So really,  
38 this ordinance would apply to any proposals that someone wants to have under the housing  
39 opportunity program.  
40

41 So ADUs, the existing conditional use section would be struck out and then this would  
42 replace that. So accessory dwelling units or ADUs would be allowed, but through the housing

1 opportunity program. And then anyone wanting to do take advantage of the affordable  
2 housing density, which is up to two and a half times the underlying district density. They  
3 would need to go through this ordinance as well. And then someone wanting to take  
4 advantage of the dwelling unit allowance, which is up to 4 units on a lot with no existing  
5 dwelling units.

6  
7 This would also, that would be reviewed under this ordinance as well. So in most situations,  
8 someone would be making a specific application under this section for the housing  
9 opportunity program. As far as the review process, we're at the point where we, could  
10 schedule a public hearing. I think it would be good to get feedback from the public.

11  
12 Winch: Yeah.

13  
14 Michael: The one, I guess, caveat with that is there's still legislation making changes to this  
15 ordinance. And it was, I want to say the Senate met, today and they were discussing it. And  
16 there's potential changes to this. So if we do schedule a public hearing, if there are changes,  
17 we'd have to have a second public hearing. So I don't know how the planning board feels  
18 about that. They'd rather try to do it in one shot and wait till we see those changes.

19  
20 There might not be any changes, but it looks like those are going to go through. So I don't  
21 know how much of the details of this we want to get into. I know we did a overview of it last  
22 month. You have your memo that goes over it, but that's kind of where we're at with things  
23 right now.

24  
25 Dave Walker: And we need to have this ordinance in place by July 1st?

26  
27 Michael: The current language in the law is for it to be in effect by July 1, 2023. The legislation  
28 that is currently being reviewed and looks like it's moving forward for council form of  
29 government, I believe it moves that date to January 1, 2024. So it does give a little bit more  
30 time. I think we would still want to keep pressing forward with it to make sure we're meeting  
31 any deadlines and working towards the July 1st deadline, but there are some things up in the  
32 air still.

33  
34 Dave Walker: So how long has the state been working on this, and then giving it to us, alright,  
35 with a July first deadline seems kind of absurd.

36  
37 Michael: Yeah. So the law itself was signed by the governor April 27, 2022.

38  
39 Winch: The slide last year. Yeah.

40  
41 Michael: Yeah. And...

1 Winch: This is this year, and they're looking back and then debate making a few changes.  
2  
3 Michael: Yeah. So there were a lot of questions about it as far as how it would impact. So it  
4 had to go through rule making...  
5  
6 Winch: Yeah.  
7  
8 Michael: And that didn't even start till they had to hire staff to do it. So that didn't even start  
9 till late last year or early this year. And the first guidance document did come out in October  
10 2022, late last year. But there were some comments in there that said they didn't have an  
11 answer, and it would be addressed in rulemaking.  
12  
13 And then so all I want to say end of April into May, the, DECD with the state, the Department  
14 of Economic Development who's been putting out the guidance documents on this and doing  
15 the rulemaking. They've been doing Q and A sessions and updating everyone as much as  
16 possible. But we're still waiting on updated guidance document that they haven't put out. And  
17 then the final rules that this is based on weren't actually adopted till April 18, 2020.  
18  
19 Winch: Mike, 10 years down the line, it, a living, a dwelling unit granted under this, the person  
20 wants to try to come in and make it commercial. How is that carried forward? How do you  
21 know, how this was granted? Is it on the assessor's record? Is that it?  
22  
23 Michael: As currently written, this is all falls under a conditional use. So it would be a  
24 conditional use application in reviewed by the planning board, which is one other thing to  
25 consider because, I guess...  
26  
27 Winch: But I'm thinking, I'm going how does somebody downstairs...  
28  
29 Dave Walker: Right. We, let's say we approve it...  
30  
31 Winch: Yeah.  
32  
33 Dave Walker: And they sell the house. All right. How do and they, does it go with the  
34 property?  
35  
36 Michael: So I think one of the hard things is there's kind of the three different parts. So I  
37 guess it depends if you were so for example, the affordable housing density...  
38  
39 Winch: Yeah.  
40  
41 Michael: That requires restrictive covenants being filed with the registry of deeds.  
42

1 Winch: Oh, okay. I see what you're saying. Okay. So it's from the deed.

2  
3 Michael: The other ones, don't. And I guess that's something to keep in mind if you wanted  
4 to add something to make sure it does carry with the property because, I guess, a conditional  
5 use application might not, pop up.

6  
7 Mary Dube: However, let's say somebody builds an affordable unit, and 10 years down the  
8 road, the price had gone up the roof, it's no longer affordable for people. You know, based on  
9 the value for a house, are they going to sell it for, like, a third of the price of what it could  
10 fetch? You know, this is, this is the thing is that, you know, you can't control the real estate  
11 market, right?

12  
13 If the price goes up, they pay the higher price, and then they supposed to have less, you  
14 know, income. That's not going to happen. The seller is not going to, want to sell it at that  
15 price.

16  
17 Robin Hubert: To the chair.

18  
19 Winch: But, again, it's in the deed.

20  
21 Robin Hubert: It's in the deed, they...

22  
23 Winch: A person or a real estate broker listing the property is going to know...

24  
25 Mary Dube: So...

26  
27 Winch: You got an ADU there. You can't make, you can't commercialize that.

28  
29 Mary Dube: So my for example, my house, it's in a subdivision...

30  
31 Winch: Yeah.

32  
33 Mary Dube: That was not approved we have to pay for garbage pickup, and it's we pay the  
34 same amount of taxes as somebody else who lives in the house that is on it, a town service  
35 street. We don't get any of the services, but we pay the same amount of taxes. And that's not  
36 quite right, right?

37  
38 Dave Walker: But that's not what we're here talking about.

39  
40 Mary Dube: It's not what we're talking about.

41  
42 Dave Walker: No.

1  
2 Mary Dube: What I'm saying is that, you know, you build a house that is under the affordable...  
3  
4 Dave Walker: Yeah.  
5  
6 Mary Dube: You know, that has that restriction, but the price of real estate goes up that  
7 those people can't afford it.  
8  
9 Dave Walker: They couldn't build one on your property because it's not fed by town sewer  
10 and water.  
11  
12 Mary Dube: No. It is.  
13  
14 Dave Walker: Oh, it is?  
15  
16 Mary Dube: We just pay.  
17  
18 Dave Walker: You just pay for it.  
19  
20 Mary Dube: But we have to pay for road maintenance, we have to pay for plowing, we have  
21 to pay for garbage pickup, the school bus doesn't goes through the town, through the street.  
22  
23 Robin Hubert: To the chair...  
24  
25 Mary Dube: And we paid the amount same month taxes...  
26  
27 Dave Walker: Right.  
28  
29 Robin Hubert: It actually...  
30  
31 Mary Dube: But I'm bringing it to this situation that people are going to build a an affordable  
32 housing unit down there, you know. This is where, you know, you have it for on the beach,  
33 we should restrict areas where it is not possible. But they're building it down there, and 10  
34 years down the road, that thing is, worth \$1,000,000.  
35  
36 Winch: Or it's under water.  
37  
38 Mary Dube: And people with, you know, they're not going to want to, they can't live there,  
39 and the seller doesn't want to sell it for less than that.  
40  
41 Winch: Yeah. I mean, that's the situation you're in. I mean, it's the value of the property. A  
42 liability wise, you can't 10 vehicles can't go on a private street.

1  
2 Mary Dube: Yes. I understand this. But I'm talking about the situation now that we are putting  
3 affordable housing somewhere down by the water.  
4

5 Winch: Yep. Yep.  
6

7 Mary Dube: Right? It's going to be worth \$1,000,000 in 10 years.  
8

9 Winch: Yeah.  
10

11 Mary Dube: And people who have the 80% of or 120% of income.  
12

13 Dave Walker: Income, yeah.  
14

15 Mary Dube: Are not going to be able to afford, so what do we do?  
16

17 Robin Hubert: They'll be able to afford somewhere else in town.  
18

19 Mary Dube: That's what we do.  
20

21 Michael: I think 5b addresses it, but I know if Rob if you want to hear Robin first.  
22

23 Dave Walker: Yeah. I do. Well, Robin.  
24

25 Robin Robin Hubert: Well, they, what was brought to my attention the other night when I  
26 watched the council meeting is it doesn't matter what we say. The state says this is going to  
27 happen. We cannot deny it.  
28

29 Mary Dube: Yes. I understand this, but we end up living in a specific situation where we have  
30 summer residents. Well, you know, 90% of the population does not live here in the  
31 wintertime. And, we have, you know, some inflated houses that are in specific areas, and  
32 we're going to throw in houses.  
33

34 The problem is I don't have a problem putting an affordable infilling. I have a problem with  
35 the parking. You know, if we're going to put those houses, they have to come up with the  
36 same amount of parking. If it's in the back 40, where, you know, you know, just like the  
37 Millikins, you know, that makes sense, less parking. You know, down there, it does not make  
38 sense because they're going to be on the street.  
39

40 Robin Hubert: Through chair again, if the state doesn't require it, we can't just put that  
41 ordinance in there and say this is the way it's going to be because we have to follow...  
42

1 Mary Dube: Well, no. But we have to adapt it for...

2  
3 Robin Hubert: We don't have to. The state would have to because I don't think we have a  
4 right to tell them whether or not they can't do it or we can't do it.

5  
6 Mary Dube: No. I don't understand this. I need, I think we need to restrict it by zones. You  
7 know, like, for example, the way you have it by zones in, chapter 78 amendment on the second  
8 page, where it's all the zones. And what you can do is, well, it has a BRD, which is a beachfront  
9 resort, that they can do that for affordable housing, and they have, we allow them for less  
10 parking.

11  
12 Michael: So...

13  
14 Mary Dube: So...

15  
16 Michael: On that, we, that's one, so the zones that are identified in there are based on the  
17 comprehensive plan and the growth areas in that, and that is how the state law is written for  
18 where these can be built. It has to be where multifamily are allowed, and it has to be a growth  
19 area. And then they also have to show availability of water and sewer.

20  
21 Dave Walker: So, Michael, we've done an incredible job building homes and houses here in  
22 Old Orchard. This floor has to be really aimed at those communities that did not do such a  
23 good job with that.

24  
25 Mary Dube: Yeah.

26  
27 Dave Walker: Snob, snob zoning, etcetera, etcetera. So they've taken a zoning, etcetera,  
28 etcetera. So they've taken a shotgun approach to a problem that really is narrow in scope.

29  
30 Mike: Yeah. I mean, the main goal of it is to create housing or opportunities for housing. And  
31 I think a big part of it, which it's not as big of an issue here, but there is a lot of land use  
32 ordinances out there with zones or many zones in towns that only allow single family, which  
33 in general is fairly restrictive.

34  
35 Winch: Yeah.

36  
37 Robin Hubert: Which just opens up...

38  
39 Michael: So there's been a big movement nationwide to so called legalized housing because  
40 having a two unit or three unit multifamily in some of these zoning districts is technically not  
41 legal. It's not allowed by code. So that's where some of that's driven from.

42



1 Dave Walker: So these are, these are all going to be conditional use, and they're all going to  
2 come to us for approvals. So at that time, we can raise our concerns about parking or  
3 anything else that we might have. Although the parking is pretty much defined for us, so.  
4

5 Mary Dube: Right. We can't, we can't do anything about parking, so.  
6

7 Dave Walker: Right. So and we can't do anything about the law either.  
8

9 Mary Dube: Yeah. But we could do it by the zones. Well, except that it's a growth zone.  
10

11 Michael: So I think in the future, what might happen is when there's future cost planning  
12 going on that this might impact how growth areas are assessed and where the town identifies  
13 growth areas because it's changed a little bit. I don't know how much you can change it.  
14

15 I haven't looked into that side of it. I don't think you can say, well, there's a new state law. We  
16 don't want any growth there is because that's not how it works. But I think you can reassess  
17 what's best for the town.  
18

19 Dave Walker: Well, we should. I think, current comp plan is how many years old, mister  
20 Comprehensive Plan Committee?  
21

22 Winch: Oh, it's the current comp plan goes back, what, the late nineties, isn't it?  
23

24 Michael: I believe so. Yes.  
25

26 Winch: Yeah. I think it's, like, 96 or something.  
27

28 Dave Walker: So, I mean...  
29

30 Winch: 98 maybe.  
31

32 Dave Walker: It'll be important that we look.  
33

34 Winch: But the new the new ones, I mean, watch the budgets. You know, there's been some  
35 money allocated. They're coming down the home stretch. We haven't had any meetings, but  
36 I know behind the scenes, all the boiler plates getting put in place, so.  
37

38 Michael: I was going to say there has been recent traction to get that moving forward and  
39 completed.  
40

41 Dave Walker: Yeah. Who's that, Jay?  
42

1 Jay Kelly: Yep.

2

3 Michael: Yes, Jay.

4

5 Jay Kelly: Mike, correct me if I'm wrong here, but a local municipality can't supersede a state  
6 regulation, correct?

7

8 Mary Dube: Right.

9

10 Jay Kelly: We can only go more restrictive than the, than the ordinance. We can't go less  
11 restrictive. So whatever they say, but parking is the way it's going to be.

12

13 Michael: Well, yeah. This so, this one's kind of weird because it's kind of the opposite, you  
14 can be less restrictive, but you can't be more restrictive.

15

16 Mary Dube: The other way around.

17

18 Michael: So to kind of put it into perspective, it's like apples and oranges, but if you look at  
19 it like shoreland zoning, which is there's a model ordinance from the state. It's a little  
20 different, but then you have to adopt it or be, more strict. So, this is different because it's a  
21 law, but we have the rule making, and we can go by what that says or make it less restrictive.  
22 Meaning, you can...

23

24 Dave Walker: We can do more restriction. We can't do less, correct?

25

26 Robin Hubert: Yeah. Not according to Larry.

27

28 Michael: I think it's more the other way around. Like, if you wanted to say you don't you can  
29 have an affordable housing, you don't have to have parking. You could say that that you  
30 wanted to do that. No parking for affordable housing, which would be less restrictive than  
31 what the state law is.

32

33 Mary Dube: Local can't take over state.

34

35 Jay Kelly: Then I'm mixing up the two words.

36

37 Mary Dube: Yes.

38

39 Michael: You're right. Yeah. Yeah. It's a little weird the way it is, but.

40

41 Jay Kelly: I think I get what you're saying. I think more restrictive to me would be we can't  
42 do we can't go above and beyond what they say.

1  
2 Michael: Right.

3  
4 Mary Dube: Right.

5  
6 Jay Kelly: Less restrictive, we could.

7  
8 Mary Dube: Right.

9  
10 Jay Kelly: Okay. Yeah.

11  
12 Michael: So I know it was a little while ago now, but, the question about the affordability of  
13 the housing, I think 5b covers that and long term affordability in the ordinance. That's under  
14 the affordable housing density section, and then B is long term affordability. And this is the  
15 part that required the restrictive covenant be file and that's to insure for 30 years after the  
16 project's completed that it meets that affordability criteria.

17  
18 Now the affordability criteria could change over time, but that's based on specific, area  
19 median income guidelines. So that's where I think it was referenced, the 120% for our own  
20 housing.

21  
22 Dave Walker: 30, 30 years. Al right. But if there are no, if there are no other comments.

23  
24 Mary Dube: No. I have some more.

25  
26 Dave Walker: Okay. Go for it. Mary.

27  
28 Mary Dube: So the description, it says I don't know where I am now. It says, in the in, yes.  
29 On the 2a from the, amendment to the chapter, it says, it's will not be allowed on to be  
30 developed on non-conforming lots with non-conforming structures or lots with structures  
31 with non-conforming uses. What does it mean? What is the non-conformed use of structure?

32  
33 Dave Walker: It doesn't have the setbacks. It doesn't have the setbacks.

34  
35 Mary Dube: The setbacks.

36  
37 Dave Walker: Yeah.

38  
39 Mary Dube: So what about shoreline zoning? Shoreline zoning?

40  
41 Dave Walker: Shoreline zoning still comes into play.

1 Robin Hubert: Yeah. You got to have a specific lot size to be able to do any of this.

2  
3 Winch: Whatever makes anything nonconforming.

4  
5 Michael: So under the number two, the applicability section for the whole ordinance, I think  
6 this is where it says this section does not and this is where it talks about...

7  
8 Mary Dube: Yes.

9  
10 Michael: Abrogator annual easements, covenants, exempt subdividers, from restrictions,  
11 exempt them from, shore land zoning, which is the DEP shore land zoning requirements. And  
12 then the last one, four is has to do with subsurface wastewater. But so that's, shoreland  
13 zoning still applies.

14  
15 Mary Dube: Okay. Yeah.

16  
17 Dave Walker: I don't think we gave up too much in terms of, our requirements, our building  
18 requirements for this other than, for ADLs, you know.

19  
20 Michael: I think where we would I mean, affordable housing density bonus, if someone does  
21 do a true affordable housing development and get that density bonus, it would be 2 and a half  
22 times the base density. But density bonuses are fairly popular for affordable housing. And  
23 going back to our original or our the current comp plan, which is the one, as when mentioned,  
24 I think from the 90s that actually recommends the town to look into density bonuses for  
25 affordable housing. So this is forcing us to do it, but it's actually something that was  
26 recommended in the comp plan, so.

27  
28 Dave Walker: Well, we gave a density bonus to Milliken Heights when they built that.

29  
30 Michael: Right. Essentially, they went through a contract zone, but that's they had to do a  
31 contract zone because the density bonus wasn't available.

32  
33 Winch: Right.

34  
35 Michael: So...

36  
37 Dave Walker: So in other words, contract zone, density bonus, they're the same.

38  
39 Michael: Right. And the, so that piece is probably the one I'm the most comfortable with  
40 because I mean, I guess I don't fully understand the language of some of that. I know I wrote  
41 the ordinance, but a lot of that was based on the state language. A lot of that was direct

1 because I didn't want to start messing with referencing the 80% for the affordability or a  
2 120% because that that stuff we can't change.

3  
4 Dave Walker: And this is for existing property, not new property, correct?

5  
6 Michael: As far as...

7  
8 Dave Walker: The density bonus?

9  
10 Michael: You mean existing, it would be new construction.

11  
12 Mary Dube: Everything.

13  
14 Dave Walker: Yeah. So 60 Sacco Ave. Think about that. Could they get that two and a half  
15 times density bonus? And the parking that's an issue with us right now would no longer be  
16 an issue?

17  
18 Michael: I...

19  
20 Dave Walker: You don't need to give an answer. I'm just...

21  
22 Michael: Yeah. I mean, that's a good example, and I think the affordability piece is what I  
23 guess would...

24  
25 Dave Walker: Well, yeah. He wouldn't commit to a 100% affordability, you know. He'd have  
26 to commit to that.

27  
28 Michael: I guess with the new affordable housing development, what you have to weigh in is  
29 someone needs to make up, to make it affordable, the developer has to have other money  
30 coming in from somewhere. But typically, here, it's, main housing authority, main, main  
31 housing. That's where a lot of funding for that project came from, I believe.

32  
33 Dave Walker: In the state, in the town also?

34  
35 Michael: And the TIF. So typically...

36  
37 Dave Walker: Tax break.

38  
39 Michael: Typically, there needs to be some other income like that to make a project like that  
40 feasible.

41  
42 Dave Walker: To make it visible. Yes.

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Michael: So I don't think a true affordable development for that smaller property would be feasible for someone, especially someone who's not well over or been through the process or has experience in affordable development probably.

Mary Dube: Yeah. But...

Dave Walker: But I was using that as an example.

Mary Dube: But how however, they can do the dwelling unit allowance, which is split slots. They can do that, right?

Michael: So the dwelling unit allowance doesn't split lots. It allows for multiple units on one lot.

Mary Dube: Yes.

Michael: And they still need to meet the underlying density. I think the biggest change for that is the way our ordinance existing ordinances is you're not supposed to have more than one individual. I think it's written as a single family...

Mary Dube: But.

Michael: Dwelling unit on a lot. They should be, like, in one unit. And I believe the way this is written, I'd have to look at that specific section. It allows to...

Mary Dube: Yes, it should...

Michael: Four individual.

Mary Dube: It's page 6.

Dave Walker: So 20, 207, did a thing last night on these little, mobile homes, pre-, prefab, pre constructed homes. And what they can do with those is move them and put them on a lot as long as they meet the set-, setback requirements. So you've got as long as you're in one of the allowable zones and you have enough land, let's say you got an acre, you can plop another building right down on there, but it's not to be used for short term, short term...

Robin Hubert: Right.

Dave Walker: Rentals.

1 Robin Hubert: So...

2

3 Dave Walker: So if I want my mother-in-law to come and live, I can put a little home down  
4 because I don't have the, I don't have the land or I'm just saying, no...

5

6 Robin Hubert: You can, you can you can go from basement.

7

8 Mary Dube: So I have a question about this because if a house is on a house lot that is an acre  
9 and a half, I'm sure there's some of them here. It says here, if there's been constructed on a  
10 lot pursuant to section 78 dash 12 dash 72, that's under applicability page 6. They can't do any  
11 more sub-development, but they could sub split the lot and do more construction, you  
12 know...

13

14 Michael: They wouldn't...

15

16 Mary Dube: It's like a maker.

17

18 Dave Walker: Possible.

19

20 Michael: They'd have to meet all the lot requirements, and I think, sorry, let me just...

21

22 Dave Walker: They can't create a nonconforming lot.

23

24 Michael: Right. And then there's...

25

26 Mary Dube: Yeah. And then they, if they have an acre, what...

27

28 Robin Hubert: What is the minimum lot size technically with this?

29

30 Michael: It depends on the district.

31

32 Dave Walker: Okay. So I'm pretty sure a lot of these questions should have been asked at the  
33 last workshop.

34

35 Robin Hubert: Yeah. But we didn't have the information.

36

37 Dave Walker: All right. So now you have the information. I'm going to recommend another  
38 workshop next month. Okay?

39

40 Robin Hubert: Yeah.

41

42 Winch: Sound good.

1  
2 Dave Walker: And we can bring all our questions to that workshop.  
3  
4 Jay Kelly: Yeah.  
5  
6 Dave Walker: And, if you don't mind, and that will be, let's see, back up seven days, 6th.  
7  
8 Michael: Perfect.  
9  
10 Mary Dube: Tuesday, 6 is a regular meeting, is it not?  
11  
12 Michael: No. No. Our regular meeting is 13th.  
13  
14 Mary Dube: July?  
15  
16 Michael: Yeah.  
17  
18 Mary Dube: So take 7 away from that. Yeah, 6.  
19  
20 Dave Walker: Yeah. It would be the 6th. So, it's...  
21  
22 Michael: I won't be available for that workshop.  
23  
24 Dave Walker: All right. Well, how about, Wednesday, 5th?  
25  
26 Michael: I'm not here that week.  
27  
28 Robin Hubert: It's all vacation time.  
29  
30 Dave Walker: All right. How about, how about let's go into June, the last week of June. How  
31 about June 26th, which is a Monday? Good.  
32  
33 Mary Dube: Up here, aren't they already?  
34  
35 Dave Walker: Really? T  
36  
37 Mary Dube: There's these who's upstairs here.  
38  
39 Dave Walker: Council has Tuesdays.  
40  
41 Mary Dube: Tuesdays. What about...  
42



1 Michael: Yeah. I can confirm...  
2  
3 Mary Dube: Zoning or I don't know...  
4  
5 Winch: We've had questions.  
6  
7 Dave Walker: Or we could do Thursday 29th. So we...  
8  
9 Michael: Do, I'd have to, I mean, I have to ask for what the availability is for the room, but.  
10  
11 Dave Walker: All right. Let's go. Thursday 29th of June.  
12  
13 Mary Dube: Of, can we do another in this...  
14  
15 Dave Walker: For this account.  
16  
17 Mary Dube: Yep. Yep.  
18  
19 Dave Walker: And Mike will confirm whether we can get this...  
20  
21 Mary Dube: Yeah.  
22  
23 Dave Walker: Room or not. If not, we could find somewhere else, right?  
24  
25 Robin Hubert: But can you do two workshops in the same month?  
26  
27 Dave Walker: Sure.  
28  
29 Michael: Yeah.  
30  
31 Dave Walker: Yep.  
32  
33 Robin Hubert: Yeah?  
34  
35 Winch: Yep. What day do you say it again?  
36  
37 Michael: Thursday 29th.  
38  
39 Winch: 29<sup>th</sup>, okay. Yeah.  
40  
41 Dave Walker: At 6 PM, kids.  
42

1 Mary Dube: Early are the better.  
2  
3 Dave Walker: Or 5:30?  
4  
5 Michael: 5:30.  
6  
7 Dave Walker: Does that work for you, Mike? I mean...  
8  
9 Michael: That works. Yes. Thank you.  
10  
11 Dave Walker: When you get out of work.  
12  
13 Michael: And I'll confirm the availability.  
14  
15 Mary Dube: If the rooms are available.  
16  
17 Dave Walker: All right. So let's do that, and then I'm going to schedule a public hearing on  
18 the 13th assuming that legislate legislators don't change anything significantly on us. Okay?  
19  
20 Jay Kelly: Oh, good.  
21  
22 Dave Walker: And that'll be at our regular meeting.  
23  
24 Winch: Remember, whenever the legislature changes or it gets enacted, if it's not an  
25 emergency legislation, it doesn't take effect until 90 days after they adjourn. So, just...  
26  
27 Dave Walker: I'm going to schedule it if we have to reschedule the workshop.  
28  
29 Winch: Yeah.  
30  
31 Dave Walker: The secondary workshop...  
32  
33 Winch: Yeah.  
34  
35 Dave Walker: We'll do that.  
36  
37 Michael: All right.  
38  
39 Dave Walker: That'll get this...  
40  
41 Michael: So sorry. July 13th, you scheduled?  
42

1 Dave Walker: It's going to be a...

2  
3 Mary Dube: That's our regular meeting.

4  
5 Dave Walker: Regular meeting, public hearing.

6  
7 Michael: Okay. Thank you. Yep. Good.

8  
9 Winch: That's the July...

10  
11 Dave Walker: And, you know, now that you have your materials, get all your questions up,  
12 and, you know, it'd be nice if Jeffrey would come too because some of the questions aren't  
13 just about this. It is about the town and comprehensive plan and all that stuff. So it would be  
14 nice if he could come as well, okay? Let's move on to item two. I thought we'd be out of here  
15 in 15 minutes. That didn't happen. It's all Robin's fault.

16  
17 Robin Hubert: The same conversation we had at the last workshop, the same questions, the  
18 same verbiage.

19  
20 Dave Walker: Item 2, proposal. Ordinance amendments, chapter 78, article 2, section 78- 36,  
21 and chapter 78, article 8, section 78-1856 through 1863, erosion control ordinance. Tonight  
22 is a discussion and scheduling of a public hearing, and the applicant is the town of Old  
23 Orchard.

24  
25 Michael: So, yes. This is your first introduction to this new, proposed erosion and  
26 sedimentation control ordinance. This would replace our existing section 78, 18, 56, which is  
27 a short, erosion and sedimentation control ordinance or ESC ordinance as I'll refer to it.

28  
29 And this is, this new update and amendment here is to bring us in compliance with our the  
30 MS4 permit. And so we use Wright Pierce to help us with a lot of the MS 4 requirements. And  
31 so, Christine Wright Hart, Wright Pierce helped with the ordinance writing to make sure  
32 we're meeting the requirements and coming up with an ordinance that would actually  
33 control, erosion and sediment.

34  
35 And so really, this is another ordinance that has a deadline because it's based on the permit.  
36 It's July 1, 2023 where we're at because of the time the other ordinance took up, but we're  
37 working towards meeting that as closely as possible. And as I mentioned, there is an existing  
38 ESC ordinance, but this is to bring us in compliance under the new permit.

39  
40 One question I had, because one of the new requirements is that codes review these ESC  
41 plans and then also have some inspection requirements. And, I wanted to make sure it  
42 wouldn't be a burden on codes and adding more to their plate that wasn't necessary.

1  
2 And I did confirm that we're not actually required to include building permits under this, but  
3 under our current MS4 program in, doing construction site inspections and checking for  
4 ESCs, and making sure that they're meeting those requirements. Sometimes individual lots  
5 are problematic.

6  
7 When the developers sold them off, the developer says, I'm not responsible for that lot. I don't  
8 even own it. Someone's building a house, and then they don't have, say, silt fence up, for  
9 example, to control sediment. So, by adding building permits in, this is just making sure that  
10 when those lots do come up, they're submitting the plan as required. It's getting reviewed.  
11 And then, codes can inspect that when they do their first initial building inspection on-site.

12  
13 Dave Walker: And they're trained on this as well?

14  
15 Michael: There is training out there, and I know at least a couple of them...

16  
17 Dave Walker: Okay.

18  
19 Michael: Are trained through the existing DEPESC program, and there's additional trainings  
20 coming up.

21  
22 Robin Hubert: To the chair, why is this even in front of us right now when it's not even ready  
23 for us to do anything because nothing's written? Like you said, you're still working on it.

24  
25 Dave Walker: We're going to schedule a public hearing.

26  
27 Michael: This one should be ready to go. There's a draft ordinance.

28  
29 Robin Hubert: Yeah.

30  
31 Dave Walker: Is, is, we're going to recommend approval by council once we have the public  
32 hearing and approve.

33  
34 Michael: Yes.

35  
36 Dave Walker: So we won't, we can't approve ordinance, but we make a recommendation.

37  
38 Michael: It's a recommendation to counsel as with other, amendments.

39  
40 Mary Dube: Mr. Chair and Mike, I have a comment on the, application, that the new written  
41 section.

42

1 Robin Hubert: All right.  
2  
3 Mary Dube: It says that all application should come with a plan, but it should also say that  
4 they have to implement the plan, which doesn't say that. You know, the other, the one that  
5 you struck out, it's like what they will do. So you need to do this and this and this, where the,  
6 that section should they implement the plan to.  
7  
8 Dave Walker: Well, we won't give them a permit.  
9  
10 Mary Dube: No. But well, they have to implement it. It's part of the requirement.  
11  
12 Dave Walker: Yeah. Yeah.  
13  
14 Mary Dube: But it should say that.  
15  
16 Dave Walker: All right.  
17  
18 Michael: That's a good point. And that's on the changed language?  
19  
20 Mary Dube: Yes. The changed language for section 78-36.  
21  
22 Winch: Good catch.  
23  
24 Michael: So, include a piece about implementing the plan?  
25  
26 Mary Dube: And yeah, the requirement that they implement the plan within, I don't know.  
27 You could look at the state language within, two days of disturbance or disturbance. I think  
28 it is.  
29  
30 Winch: Yeah. You could have a nice plan and then...  
31  
32 Mary Dube: Yeah. Exactly.  
33  
34 Winch: Then do nothing. Then do nothing. Yeah.  
35  
36 Mary Dube: There's no big...  
37  
38 Michael: Actually, yeah. So originally, I wasn't going to add this section in because...  
39  
40 Winch: Yeah.  
41

1 Michael: I think there's a part already in here where it says the application needs to include  
2 specific information, but we added that line to make sure that this plan's part of it. So...

3  
4 Dave Walker: Make sure, yeah.

5  
6 Mary Dube: Yeah. That's the requirement to implement the plan.

7  
8 Michael: And I think if you look at the actual ordinance itself, it gets into that. But we can  
9 look at adding something in there, or I'll find specifically where it does say that.

10  
11 Dave Walker: All right. Any more comments?

12  
13 Winch: No, that was, that was very good.

14  
15 Dave Walker: All right. So I'm going to schedule a public hearing for our next regular meeting,  
16 which is July 13th. Okay, Michael?

17  
18 Michael: Yeah. Yeah. If you don't want any other information on it, I think you had most of  
19 the overview in your memo and that was the most basics of it.

20  
21 Dave Walker: Yep.

22  
23 Michael: No. It's perfect. Please get some feedback.

24  
25 Winch: Yeah. That's a good part of it with the public hearings.

26  
27 Dave Walker: All right. Any other business tonight?

28  
29 Robin Hubert: I got one thing to say out of for you is that everybody just wants to speak at  
30 once. We can at least ask the chair to speak first before we start.

31  
32 Winch: Yes. Thank you. Yes, that would be...

33  
34 Robin Hubert: That would be...

35  
36 Winch: Appropriate.

37  
38 Robin Hubert: Yes.

39  
40 Winch: Thank you. But it's good to have everybody involved in I appreciate it. But...

41  
42 Robin Hubert: Yeah.

1  
2 Dave Walker: Good and welfare. Anything under good and welfare? I am going to talk to  
3 Jeffrey about the stipend. I did look at the minutes of council's April Meeting, and it said  
4 members, but again, how are we defining members. I think anybody that comes to one of  
5 these meetings and does the work should receive the statement.  
6

7 You know, now if they don't come, well, then they don't get it, but it doesn't say alternate  
8 member, regular member, it doesn't define it that way. So I'm going to talk to Jeffrey about  
9 that privately, and then I'll send you all an email.  
10

11 Winch: Okay.  
12

13 Dave Walker: Okay?  
14

15 Winch: Yeah.  
16

17 Dave Walker: So that you all know.  
18

19 Robin Hubert: Technically, alternates never used to be included in because they were only  
20 needed when a vote goes. They weren't required to be at every need.  
21

22 Dave Walker: So, Robin, how could they vote if they didn't do all the cursory work ahead of  
23 time? So it isn't fair to exclude them in my mind, but that's just my opinion. All right. Anybody?  
24 I'll make a motion to adjourn.  
25

26 Robin Hubert: 2nd.  
27

28 Dave Walker: 2nd. All approved. Is that right? End of meeting. Thank you. Good night,  
29 Michael.  
30

31 Meeting adjourned at 7:03 pm  
32

33 I attest the above are minutes approved by the Planning Board on 9 May 2024  
34

35  
36   
37 Jeffrey Hinderliter, Town Planner

