

**MINUTES OF
WORK SESSION**

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

6:30 P.M.

NOVEMBER 13, 2008

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

MEMBERS EXCUSED: Donald Coker;

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

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Chairman Ricci called the meeting to order.

I. DRAFT REVISED ZONING ORDINANCE

A. Draft Sign Ordinance;

Rick Taintor indicated they will be making significant changes in the sign ordinance and they previously discussed making sign overlays. In the current Zoning Ordinance some signs are regulated by where they are and some by what they are. They are proposing four sign districts. He suggested going through the draft ordinance as they have been doing, page by page, as that seems to work best.

Page 1. Draft Article 10 Signs. The first section is consistent with the existing regulations. In the second section, Signs exempt from Regulation, they tried to be clear on what signs did not require any permit.

Mr. Rice asked if real estate signs would require permits? He felt there should be a table showing which signs need a permit and which don't. Mr. Taintor thought they had addressed that but maybe they missed it. Attorney Sullivan noted that in the City Ordinance there is an exemption for real estate signs in public right of ways. Mr. Taintor added that this is for signs on private property. They talked about a development sign, something that would a sign describing a development and that kind of thing. Mr. Holden explained that in their staff discussions they were dealing with a size of a sheet of plywood and they didn't want to get into the business of regulating every real estate sign but they wanted some authority to be able to regulate real estate signs if they ran into a problem. Mr. Rice felt it would be more user friendly to have a table which says what signs require permits and what signs don't. Mr. Hopley thought they could add that to Table 2, Section 1022 on page 1. Deputy City Manager Hayden asked if they would put what was in Section 1022 into a table? Mr. Holden felt they needed to have some sign constraints. Mr. Blenkinsop asked about political signs. Mr. Taintor thought that was a good question. Mr. Blenkinsop noted it talks about temporary signs for 30 days but many are up longer than that. Attorney Sullivan stated it depends on whether they are on a public right

of way or on private property. They actually need a permit on private property. Mr. Holden added that they don't enforce them. Mr. Taintor felt that the question would be, if they don't enforce the political signs and they did enforce other signs, then they would be dealing with content and that is the problem as all temporary signs must be treated the same way. Mr. Holden indicated it has not been an issues within the City on private property. They have a sign officer that will not go around collecting political signs from private property. Mr. Taintor's point was that somebody could challenge the City if they were enforcing the private sign and not enforcing a political sign. Attorney Sullivan confirmed that they could enforce it right now if they wanted to but with personnel and other issues, they don't have the time or manpower to get to that. Mr. Coviello stated that hot tub signs all over City could feel that they were not consistent with political signs. Attorney Sullivan confirmed it was the same rules that apply and the City would say the same thing to the hot tub sign. The City takes down a lot of hot tub signs and they do take down a lot of signs in the public right of way. They do not take them off front lawns now as they just don't get to them. Councilor Dwyer felt that 21.30 is in addition rather than an instead of requirement. It doesn't substitute.

Page 2. Mr. Taintor indicated that some signs they are suggesting should not be regulated are signs that may cause some issues. Item (f) mentions the little credit card stickers or hours of operation and restaurant menus. Item (g) is for signs with letters 3 inches or less and this is meant to indicate something you cannot read from the street. There are so many of them, particularly downtown, they are probably not important and too hard to enforce. Also, informational signs are exempt. Mr. Coviello felt there should be a square footage rather than height of letters in item (g). Mr. Hopley felt under item (d), Information signs, they should add "see definitions". Councilor Dwyer asked if they could all become one and be called directions and required directions? Mr. Hopley suggested 4 s.f. for item (c) and (d). Mr. Holden thought they were going to check with MUTCD. In reference to Councilor Dwyer's comment, Mr. Hopley assumed they won't do away with their examples. Mr. Taintor agreed and indicated they would just be calling it directional signs instead of calling it informational signs.

Deputy City Manager Hayden asked about item (g) regarding letters 3" or less in height. This is new and she wonder how could that be subverted. Could they plaster their building as it would not be included into their total square footage? They should leave the 3" and include a square footage per building. Mr. Hopley asked if it was their intent in item (g) to zero in on items such as menus? Mr. Taintor confirmed they did not want to regulate them as they are too small. Mr. Hopley asked if they could do away with item (g) and include menu as an information sign? Mr. Taintor would like to do that but asked when does it cross the line for content. Attorney Sullivan indicated that the City happens to be up to their ears in signs today. The difference between a time/temp sign and a Ford Taurus sign is a difference in content. Deputy City Manager Hayden thought they could get around the menu issue by says it is an intermittent sign with daily specials? Ms. Tillman stated they leave the menus out all the time. Mr. Taintor felt this was like trying to define the household pet, not because they want to regulate household pets but because you want to prohibit another kind of animal. They are trying to define the kind of sign that is safe and anything that falls within these criteria is okay and they will not be regulated. But, if they start getting out of control, they will require a permit. Therefore, it may be a combination. Instead of talking about the examples, it is the overall size and maximum size per entrance. Maybe they can combine item (f) and item (g). Councilor Dwyer referred to the words in item (e) and felt that the words securely attached seems to open up a whole realm of issues and she is not sure why they need that. Mr. Hopley felt the intent may be some of the older buildings where they have the name of the building or the block as part of the building façade, i.e., the First National Bank Building, the McIntosh Building, the Oddfellows Hall. Mr. Taintor was trying to think of a modern version, such as 100 Market Street. Mr. Hopley pointed out that 100 Market Street is the street address. Mr. Taintor will look at this and he understands the concern.

Section 10.1023, Page 2. Mr. Coviello asked if roof signs are currently regulated? Mr. Taintor confirmed they are not allowed. Mr. Coviello asked about balloons and whether they have to have print on them? Mr. Taintor confirmed any balloons to attract people. Attorney Sullivan indicated that the City Council may take that out. A no balloon ordinance was voted down by the City Council. Mr.

Holden reminded the Board that this is their recommendation to the City Council. Chairman Ricci asked how enforceable it would be? Mr. Rice asked if this included balloons on real estate signs? Councilor Dwyer indicated that balloons for a birthday party would be regulated. Mr. Taintor asked if they wanted him to take it out. Mr. Coviello felt it was not worth the hassle of the Department to regulate balloons. Deputy City Manager Hayden asked how much of a problem has the City had with them? She knows it came up as a result of the 20' high floppy people. Mr. Hopley felt they should put a size limit on it. Mr. Coviello suggested just listing inflated devices, and leave off balloons. Mr. Holden indicated that when you have a problem, that is where this really comes up and most of these are temporary so they may be gone by the time you do an inspection. Deputy City Manager Hayden asked if they had a problematic one, could they go after it under nuisance. Attorney Sullivan confirmed they could not. The balloon issue was brought up by Councilor Pantelakos and she had some good issues, one of which was an environmental concern as they come off the car dealerships and end up in the Great Bog and two days later Attorney Sullivan saw one of the balloons in the Great Bog. They certainly are garish and ugly and aesthetics is a legitimate reason to regulate signs. Councilor Dwyer added that when that came up in the Ordinance she found that the legislature dealt with the quantity of balloons that were released and that was the environmental hazard and that was enforceable. Mr. Taintor asked how are balloons different than banners or pendants. Deputy City Manager Hayden asked if they can they regulate it as blocking site distance which is part of the pennant problem and they are also a hazard to drivers who are distracted. It is a public safety issue. The Dunkin Donut banner blocks site distance and is a hazard. Attorney Sullivan likes the police power site distance approach which wouldn't rely on the Zoning Ordinance regulation. Deputy City Manager Hayden asked if they can regulate signs that are a hazard to motorist under police power because they are moving and flapping around? Attorney Sullivan believed the answer was yes. The sign regulations are all in the Zoning Ordinance. If they could show that a particular sign created a distraction to traffic then he felt they could regulate that sign outside of zoning however it allows them a much narrower regulation. Under zoning authority, aesthetics and safety are two legitimate reasons to regulate signs. Enforcement outside of the Zoning Ordinance cannot regulate aesthetics. Deputy City Manager Hayden felt they need to write this more broadly to include the signs that are distracting to drivers. Attorney Sullivan felt that would be one of the more important things they could accomplish. Councilor Dwyer asked why don't they just say that directly. Deputy City Manager Hayden felt if they count in the square footage, they get them that way as most places can't have that much square footage. Attorney Sullivan was concerned about the new signs that flash as they are more intense, more distracting and uglier. Mr. Coviello feels they are giving up on the balloon fight due to enforceability but there are other parts of the ordinance where they have trouble enforcing and they aren't giving up on those. He felt balloons would be enough of a concern with the auto dealers who have balloons. Attorney Sullivan mentioned the City Council as they have already made a policy statement that they do not want to regulate them. He feels it is fair enough to put the question before the City Council again as long as it is done in an open way. They should not give the City Council a 200 page Zoning Ordinance with one sentence in it saying "no balloons". They could leave it in but highlight it so that the City Council knows it is in there. Councilor Dwyer added that it was a previous Council that voted it down and it wasn't unanimous. What defeated it was it was aimed at car dealerships. She did not see a problem bringing it up again as this is a different view and a different mix. Deputy City Manager Hayden suggested leaving it in and they should try to broaden it to show that they are trying to encompass safety and aesthetics.

Mr. Coviello asked about the signs inside a window, item (h) under section 1022, goes in hand with the moving signs. The picture windows in the new bank on Congress Street has multiple television sets facing the street. Is that an issue? Mr. Holden suggested they stay outside of the store. Mr. Rice felt that the HDC frequently found these signs offense to the streetscape. He felt 3' back from the window should be minimal. In many places neon signs are 3' and it is a detriment to the streetscape to the district. He would like to see that moved back to 8' or an overlay HDC for stricter distance. Deputy City Manager Hayden felt they have to remember the balance between enforcement and do they want to get too heavily into what goes inside businesses. Maybe they could say it makes a difference if they are parallel or perpendicular to the street. Mr. Rice felt the HDC needs some help. Mr. Taintor suggested the size of the sign should be looked at. Mr. Hopley asked if the television monitor is a

sign? Mr. Holden added that when you are in Court, these distinctions will nail you and the City has been there. Mr. Taintor asked if a huge screen is not advertising anything, is it a sign? Mr. Holden felt you don't want something where owners will come running to their Councilors. They should pick what's important and they need to find a balance. Mr. Rice felt it was important within the HDC as it has a certain ambiance. Vice Chairman Roberts agrees with Mr. Rice that they are a problem aesthetically but looking at the definition it states "... to identify, announce, direct or inform ...". Something from Mr. Coviello's case, as much as they may be unpleasant and whether they are parallel or perpendicular to the window, they don't do any of those things. From a legal standpoint it might be safer to just ignore it. Mr. Taintor is more interested in the actual effect of the sign rather than where the sign is. If the sign is 3' behind a window and it is brighter and clearer than a sign that is on the outside of the wall, why is that less of a concern for regulation? It may not be a concern now but it will increasingly become a concern. LED and fiber-optic displays are evolving and they are cheaper to run. Chairman Ricci thought they could measure by lumens. That would be enforceable. Deputy City Manager Hayden felt they could just define them as signs so they end up being part of the square footage. That way, people are not going to want to have televisions take up all of their signage square footage. Mr. Coviello didn't want to miss the suggestion of using lumens. He is wondering if Site Review lighting includes lighting inside the building. Mr. Holden indicated that you do not see the signs during Site Review as it is a whole different permit process. Deputy City Manager Hayden thought possibly that as some signs go to the HDC and the BOA maybe they could require more go through those Boards. If a sign issue is in the Historic District, shouldn't they be getting to it through the Historic District? While they can regulate lumens, the city would have to buy a device to do that and train the person to do that. Mr. Holden stated that the HDC says no internally illuminated signs so they may have to get back to that definition but having the HDC provide additional review would probably be a good way to do it. Mr. Blenkinsop asked what was the purpose of exempting that type of internally illuminated sign? Mr. Taintor explained it was trying to say they do not want to go too far inside the building. Mr. Blenkinsop asked what would happen if they were silent on it and they would have discretion to decide if something was or wasn't a sign? Mr. Taintor stated that what they have done is they have clearly defined a sign as affixed to a building or structure or erected on land in view of the general public and they don't talk about signs in windows so they are all not included.

Mr. Taintor asked what was the general feeling about what they should be doing? The only signs they are regulating are those illuminated and within 3' from the window. Mr. Coviello agreed that they should not be going into the building very far but he has a problem where someone uses a sign for light pollution. The new Rite Aid sign is so bright it is illuminating the house across the street and he felt there should be an issue with that. Mr. Taintor suggested they should not look at anything inside as a sign regulation but rather as a light regulation. Councilor Dwyer also liked what Deputy City Manager Hayden was suggesting about the HDC. The only way they could begin to protect the downtown would be with the HDC review. Mr. Holden felt they are not looking at illuminated sign more than 3' and they are not worried about those. So, everything closer than that and illuminated they are looking at, which probably covered 90% of the issues they are looking at and by covering the lumens, it may be the way to get at it. Mr. Hopley was thinking a lot of the concern is the lumens and intensity. Currently in the district the only type of illumination on a sign is external and they are further trying to regulate that with a hood requirement. Do they feel there is a need to bring every sign to the commission if they are trying to narrow what they can do in the district sign-wise. Mr. Holden indicated they are talking about 3-4 signs out of 800 downtown businesses so he asked if this is really a problem? The lumens is the new problem. Ms. Geffert asked if the flashing was going to change the lumens so it's always changing? Councilor Dwyer asked if they need to make it clear that a television is a sign or under what circumstances is a television a sign? Councilor Dwyer gave an example of where someone may have an office with a huge computer monitor near the window. Attorney Sullivan indicated they discussed it earlier and they never came up with a solution. Deputy City Manager Hayden suggested they just move it back to 5' in item (h) as they haven't had huge problems. Chairman Ricci felt they are going too far with it. People should be able to do what they want inside their office. Deputy City Manager Hayden agreed but was looking for some middle ground. Chairman Ricci felt they should leave it at 3' and include some sort of light level. Mr. Taintor stated that they have had a really hard time trying to figure out what the right levels are and they came up with "nits"

which area one way to regulate lumens and LED's. Deputy City Manager Hayden was concerned about lumens for the same reason as trying to regulate noise. There are different types of noise at different times of the day. Maybe they can talk to some lighting specialists. Ms. Geffert asked if they have seen anyone else's sign ordinance that regulates lumens? Mr. Taintor indicated there is a wide range of what people will do. It is very difficult.

Deputy City Manager Hayden asked about signs that give the appearance of motion and if that could that be the gummy's that flap in the wind? Mr. Taintor felt they would have to define it to include those.

Top of page 3. Section 10.1030 Sign Districts. Mr. Taintor handed out a Proposed Sign district map showing four districts. He asked if they exclude Municipal and NRP? Sign District 1 (yellow) is all of the rural and residential districts. Sign District 2 is the central business and mixed residential office and business, business, and waterfront business. Sign District 4 is industrial waterfront and all of the airport districts and is the most intensive and least restrictive. Mr. Rice asked why the HDC was left out of that? Mr. Taintor stated the HDC is an overlay district. Councilor Dwyer liked the overall approach but felt that the mixed residential/business/office may cause some problems. That seems to be the challenge as she is looking forward to a change in zoning where more of what is in general business might become mixed residential/business/office in which case it would cause a problem with the signs and would be more like District 3 than District 2. Councilor Dwyer referred to the red corridor. If some becomes more mixed residential/office or business, it may have needs that are more like Sign District 3 rather than Sign District 2. Mr. Taintor agreed, as they are thinking of changing underlying districts they should think about how it effects the sign districts and they also have the provision at the bottom of page 3 that says "In order to address the characteristics of a specific area or its surrounding, an area may be changed to a different sign district than specified in Table 1 following the same procedures ..."

Page 4. Mr. Taintor pointed out that the next several tables are broken down by the four proposed sign districts. The first table is for which sign types are permitted in each district. On page 5 they have the sign height and setback requirement for each district. On page 6 they have the sign area requirements. This gets into some questions they talked about last time. They have wall signs are allowed and they should think about the terminology. What is not here, which should be there, are awning signs. Except for Sign District 1 which are the residential and rural districts, they have all wall signs allowed. There was a question about hanging signs vs. projecting signs so there is a distinction there. Hanging signs are more aesthetically pleasing. They can move around the permissions in this table but it is just trying to be the same type of table as the use regulations. Councilor Dwyer thinks the projecting sign is inconsistent. Mr. Taintor felt it is meant to allow in Sign District 2 a projecting sign that is hanging, or a hanging sign, as opposed to a rigid hanging sign. Mr. Hopley felt maybe they could add something in the definitions to clarify under projecting, without the benefit of a bracket or hardware. Councilor Dwyer was having trouble with the projecting sign without benefit of a bracket that is more than 2' from a wall. Mr. Taintor referred to the slideshow last month which showed some. Mr. Hopley felt they will have to illustrate it.

Mr. Hopley indicated that the temporary sign is still confusing him and they should discuss it later. It is used in different ways throughout the document.

Deputy City Manager Hayden asked whether Halo signs would be permitted in the permitted sign types? Mr. Taintor stated that they are a type of illumination so it is not a type of sign. Mr. Taintor confirmed they are identified in Table 5 and illustrated on page 10 and 11.

Page 5, Sign Dimensional Standards. Section 10.1051 Sign Height and Setback. Mr. Taintor indicated that projecting signs have a minimum height from the bottom of the sign from the sidewalk and a minimum setback from lot line (or curb). He felt they need to look at Sign District 2 to determine whether they are looking at the curb or the lot line. Free standing signs have a minimum setback from the lot line and a maximum sign height. Mr. Coviello noted that a minimum setback from the lot line

downtown can't have projecting signs over the sidewalk. Mr. Taintor indicated they are working on how to deal with that. They will probably keep the curb in. Mr. Holden indicated they have done everything to-date on the lot line. If it goes over a right of way it has to get Council approval. He felt it would be good to keep it consistent. He is not sure they would gain much from going out to the curb. Mr. Taintor felt they should turn the "2" into a "0" and say there is not setback required from the lot line in these districts because it is attached to the building and if the building is within 18" of the lot line, the sign is going to be allowed anyways. And they will take out "or curb". Mr. Hopley felt they might need to add to maximum sign height to say "to top of sign". Deputy City Manager Hayden asked about the method of measuring the height of a monument sign. Mr. Hopley felt they needed to look at that method of measurement. Mr. Hopley was also unclear on the different regulations for monument and hanging signs. Mr. Taintor indicated that the monument sign could be anywhere in Sign District 2,3, or 4. They have a choice between doing monument signs and hanging signs. Mr. Hopley assumed this would dovetail when will a pole sign become a monument sign. Mr. Rice was confused on the free standing sign table with a minimum setback from the lot line. He asked about Real Estate signs again and he felt there needs to be guidance on that. Mr. Taintor felt that would be a temporary free standing sign. Mr. Holden added, along the same lines, when they say minimum setbacks from lot line, along US Route 1 where the State is securing 12' for easements, do they want the minimum to be 2'? It is a fairly fast corridor. They wouldn't have a building that close. Mr. Taintor asked if he was talking about free standing signs? Mr. Holden indicated that if they put a sidewalk down Route One they would be mowing through these signs. Ms. Tillman felt it would be 10 feet back from the property line. Mr. Taintor agreed the projecting sign doesn't make sense being that close because they wouldn't have a building that close except in CBB where they can have buildings right up to the street. Mr. Taintor confirmed he will look at these.

Vice Chairman Roberts asked about the maximum sign height for pole signs on Table 3. In District 2 is it 8' tall which seems tall. Mr. Taintor explained the height is down to the bottom of the ground as shown in Figure 3. Mr. Coviello pointed out that they don't have a definition for a pole sign. Deputy City Manager Hayden asked how these compare with what they have now for heights and setbacks. Mr. Taintor indicated that it has increased the height in GB and OR by 5', there is no change in any other district. It is 20' in the GB, OR, WI and Airport and 8' in the CBA and CBB. They are increasing it in the residential for temporary signs but generally it is pretty consistent. Mr. Taintor stated he will work on the definition on the pole sign and a clearer definition for sign height.

Mr. Hopley asked if the 5' is to the bottom or the pedestal of the monument sign as he felt that was pretty low. Mr. Taintor confirmed that is what it is meant to be.

Page 6. Section 10.1053 Sign Area. Mr. Taintor tried to make this better to work with. They are still keeping a maximum sign area for sign and a maximum sign area for business and a maximum sign area for lot. This is an increase in aggregate sign area of all signs in the lot. There is a maximum wall sign area per lot. There are separate maximums for free standing and projecting signs. Mr. Hopley felt that, again, this is a two test method for measuring wall signs. Mr. Taintor felt this does better than what they had before as it is a different way at the 2nd test. If they have a multiple user building, this is to avoid one tenant using up all of the signage on the building. Mr. Hopley did not feel that the table regulated it by user. Councilor Dwyer noted it does just for projecting and that is confusing to her. Mr. Taintor felt if they had a valid reason to have it based on the building frontage of the business because if they have a 40' wide building with one business, that business might want to have more sign area than a 10' side unit in a 40' wide building. It should clearly say linear frontage for that user.

Mr. Rice was puzzled on table 4 for Sign District 1, there is a maximum aggregate sign area of 16 and the freestanding is 50. Mr. Taintor indicated he will correct that.

Vice Chairman Roberts was confused about maximum wall sign area per linear foot. In theory, if someone had one business in a building with 100' of building frontage, they could do a 10' x 10' sign which seems big to her. Mr. Taintor pointed out that the existing regulation is 75 s.f. for attached signs. Mr. Hopley confirmed that for the wall sign in District 2, they would still be limited not to

exceed more than one s.f. for every linear foot of frontage so they would need a 100' long building to achieve that 100 sf sign. Vice Chairman Roberts was looking at a worse case scenario. Deputy City Manager Haydejn asked how would that work on a big new building, such as the Hilton Garden Inn or 100 Market Street. Mr. Taintor asked if that is something that they want to think about. What is excessive to the downtown area? Mr. Holden pointed out that this is based on a lot and the Hilton Garden Inn is two lots. The Parade Mall will be 3 separate lots. Mr. Hopley confirmed they are allowing 25 s.f. more. Councilor Dwyer felt there is proportionality to this and she tried to sketch out what these might look like in different situations. On a smaller building there might be a scale issue. It may be that on a modest building it would seem out of keeping. Deputy City Manager Hayden felt that maybe the test on the scale issue is that this is not going to allow significantly more square feet of sign than they currently do. Councilor Dwyer asked why would they want to allow more? Mr. Coviello looked at office space on Bow Street and the signs for that building were tiny. Mr. Tillman stated they may be have a large lot with multiple uses, like Noble Island, where 75 sf of signage for the whole site is too small. Mr. Taintor pointed out that currently in the CB the limit is 75 s.f. per lot but it is 2 square feet of sign area for every linear foot of building frontage, as opposed to one square foot. If they have a narrow building, they are making the signs half as big as they would be under the existing regulation. When you have a bigger building you have a bigger sign and with a smaller building you get a smaller sign. Mr. Hopley pointed out that the current issue now is the bigger buildings in the downtown area are maxed out and they are all going for variances, especially multi user buildings. Mr. Taintor asked what would happen if they remove the ceiling per lot? Councilor Dwyer asked aren't these things arising as they are looking at 4-5 story buildings? A linear foot just doesn't seem like the way to do it. She asked if they would need to add a factor into that, like square footage of wall? Mr. Taintor explained that there are two things going on because the primary regulations are for the first floor businesses. There are different regulations for the upper floors. Councilor Dwyer asked if Section 1052 was only for first floor users? Mr. Taintor indicated it is an overall regulation and in addition to that there are second floor user regulations. Mr. Hopley brought up the point that it seems like, in this proposal, the uses above the first floor are to be included into the maximum of the building whereas currently they are separate. Mr. Taintor stated that this should specifically say 1st floor uses then to be clear. Mr. Hopley felt there are different scenarios with the larger buildings with a single user, like the Hilton Garden Inn but 100 Market Street has multiple users. He felt the reality is that the higher you go in a building, the desire for signage diminishes as they are looking up and you can't read it. At that level you have a call for projecting or hanging signs to advertise who is above the second floor. Mr. Taintor asked if they should base it on building frontage? Mr. Hopley felt that would make it easier. Mr. Taintor asked how many lots are wider than 100' in the downtown, because that is when it comes into play. Mr. Taintor indicated that they will look at this a little bit more at another meeting. Councilor Dwyer added that even if they don't take it away, it would be good to combine it in one line so that it would be the linear feet per, up to a maximum of, as opposed to treating it like it is two tasks.

Mr. Coviello asked about the new double faced signs, like the sign over the Music Hall. Mr. Hopley thought that might be an attempt to clarify what they do currently do now. Mr. Taintor stated it was not in the regulations but it is in the definitions.

Section 10.1053.20 Wall Signs. They will add text to the illustration. Everyone was in agreement that they really liked the illustration.

Page 8. Section 10.1053.20 Hanging Signs. Mr. Hopley was okay with logo or graphic incorporated into the bracket but he was really opposed to trying to figure out the size of the bracket. Ms. Tillman asked why would they charge somebody for the bracket? Deputy City Manager Hayden added that if the bracket was a neon tube they would charge for it. Mr. Taintor pointed out the bracket with the golden arches.

Page 9. Lighting poles. Mr. Hopley asked if it was the intent to mean that the sign is the area of the lightening bolt or the space area? Ms. Geffert felt you would decide to measure it differently and discourage differently shaped signs. Chairman Ricci asked why is this sign illustrated? Do they have to show how to measure every different shaped sign? Vice Chairman Roberts asked if that affects the

sign height back at Table 3? Mr. Taintor stated the height is still measured from the ground and they have to be clear that they are measuring from the ground. They should change it to read to measure from the smallest rectangle or square. Mr. Hopley indicated that the signs are going to be really small. Typically he has text or a logo and he more than likely has a different text or color background and it all becomes a sign or sometimes he just has stand alone letters and the support is transparent so does he count just the letters or the extra area of the rectangle. Mr. Holden felt that the most innovative sign they have is the ice cream cone on Market Street. It's better to take the actual area rather than the triangle. Deputy City Manager Hayden asked if there was any equitable way to encourage the more artistic signs? Attorney Sullivan felt that this discussion would discourage creative signs. Deputy City Manager Hayden was also concerned about that. They need to try and treat everyone fairly but encourage creativity. Mr. Taintor indicated they could look at incentives for creative signs. Deputy City Manager Hayden stated that the flip side is the McDonalds in Freeport as the golden arches are very small and they are carved. Mr. Hopley recently noticed the McDonald's on Route one in Saugus where the arches come out of the ground and he immediately asked himself if that would be a sign! Chairman Ricci asked how does he measure individual letters? Mr. Taintor has seen ordinances that say no more than eight lines but it still requires them to use an enclosed polygon.

Mr. Taintor advised the Board members that Mr. Hopley and Mr. Taintor were talking about defining the percentage of the area under the sign. What is happening, they have 6' wide bases that go straight up to a sign. There is a lot more mass to these signs that they do not include as part of the sign measurement.

Page 10. Section 10.1060. Sign Illumination. Mr. Taintor explained that this is where they get into the halo, channel letters and internally illuminated awning signs that are not allowed. Mr. Hopley asked if there is an illuminated awning with no sign, is it a sign? Attorney Sullivan felt that, under their current regulation, it is a sign. The current definition is broadly written. At Whitebirch Plaza there was green which was backlit and drew your eye to the business, so it is a sign. Mr. Blenkinsop asked what about a sign that is just a projection. At the Manchester Airport they have a huge clock that is displayed on the floor. Deputy City Manager Hayden confirmed they have discussed that. Mr. Taintor added that gets into the lasers. It would qualify as a sign. Chairman Ricci asked about signs held by people? They are in the right of way they don't care but if they are on private land the City will tell them to cease and desist.

Mr. Rice referred to the table for Sign District 2, halo lettering being permitted, does 10.1063 covers the HDC? Mr. Taintor indicated, in terms of the HDC, right now they wish to prohibit internal illumination but wish to allow external illumination. Mr. Holden noted that the real issue is its still a valid regulation in the HDC. Mr. Rice responded that the HDC always opposes internally illuminated signs.

Ms. Geffert likes the sign districts but she is not sure Sign District 2 works as it doesn't jive because it includes too much. It may be that they need to revisit the districts. Mr. Taintor asked if she thought it is the districts that they are including or does she think it is the historic district that creates the issue? Ms. Geffert felt it may be both. They may want to call out the HDC and say special rules apply. She thought the central business districts are very different than Office Research or plain Business or even Mixed Residential Office and the downtown creates a different sign environment. Mr. Coviello felt, on that same point, there are areas that he doesn't like being in Sign District 3, like the North Mill Pond side of Islington Street, the area around 1000 Market Street and the entrance into Atlantic Heights. Mr. Taintor felt these are default areas and they can revise them accordingly.

Mr. Taintor had an issue about 10.1065, "A light source for internal illumination of a sign constructed of translucent material and wholly illuminated from within shall not require shielding". This comes to another issue about shielding lighting. They are trying to be Dark Sky Friendly and they are trying to be flexible on how they are dealing with light but if something was translucent in itself that may conflict with the whole idea of Dark Sky Friendly. It comes to the issue of how much light does it generate. Mr. Holden felt there are varying degrees of translucent. Mr. Taintor felt that 10.1067 needs

a lot of work as it is very difficult. Mr. Holden indicated that when they are going through site review they are very careful with site lighting but they are not looking at light from signs but they should be looking at zero spillage at the lot line. Mr. Taintor did not believe it is not about spillage. If it is a translucent fixture it will be bright. Any light you can see across the street has crossed the lot line. Mr. Holden asked if they want these signs lighted 24 hours per day? Mr. Holden asked what is the purpose of having the sign lit after 10:00 pm? Chairman Ricci asked what type of site would be open 24 hours per day? Hotels, hospitals, convenience stores, restaurants. Deputy City Manager Hayden thought it's a good idea after closing but there might be a lot of resistance as it is a big change. Mr. Holden thought maybe it would only apply to signs where the light is projecting out as those are the ones causing the problem. Mr. Taintor asked if just getting rid of that line about the sign illumination after 10:00 pm and just adding a paragraph that it is not allowed? Deputy City Manager Hayden thought they could say lights off at time of closing rather than 10:00 pm. Mr. Taintor indicated that it also says that site lighting shall not be illuminated between 11:00 pm – 6:00 am unless the business is operating after those hours it can be illuminated 1 hour after the activity ceases. Ms. Geffert suggested that they just copy that. Mr. Coviello thought the only place where it might be good to have a light on when they are not open would be a big destination like Water Country? Chairman Ricci asked if people would be looking for it at 2:00 a.m.? With a GPS there should not be a problem finding any place. Ms. Tillman added that gets into seasonal businesses. Mr. Blenkinsop wondered how you would enforce it if it is related to when the business closes. Mr. Holden responded that the neighbors will take care of that.

Mr. Hopley acknowledged that they had been talking about the boxes and spillage and innovation of trying to draw attention to the building but most often they are talking about a thing with a logo and words but if they were just doing the illumination, divorced of any words, is it a sign? Deputy City Manager Hayden asked about a glowing spear for someone who sells world maps? Mr. Hopley was looking for new input to see if this is something that they want..

Mr. Taintor asked them to skip ahead to page 19 and referred them to the three sign definitions. The current definition has to do with name, identification, description, display, illustration or device but there are other definitions that say an illuminated visual display. These things will come up. They are on every gasoline canopy and they probably go all the way around the perimeter canopy. Mr. Taintor asked, if they allow those, do they allow a similar strip around every building that has a special color associated with them? Mr. Hopley mentioned that they are seeing a lot of thin illuminated strips around a lot of different venues. Mr. Coviello suggested that if the company has something copyrighted or trademarked, they would use that in the definition? Mr. Taintor asked when does the yellow and red strip become a sign and how much sign area would they allow? Deputy City Manager Hayden then asked if it was a bad thing to have an identifying band as opposed to a blank area? Chairman Ricci felt it was better to debate that or the signs that flap in the wind. Deputy City Manager Hayden agreed with Chairman Ricci that they are not a public safety hazard and they might help someone select where they want to stop. Ms. Geffert felt it was really a question of what they can regulate. Attorney Sullivan agreed it just makes it too hard to enforce. They are currently under threat from a business owner claiming that we enforce our zoning ordinance differently against him because he finds signs in other parts of the City that got permits or are existing but they are telling him he needs a variance. Ms Geffert felt it is one thing to have a stripe around a canopy but around a whole building is another whole thing.

Deputy City Manager Hayden felt that maybe they want to regulate Sign District 1 differently for the logo issues. Attorney Sullivan felt that was the whole idea behind the district map and they will concentrate their enforcement in the downtown area as they do now as that is where it is most sensitive.

Ms. Geffert suggested that they stay with current definition but add projected? Mr. Taintor thought they wanted to add projected but the issue of how they deal with stripes and spots will be included in CBB and HDC only.

Ms. Geffert felt if they break down the districts differently, then this makes some inherent sense. One thing she has seen that is difficult in the discussion is the use of the tables, which are far superior to the tables in the current ordinance, but still don't work because you can't lump all districts in the same table. They have the need for a special sign district in corridor areas but they probably have a special sign district just for CBB and HDC. Conceptually, maybe they just need some tweaking. Mr. Taintor suggested maybe having six districts instead of four. Councilor Dwyer felt it was important to bring the above the ground floor into the area they were talking about. The point they need to think about it when they are thinking about the wall area in linear feet instead of this thing they are going to come to later. To her, it belongs with the measurement of sign area because it really is about sign area and is so heavily involved with the district that they want to regulate that she felt area is the big issue there.

Mr. Coviello indicated he would like to ask applicants more about their lighting and how it effects abutters. Mr. Holden confirmed that was within the Board's right, keeping in mind that the only issue is they are not approving the sign permit. Chairman Ricci felt that was a great point and maybe it will help down the road when the sign permit is applied for. Mr. Holden stated that they can also make sure they show a building elevation, which is required. Deputy City Manager Hayden asked why they can't ask them so show proposed sign locations and type of signs? Mr. Taintor felt that would be building design review. Councilor Dwyer felt there are two parts. Any sign related to traffic flow feels like it could be treated differently. These signs are very related to traffic flow and they worry about traffic flow a lot. She is feeling that more and more they are not talking about things that are becoming more and more important and it should be a part of site review. Mr. Taintor thought they could think about have a two phase process where the first stage was looking at anything that is a free standing sign which would include direction signs and the second stage would be where they are looking at signs attached to the building. Ms. Geffert pointed out that they spent a lot of time with Portsmouth Toyota being very particular about where the bushes and trees were so why can they look at that but not where their signs are? Everybody was envisioning what the corridor was going to look like with the landscaping but a sign would be equally important.

Mr. Holden confirmed the next work session will be held next Thursday, November 20th and they will continue what they have been working on.

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II. ADJOURNMENT

A motion to adjourn at 9:00 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on December 18, 2008.