

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE  
PLANNING & ZONING BOARD HELD  
TUESDAY, SEPTEMBER 6, 2011; 7:30 P.M.  
AT THE CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the September 6, 2011 meeting of the Planning and Zoning Board at 7:30 p.m.

**A. PLEDGE OF ALLEGIANCE**

**B. ROLL CALL**

**Members Present:** Edward Mead, Mark Bender, Robert Dickman, Gregory Vetter, Janet Golden, KathyLynn Patterson, George Gasper, Susan Shaw, Chair; Kevin Liddy (7:48)

**Not Present:** Victor Ferrante

**Staff:** Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk

**Mme. Chair:** Asked for a motion to move up Item F for the proposed text regulation changes, at the request of Mayor Richetelli.

**Mr. Dickman:** So moved.

**Vetter:** Second.

All members voted in favor of reordering the agenda to allow Item F to move forward.

**F. PROPOSED TEXT REGULATION CHANGES - New**

**Sections 3.1.4, 3.2.4, 3.3.4, 5.1.4, 6.1, 6.2, 6.3 and 6.4**

Request by Mayor James Richetelli for Suspension of Zoning Regulations to repair and replacement of structures damaged by Hurricane/Tropical Storm Irene.

**Mayor James Richetelli:** Thanked the Board for taking up this matter. Hurricane Irene took a tremendous toll in all areas of the City of Milford, but in particular, along the shoreline. From the time the City started getting reports of the hurricane, Emergency Operations worked to get word out to the residents. Emergency Operations have been working through the hurricane and now to the clean up and eventually to the rebuilding and the recovery from the hurricane. It has been a big effort and the City of Milford is doing everything it can to help the citizens who are most affected by the hurricane in order to have them recover as quickly as possible.

He has been in discussions with the Director of Permitting and Land Use, Jocelyn Mathiasen about the things that have to be done as residents will be coming before the land use and permitting agencies in that reconstruction and recovery effort. In any kind of natural disaster, what citizens and property owners had prior to that natural disaster, they should be entitled to at least be made whole. That is not only fair and equitable, but it is the compassionate thing to do. In this case there are many properties,

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particularly along the shoreline, that existed prior to zoning and prior to the existing regulations. He is fearful that there may be some properties that will have to be rebuilt and if they do not meet the current regulations, where will that leave them?

Therefore, a proposal has been put before the Board tonight which is a Resolution of the Planning and Zoning Board, which would suspend certain regulations for a short period of time to allow those property owners who were affected by the hurricane, to be able to rebuild the footprint of their premises, to what they had prior to the storm. Nothing more and nothing less. There are provisions in the Resolution which would make it necessary for the property owners to prove that the damage was due to the hurricane. Not looking for loopholes where people will be able to take advantage of something like this that was not affected by the hurricane. Believe the Resolution has very good safeguards. He believes very strongly that the City must do everything it can to allow the citizens to rebuild to pre-Irene conditions. This Resolution is a start. Requested that the Board take this up as quickly as possible. The questions are coming in, the permits over the weekend (Building and Fire Departments worked over the weekend.) The onslaught is going to come. Resources will be made available to be able to meet that demand. But some safeguards must be in place so the City is not putting people in worse shape than they were before the hurricane. Asked that the Board take up the suspension of the regulations to be able to make Milford's citizens whole.

**Mme.Chair:** Thanked the mayor and for the record stated she owns a shorefront home. Asked if the Mayor had a scope of the damage of the number of homes, businesses, and families displaced.

**Mayor Richetelli:** In general terms, the City did open a shelter. The night of the hurricane there were approximately 25 people who came to the shelter. The second night after the hurricane there were a little more than 40 people in the shelter. May of the people who left their homes either went to family members, friends or hotels. The occupancy rate in the hotels was very high. The silver lining was that business increased.

In the FEMA process an initial assessment of damage was done. This is a walk by and in some cases talk with the owners or the occupants if they are there. In all cases information is left on the door that the team was there. There are five teams walked from Smith's Point to Oyster River, all along the shoreline. Their initial assessment is several thousand properties that have some damage. It is believed that it is in excess of 200 homes that have sustained major damage. At this point they are looking at six houses that have been deemed unfit for occupancy. It is believed that when it is complete, that there will be somewhere around a dozen. Whether that means complete reconstruction is unknown. Many of the homeowners are going through their homeowners insurance and their flood insurance. Through the FEMA process, the first thing that homeowners have to do in all cases is go through their insurance. FEMA will not have any type of assistance for insurable damage. In all cases homeowners have to go through their insurance companies. That is what is currently being done. Many of

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the calls that have come in from people who have significant damage ask questions such as: "Is my house going to be condemned?" "Will it be deemed unfit for occupancy?" because the insurance companies are asking that question. The City is trying to meet that demand. Those are the general numbers that they have at this point, but will be much more refined as they get further into the process.

**Mme. Chair to City Attorney Smith:** Asked how the Board legally responds to the process of suspension of a portion of the regulations.

**Attorney Smith:** Stated this Resolution stands on its own. The Board can act on this Resolution tonight, if it desires.

**Mme. Chair:** It doesn't require a public hearing? Also, any regulation change the Board puts through requires a two-thirds vote of the Board, and oftentimes must pass through the Regional Council of Governments. Asked if in this case this procedure does not have to be followed.

**Attorney Smith:** This is designed to be different from the amendment process.

**Mr. Bender:** Would the Board have to come back and removed the Resolution? What would stop it from being in place.

**Attorney Smith:** The Resolution by its own language is time loaded, as is the concept of a suspension, so it has its own start and end dates with respect to its various provisions, so the Board would not have to come back and undo it or repeal it.

**Mr. Vetter:** Thought this was a great Resolution to help people start to move forward. His question on the process is the Mayor's reference to the ability to insure that the damage is caused by the hurricane. Asked if that could be highlighted in the Resolution and how would it work in practice.

**Mayor Richetelli:** Responded he was incorrect. There have been other ordinances proposed to the Board of Aldermen that have those provisions in there. This ordinance should.

**Mme. Chair:** Asked Ms. Mathiasen, Director of the Department of Permitting and Land Use how the process might work vis-à-vis the Planning and Zoning Board.

**Ms. Mathiasen:** The DPLU's role is to implement the regulations that the Board agrees upon. She is not able to say what is legal and not legal. The principal in terms of these regulations and any regulation change or suspension is that clear answers for the public must be obtained as quickly as possible, because people are already coming into the offices with all sorts of situations wanting to know where they stand and what the process is going forward. Needs clear answers because confusion and uncertainty is the enemy of everybody. Want to be able to tell the public what to do going forward.

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Her understanding is that the intent of this regulation is that people be in same situation they were in before the hurricane occurred. So if they had something that was legal non-conforming before the hurricane occurred, then it would be legal nonconforming after. If it was illegal before the hurricane occurred, it would be illegal after. That is her understanding of the objective. The other thing would be not to have lots of people go through the ZBA process when that is an extra work load item for the department, as well as for the applicant. Those are the two objectives.

**Mme. Chair:** Saw a lot of damage of garages, fences and sheds. Would those types of structures be included in this?

**Mrs. Harrigan:** Her only comment with regard to the Resolution would be that it needs to be clearer in terms of where the threshold is. Currently, according to the regulations, if someone just has to do a minor repair and it does not hit 50% of the appraised value of their home, they could remain nonconforming anyway. She believes this Resolution covers those people who exceed that 50% threshold. She asked that the Board discuss clarification of some of the language, especially Section 5.8, the flood hazard regulations cannot be exempted because that would jeopardize the City's standing with the National Flood Insurance Program and the City cannot do that. That has to be revised if the Planning and Zoning Board wants to accept the Resolution.

**Mayor Richetelli:** Said what Mrs. Harrigan was discussing was addressed in Item 5.

**Mr. Dickman:** Noted he does not see Section 5.8 as being one of the sections mentioned in the Resolution.

**Mrs. Harrigan:** Thinks the Resolution should be more explicit and be more inclusive of Section 5.8.

**Mr. Bender:** Will zoning enforcement be able to monitor all these properties?

**Mrs. Harrigan:** As she reads it, people get to put back exactly what they had before as long as there is not a requirement to raise it based on flood requirements. They get to put back exactly what they had before.

**Mr. Bender:** How will the enforcement of these properties be done?

**Mayor Richetelli:** They will have to go through the same process that they are required to do now; submit plans, go to the different departments for approval.

**Mr. Bender:** There may be over 200 houses. Will the City be able to handle that onslaught?

**Ms. Mathiasen:** Either way there is a tremendous amount of added work load that will go on with permitting these. A lot of these are currently nonconforming buildings on unusually small lots that already violate setbacks. There is a huge amount of workload that goes through the process of getting them to the ZBA and obtaining variances. That is a big workload items as well.

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The point is well taken: How do we know exactly where this was before and how do we know that someone is not going to fudge by a foot or more? No answer right now, but will say that very accurate surveys will be needed for any of the reconstruction on these lots because they are very tight lots. It will be very important moving forward that it is known where they are located relative to property lines and other structures.

**Mme. Chair:** Asked if it is known how many homes received waivers when they were building or have issues with the setbacks.

**Mrs. Harrigan:** Do not have that data. As people come forward with their applications, their files will be researched. In a lot of circumstances these people may have variances in place if they did additions previously; if they reconstructed in some capacity that was outside the allowable envelope. They may already have variances in place. Right now specific photographic documentation is being obtained. There is aerial photography that can be used as a reference. However, these will not capture the same information that a survey would.

**Mrs. Patterson:** From a safety standpoint, if something has to be rebuilt, especially if there is another storm occurrence such as this, will the present building codes be enforced?

**Mrs. Harrigan:** The current substantial improvement regulations, which include FEMA regulations and State flood regulators, are tracked on a ten year basis. Ms. Harrigan explained how the process would work if a structure suffered additional damage from another storm, which will move toward a safer environment.

**Ms. Mathiasen:** Anyone involved in any new construction, which includes additions, renovations, repairs, will have to meet the current building code. The current building code has been revised significantly in the last ten years to address issues like high winds, etc. The Resolution will not exempt people from meeting the current building code.

**Mme. Chair:** Asked to review some points to make sure what the repercussions are:  
1. This would cover uses. If somebody has a multi-family or single family, we are preserving that use in the specific case of Irene?

**Mrs. Harrigan:** That would be correct based on the section cited.

**Mme. Chair:** 2. The issue of repairing lost garages and fences where fencing is no longer allowed but where they were grandfathered, those fences could be back under this Resolution?

**Mrs. Harrigan:** Correct.

**Mme. Chair:** 3. The alternative for the Board of not doing this or doing only part of this, the normal process is if they are noncompliant they would go to the ZBA or possibly the Planning & Zoning Board.

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**Mrs. Harrigan:** Correct.

**Mr. Liddy:** If nonconforming houses are allowed to be rebuilt, will that decrease the property values of the homes around them, because now there is a community of homes that are not in compliance again.

**Mrs. Harrigan:** Stated she could not answer that on an appraisal perspective.

**Mayor Richetelli:** The intent here is not to do anything different. It should not change the property value of the neighborhood or the neighbors next door because it is not going to be anything less or more than what was allowed before. In fact, with the flood regulations in effect, it will enhance the value of that home and presumably, the homes around it.

**Mr. Liddy:** How will future weather catastrophes affect this change in the rules? There have been many extreme and unusual weather issues in the area over the past year. Will this be a recurrent practice for every storm that occurs?

Also, with respect to the wording in the Resolution "undue hardship", would that apply to people who lose their house to a fire, gas or mudslide? They, too, would be under undue hardships. Lawyers may come in and say, "You suspended the regulations for them, but these people have suffered undue hardship...".

**Mr. Mayor:** It is up to the Board in each individual case, however, this is an event of such historic and catastrophic proportion, he believes that it makes it necessary to do everything the City can to try and ease the burden of people who will, in some cases, lose their entire home. There are probably very few that this will apply to, but to even say to one person because of Hurricane Irene and because of the new regulations, you cannot rebuild your home. He thinks that is not fair and is not human. The City is trying to do everything it can to ease the burden; not to give anyone an unfair advantage. Not to give any lawyers or developers a leg up. This is to strictly try to help and ease the burden of people who have already been really affected in a major way.

**Mme. Chair:** There have been houses that have been condemned and houses that have suffered major damage, but there is a mechanism involved to ensure that people can rebuild. They have mortgages and obligations. They cannot leave the process. The Mayor is offering something to make it easier. The Board should not think that in the past if someone's house burns down there is no mechanism for it, and there is a mechanism in place even without this proposal.

**Mayor Richetelli:** Stated he agreed, but the intent here is to ease the burden and make it as easy as possible on people who are already in an extremely stressful situation to force them to go through the process that can sometimes be time consuming and costly. He believes the City should do everything it can to not make it worse on the rest of the citizens of Milford, but to make the process easier and to allow for restoring one's property to its pre-hurricane state. That's all. Nothing more and nothing else. Just what was there before.

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**Mme. Chair:** Stated she appreciated that very much.

**Mr. Liddy:** Since homes along the coast that have mortgages are required by Federal law to have flood insurance, people who have paid off their homes and do not have a mortgage, are they required to have flood insurance?

**Mrs. Harrigan:** If anyone has any kind of federal lending or any lending that is backed by a federal institution, you are mandatorily required to carry flood insurance. If they do not have a mortgage or a loan against their property they do not have to have flood insurance.

**Mr. Liddy:** Who takes responsibility if those people without flood insurance lose their home? Is it up to the taxpayer to replace the home?

**Mrs. Harrigan:** It is the homeowner's responsibility.

**Mme. Chair:** The regulations are made on the basis that Milford has 17 miles of coastal. Do the current regulations fit the bill? From a planning perspective, what should this Board be doing in terms of ensuring that homes are safe?

**Mrs. Harrigan:** That is a very broad neighborhood to neighborhood question. The reasons why Milford has such dense, compact neighborhoods along the shoreline is because these were one story summer cottages. They were not built for year-round use. In many circumstances they were built with very little parking on lots that were not intended for year round habitation, but that is what you have today. In some ways some of the neighborhoods are more consistent with the zoning regulations and some of them are not at all. It requires a very comprehensive look at each neighborhood.

**Mme. Chair:** She can see this fitting very well in certain neighborhoods, especially in the low lying areas. Other areas do not fit these needs. Each home and neighborhood has its own need. In looking at these she is not going to see if there are things that should be added or things that don't make sense in terms of how people actually live in their neighborhoods. This is something the Board should consider as they look through here and not all neighborhoods are created equally.

**Mr. Vetter:** This process focuses on land use. The point has been made that the building code will be enforced and this is mostly avoiding ZBA and questions which say, I have a nonconforming use that I want to rebuild. Is the purpose of this Resolution to save them the process of going through that route?

**Mme. Chair:** Her concern is house by house and the fencing issue. People who had fences that got washed away. The neighbor wishes to put their fence back and the other neighbor wants it to be compliant with the current regulations that denies the use of fences. That is an issue. The same issue could take place where there was a multi-family use in a neighborhood that is no longer allowed. This could be an issue between neighbors. She does not have all the feedback from the various coastal neighborhoods.

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She wants this to be dealt with a sense of fairness. The Resolution deals with speed which is important. Referenced Ms. Mathiasen's point that the one thing people cannot cope with is the ambiguity and not understanding what they can and cannot do. Not only rebuilding homes, but rebuilding communities. She wants to make the corrections or clarifications but would like to have the public be able to speak out about their concerns.

**Mr. Mead:** If people had fences on Long Island Sound before and they were legal, are they going to be able to replace them the way they were?

**Mrs. Harrigan:** Based on this Resolution, yes.

**Mr. Mead:** Asked if the James Street area could be looked at in terms of raising the homes in the future due to the heavy flooding in that area.

**Mayor Richetelli:** The elevations in Point Beach came about as a result of storm death in 1992. After that storm the City of Milford requested that the Army Corps of Engineers come in and take a look at the entire shoreline and see what could be done to mitigate some of the damage. The Army Corps does a very complex cost/benefit analysis. Because of that analysis they narrowed it down to Point Beach and Bay View to do their study on. They found that they could only justify the cost/benefit analysis in Point Beach. The project was called Project Impact and was funded through FEMA only applied to 46 homes in Point Beach. Bay View was excluded. The Army Corps of Engineers could be asked to take another look, however, since 1992, funding for these kinds of projects has almost become nonexistent. The State and Federal representatives have been asked to look at erosion control, particularly in the Wildemere Beach/Walnut Beach areas. There has been no money to do that. Perhaps this storm on the east coast will change that and some new funding will become available in the future. Does not see that happening now, however.

**Mr. Dickman:** In favor of this Resolution that will actually help people who are hurting right now. Believes this matter should be addressed by the Board tonight in order to help the people in Milford who are hurting now. Should not wait two or four weeks to get around to tweaking this in a way that could be done tonight.

**Mme. Chair:** There were comments made in terms of correcting language and things to put in. This is very broad. Agrees with Mr. Dickman because these people are her neighbors too. Speed is of the essence, but being correct and right is more important. There are safety issues. She wants to make sure the Board has the information and that the public who the City is doing this for has a chance to weigh in. There are two sides to this issue. What would be allowed is a continuation of all uses, which could happen anyway. The ZBA and the Planning and Zoning Board have the power to do that. They are not denying anyone the opportunity to rebuild their homes.

**Mrs. Golden:** Asked the Chair if she was suggesting a public hearing on the issue.

**Mme. Chair:** She would like a public hearing. The City Attorney said it was not necessary. She would like to have it but it is up to the Board. Asked if the Board was



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comfortable with the changes that were discussed tonight. These included how the changes were going to be tracked; what the homeowner would have to do in the office.

**Mrs. Harrigan:** Section 5.8 should be excluded from this so that there could be no doubt. The way that she reads and understands the Resolution, it would apply, given the zoning regulations, is anything that is below 50% this does not apply anyway.

Anything over 50% it just allows them to remain where they were. They would still have to go through the CAM process, if they are within a hundred feet of a coastal resource, because State statute cannot be changed, and they would still have to build to flood compliance, because that is the arrangement that was made when people were allowed to obtain flood insurance in the City of Milford and that cannot be excluded.

**Mr. Vetter:** Agrees with Mr. Dickman. Does not hear a compelling argument not to move forward on this. Section 5.8 has been discussed and some vehicle to monitor and come up with controls needed to ensure that this resolution is not abused, but other than that he hears no reason to delay at this time.

**Mr. Liddy:** Asked if the question had been asked: Why is the time period one year and not six months, with an opportunity to renew?

**Ms. Mathiasen:** The concern is for some people it may take some time to figure out what they want to put and where. Not everyone will have their permits in and certainly not within three months and six months probably, but a year seems safer.

**Mr. Liddy:** If a home gets destroyed 50% or more, wouldn't the insurance company require homeowners to build to conformity and not to nonconformity?

**Mrs. Harrigan:** Although not an insurance agent, she said that her insurance agent did tell her that. If her home was taken down by fire, she would have to use that money to build something that was compliant. There was an additional rider that she could buy for her flood insurance that gave would give her an additional fund of money to do that.

**Mr. Liddy:** So this Resolution might be useless if the insurance companies who have their monies says, "We don't care what the Resolution says. You have to deal with and conform to the current regulations, regardless what the Resolution says". That could happen to homeowners.

**Mrs. Harrigan:** Stated it was her understanding that this was only for people who have met the 50% threshold. They want to keep their footprint in exactly the same place that it was. This might mean that they have to upgrade their structure to both meet flood compliance and obviously, building code. That they could keep their setbacks exactly where they were. These people may decide that this resolution does not work for them because they want to change the location of their property. This gives them the opportunity to change their property. Then they would have to apply for a variance if they are not building exactly on the footprint. Some people may exempt themselves from this resolution if they decide that they want to improve more. Believes that what

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will happen is that when people understand more about what reconstruction really means to them, both as an opportunity, both as a realistic requirement, one of the things that the average homeowner does not know, is if you build a structure within three feet of a property line, the wall of that structure cannot have any glass. Items such as this may take people to a different place as to what they want to do with their property.

**Mayor:** It is not in the Resolution, but he would propose language be added similar to the following: "To be eligible for the suspension of these regulations, property owners shall submit proof to the satisfaction of the Department of Permitting and Land Use, or her designee, that the permit sought is strictly in connection with the replacement and/or repair of a building, dwelling, structure or improvement which sustained damage from Hurricane/Tropical Storm Irene, on or about August 28, 2011. Such proof may include, but not be limited to: Evidence of an insurance claim; architect's certificate; engineer's certificate; or any other evidentiary information the Director of the Department of Permitting and Land Use, or her designee, may deem necessary".

**Mme Chair:** This applies to not only the home, but any other structures on the property. She cannot support approving this resolution tonight. Would like corrections made and public input, if possible.

**Mr. Liddy:** How many homes that have been destroyed or non-inhabitable do not have flood insurance?

**Mayor Richetelli:** Does not have this information at this point. Knows there are six or so structures that have been deemed uninhabitable, but they are still in the initial assessment phase.

**Mrs. Patterson:** There is nothing stopping the Board from having a special meeting on this next week with the new verbiage.

**Mme. Chair:** Agreed. Would not mind spending the time to accomplish this.

**Mr. Vetter:** Not sure there are facts the Board is waiting on. Just allowing use to continue that was already in existence. Does not know why the Board would have to wait unless there are other concerns that he is not hearing.

**Mme. Chair:** It's no longer 50%. Talking about fences and other structures. Would imagine some of the requests received now are for the rebuilding of the smaller structures. Some of the more substantial damage that is over 50% are probably not coming in for permits at this time.

**Mayor Richetelli:** Intent in bringing this before the Board was if the home was less than 50% but the garage was completely gone his intent was not to allow the garage to come back. It has to be the principal dwelling on the property.

**Ms. Mathiasen:** Upon reading the Resolution initially, it was the impression that a garage or a shed or other outbuilding that was within setbacks could be rebuilt as well

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as a fence that was destroyed by the hurricane, but it is on LI Sound could be rebuilt. For implementation, clarification is needed, because if there is disagreement on that, the amount of friction over an outbuilding or fences can be extraordinary. She will implement whatever the Board deems appropriate, but she would strongly request that it be very clear what is and is not included in this.

**Mayor Richetelli:** The intent, if the structure is still standing and is fine, but the garage sustained more than 50% damage, the Resolution is not saying that the garage can be rebuilt. Saying if the principal dwelling, the home, is more than 50% then anything on that property, within the existing footprint can be put back.

**Mme. Chair:** Not sure this is coming through in the Resolution. In the Board's terminology for structure, it would lend itself to an interpretation that is different.

**Mrs. Harrigan:** The language in the Resolution can be clarified to meet the Mayor's intent.

**Mayor Richetelli:** Noted that when laws are passed or regulations are passed, a lot of what is looked at is the legislative intent. The legislative intent in this case is the Board's intent.

**Mme. Chair:** Would like the Resolution to be clear and not be ambiguous. Would like to have language that would state only 50% of a building, therefore that would be talking about all the structures and that would be clear.

**Mr. Vetter:** This changes the time pressure a little bit. Assumes that if this relates only to the primary structure, not a garage or a fence, to come up with the plans and even be ready to come here, takes a bit of the onus off the Board to act on this tonight. People who have lost a garage or something smaller can be in here quickly and want to get that fixed and he supports that. But if this relates only to primary structures, the language can be fixed and voted on separately. Asked the Mayor if this would be fair.

**Mayor Richetelli:** Those changes could be made to the Resolution tonight, if the Board wanted to. His intent is to get rid of the ambiguity and give people a clear path as to what they need to do to rebuild their homes.

**Mme. Chair:** Thanked the Mayor. Stated she would like to get this language clarified one more time with staff, Ms. Mathiasen and the Mayor's office, making sure that the intent is what this Board is looking at and then schedule the hearing.

**Mr. Dickman:** Stated he would like to do this tonight rather than next week.

**Mrs. Golden:** With all the suggestions for changes in the language of the Resolution, she is not sure this could all be accomplished tonight. Wants to see this expedited and move forward, but not sure this could be done tonight.

**Mr. Liddy:** Since the people will have a year to get this done, a week cannot be so critical. What the Board decides will be there another 50 years. When they rebuild they

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will be rebuilding to code and that will last through storms to come. Wants to make sure the Board does it right, so as not to have a hodge podge of nonconforming and everything else that the Board is trying to eliminate, due to the Plan of Conservation and Development. Thinks two weeks at the most is reasonable.

**Mr. Dickman:** Asked to make a motion.

**Mme. Chair:** The Board has not established a language for a motion. She has listened to Mr. Vetter and the Mayor. The Board wants to act quickly, but if the Board waits a week or two, there will not be a gross injustice done to those who have suffered the tropical storm. In the almost hour long discussion on this, the Board has revealed to themselves certain things that they did not understand through the discussion they have had. She wants the Board to be respectful of the property owners, understand what is going on and then make the right decisions for it. If a majority of the Board wants to get this done tonight, she feels it would be dangerous. Should be able to give this a week to two weeks to get this done.

**Mr. Bender:** Suggested the Board table this item and try to get the language worked out tonight. If that cannot be done, then at the worst case, the Board makes an agreement to come back in a week and do it. Putting this off for two weeks would not be fair. It is a matter of getting language clarified. The Board could move on to other business and come back to this and see the new language and see if it covers what needs to be covered and then decide whether to move on it, or in the worst case, put it off to next week.

**Mme. Chair:** Asked if Mr. Bender was making a motion to table.

**Mr. Bender:** Yes. To table the item until later tonight.

**Mrs. Golden:** Second.

**A vote was taken:** Seven members in favor of tabling the item of the Mayor's Resolution. **Opposed:** Dickman, Vetter. The motion passed.

**Mme. Chair:** Asked the Mayor if this is something that could be accomplished tonight.

**Mayor Richetelli:** Time is of the essence, but he is willing to wait if the Board is willing to come back within a week then the language can be put together in that time period.

**Mme. Chair:** For not this item is tabled. Before the Board closes tonight it will make a decision on what the Board can meet again.

[A recess was taken from 8:40 to 8:48 pm]

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**C. PUBLIC HEARING – Closes by 9/20/2011; Expires 11/24/2011**

1. **EASTERN STEEL ROAD (ZONE ID)** - Petition of John Knuff, Esq. for a Special Exception and Site Plan Review to permit a package store selling alcoholic liquor on Map 80, Block 810, Parcel 13A, of which Wiehl Properties, Inc. is the owner.

**John Knuff, Esq., 147 North Broad Street, Milford.** Here on behalf of Parrott Enterprises LLC, d/b/a Wines and More. This is a Special Exception application to locate a package store on property located at 5 Eastern Steel Road on the corner of Woodmont Road. It is located in an industrial zone. Package stores are neither permitted nor prohibited in the Industrial Zone, and a Special Exception is the appropriate approval process. Ray Macaluso of Westcott and Mapes, Inc, who prepared the plans is present tonight, and Dean Parrott, who is a principal of the applicant. Dean is a Milford resident as well as a local Milford business person and currently operates Wines and More on the Boston Post Road in the former Gloria's building. That store is centrally located and serves customers in the central and western portions of Milford. It is Dean's hope that this second store will provide a convenient location for the City's residents in the eastern portion of Milford. Dean has entered into a lease for the subject property, which is owned by Wiehl properties and also has entered into a contract to purchase TJ's package store at 43 River Street, just down the street. State law limits the number of package stores in any one municipality based upon its population. So what Dean will be doing is purchasing the existing TJ's Package Store, relocating it and renaming it to Eastern Steel Road under the Wines and More name. As a result, the number of package stores in the City will remain the same.

Although the regulations and State statutes use the name "package store", it has a connotation that does not accurately reflect the existing Wines and More store or the proposed store. As the name suggests, it is primarily a wine store that also sells the typical array of liquor and beer, but focuses mainly on providing a wide variety of wines and specialty beers. The majority of Wines and More sales are wine and the majority of its customers are women who prefer a clean, comfortable and most importantly, a safe environment.

Comments were received back from all the City departments. The Police Commission recommended some modifications to the plans which have been incorporated into the latest set of plans. No concerns were raised by any other department. The Tree Commission was particularly complimentary of the landscape enhancements.

The two Public Hearing notice signs were posted on the property, amidst a forest of commercial realtor signs throughout the area. That area has a number of vacancies. This business will make use of a site that is currently vacant and in an area that is currently under tenanted.

This application is for a Special Exception, which requires a majority of the number of seats, not the number of members, so it is requested that the vote be delayed until the Board has a full compliment of ten members.

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A booklet entitled Parrott Enterprises LLC d/b/a Wines and More was handed out to the members. That includes the Statement of Use; three reduced sets of the site plans and a compliance memorandum with the Special Exception criteria.

Mr. Knuff reviewed the site plan and contents of the booklet he distributed and noted that aside from the landscaping, nothing is changing on the site. He also noted that the property has been vacant since 2010 and the prior use was office and retail use. So the precedent for retail use has been set at this location.

The following improvements were noted: The building will remain on the east side of the property. Site drainage will be significantly improved. There will be improvements to the parking area and have the required number of parking spaces (20).

Pursuant to the Police Commission request, the curb cut from Woodmont Road will be in only and those seeking to continue to travel on Woodmont road after entering the site will make a right out onto Eastern Steel Road. Two lights are being added to the parking lot which presently has no lights. A photometric plan has been submitted, which complies with no glare onto abutting properties.

Not proposing any ground sign. There will be two signs and they will go through the normal sign process and those signs will be on the building itself.

The landscaping improvements will include the addition of six new shade trees and 105 other plantings. The trees presently on the property will be maintained.

Mr. Knuff noted that this application is in compliance with Section 5.5.1.2 of the liquor regulations pertaining to distance from parks, schools, places of worship is permitted within 300 feet of the property. If this application is approved and Mr. Parrott purchases TJ's package store, that will eliminate that nonconformity, because TJ's is within 300 feet of St. Peter's Church.

Mr. Knuff summarized the benefits and improvements that this new business will bring to this industrial area and to the City of Milford.

**Mrs. Harrigan:** Had no further comments on this application.

**Mrs. Patterson:** Asked for the hours of operation.

**Mr. Knuff:** 8:30 a.m. to 9:00 p.m.

**Mme. Chair:** Anyone to speak in favor of the application? (No response)  
Anyone to speak in opposition to the application? (No response)

The Chair closed the Public Hearing.

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**D. NEW BUSINESS**

**2. REQUEST TO PURCHASE CITY OWNED PROPERTY - HARRIETT AVENUE**

Request for approval under Connecticut General Statute 8-24 by Mayor Richetelli, for the purchase of a 20' X 100' piece of City-owned property on Map 25, Block 216, Parcel 16, requested by Alice M. Astriab, 107 Marion Avenue.

**Mrs. Harrigan:** Explained the nature of the request by Mrs. Astriab. The Board had looked at this entire neighborhood. These were the parcels behind Meadowside Road along Harriet and Way Streets. There were a series of parcels for sale and somehow this parcel was not included in that batch, even though this submittal was approximately around the same time. This is a very 20' x 100' sliver. The adjacent property owner is making a request to purchase that sliver to be added to her property.

**Mr. Vetter:** Is the current property developed or is it being added to an undeveloped property?

**Mrs. Harrigan:** The current property should be vacant but it appears to have some sort of storage item on it.

**Mr. Bender:** Asked how one goes about requesting to purchase a City-owned property.

**Mrs. Harrigan:** Usually a singular property owner will express interest that will trigger an interdepartmental review and then a needed recommendation by the Planning and Zoning Board to either sell or not. If it is deemed an appropriate parcel to sell, then it goes for public auction. It is her understanding that once this occurs neighboring property owners are contacted and whoever wants it can bid on it. This property could never be a building lot as it is too small, but it could be merged with another building lot.

**Mme. Chair:** As another 8-24, this is just the Board's recommendation to the Board of Aldermen. If for any reason the Board would deny it, it would still go to the Board of Aldermen. Just need a super majority.

**Mr. Dickman:** Made a motion to approve the request for approval under Connecticut General Statute 8-24 by Mayor Richetelli, for the purchase of a 20' X 100' piece of City-owned property on Map 25, Block 216, Parcel 16, requested by Alice M. Astriab, 107 Marion Avenue.

**Mrs. Patterson:** Second.

All members voted in favor of approval.

**1. REQUEST FOR BOND RETURN – 169 ORONOQUE ROAD SUBDIVISION**

Request for subdivision bond reduction in the amount of \$6,700.00, leaving \$300 in maintenance for one year, in accordance with the engineering review of August 8, 2011 and the approval of Bruce C. Kolwicz, Public Works Director, in his memo dated August 15, 2011.

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**Mr. Bender:** Motion to approve Request for subdivision bond reduction in the amount of \$6,700.00, leaving \$300 in maintenance for one year, in accordance with the engineering review of August 8, 2011 and the approval of Bruce C. Kolwicz, Public Works Director, in his memo dated August 15, 2011.

**Mrs. Golden:** Second.

All members voted in favor of bond reduction approval.

**E. OLD BUSINESS**

4. **ALPHA STREET HOUSING – CAPEHART COMMONS** – Submission of the revised Site Plan in compliance with the conditions of approval, for review by the Planning and Zoning Board.

**Mme. Chair:** Not present at the last meeting. Watched the DVD and will participate in the discussion.

**John Horton, Developer of Capehart Commons:** Distributed a memo which corresponded to the Board's conditions stated at the meeting of August 16, 2011, and which were incorporated in the Planning and Zoning Board's letter of approval with conditions dated August 25, 2011.

Mr. Horton went through each item of the conditions.

**Mrs. Harrigan:** She went out in the field with Mr. Sulkis, Mr. Horton and his landscape architect. There is an old large tree and based on its size and root structure, it would not be feasible to extend the sidewalk past the driveway at House 12. That seems to be as far as the sidewalk can go on the north side.

Based on the resubmitted plans with the sidewalk details, it was resubmitted to the City Engineer and Public Works Department. The City Engineer still feels strongly that the sidewalk on the south side should extend to the driveway of House Number 2. Those are the comments that the Planning and Zoning Office received as of today.

**Mme. Chair:** Asked if there were any comments made by other departments.

**Mrs. Harrigan:** It was just the engineer department who looked at the revised site plan because it was different from what they had previously approved and there was the condition in place that they had to build City specification sidewalks to where the City engineer had previously required. This memo does clarify that the City engineer only needs City specification sidewalks within the City's right-of-way on Eels Hill Road and the other sidewalks do not have to be to the City's specifications.

**Mme. Chair:** Asked Mr. Horton to address the City Engineer's comments regarding the south sidewalks.



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**Mr. Horton:** Stated he did not have an opportunity to meet with the City Engineer because he was preoccupied with the hurricane. His comments only got to him at the end of the day on Thursday, (9/1/11). He does not know why the City Engineer is intent on maintaining the sidewalk on the south side. It was Mr. Horton's understanding that once the bus stop was moved to the north side and the post office boxes at the southerly sidewalk, which only goes from the corner to the first driveway, did not serve any purpose. It is not in the public right-of-way. It's on the private property.

**Mr. Vetter:** Asked for clarification as to where the mail boxes will be positioned.

**Mrs. Harrigan:** Referred him to Sheet SP-7, which showed an elevation of the bench, shelter, mailbox and sign will look like, which will be on the north side of the street.

**Mr. Bender:** Fine with the way the present plan is. Appreciates the effort Mr. Horton put into complying with the Board's requests, especially for sidewalks. The Board got more sidewalk than they thought they would have. The bus shelter looks nice. Happy with the way it is.

**Mr. Vetter:** Motion to approve the submission of the revised Site Plan for Capehart Commons in compliance with the conditions of approval, for review by the Planning and Zoning Board.

**Mr. Dickman:** Second.

**Mrs. Harrigan:** Asked for clarification that the Board is going with the site plan that revises the previous condition that on the south side there were sidewalks extended to driveway No. 2. This plan does not include the southerly extension of sidewalk. This plan just covers up Eels Hill and then takes the sidewalk on the northern side of the street.

If he is saying that he approves it with the amended plan in front of him.

**Mme. Chair:** The motion to be moved is "As stated in the amended plan" is all that has to be said.

**Mrs. Harrigan:** Yes.

**Mr. Vetter:** Modified his motion to include, "As stated in the amended plan received September 6, 2011".

**Mrs. Harrigan:** Plans revised to August 25, 2011.

**Mr. Dickman:** Second.

All members voted in favor of approval.

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**5. REQUEST TO PURCHASE CITY OWNED PROPERTY - 63 JAMES STREET**

Request for approval under Connecticut General Statute 8-24 by Mayor Richetelli, for the purchase of a 0.08 acre piece of City-owned property on Map 27, Block 455, Parcel 18, requested by Elizabeth Berggren.

**Mme. Chair:** There was an issue regarding the time frame of this application.

**Mrs. Harrigan:** The State Statute is such that there was a deadline for approval by the Board which time had passed, there the application was deemed approved by the Board.

**Mme. Chair:** This matter will go before the Board of Aldermen. Will there be a stipulation with approval, i.e. approval by default or absence in doing anything, rather than it being a unanimous approval?

**Mrs. Harrigan:** As staff, a memo can be provided that indicates unfortunately the Board missed the statutory deadline and therefore this has been recommended for approval by the Planning and Zoning Board. She thought staff comments were valid about this parcel, particularly based on flooding concerns and she does not know whether they will be able to look at staff comments as well.

**Mme. Chair:** Obviously they will know that the Board did not act on this.

**Mrs. Harrigan:** Yes.

**Mr. Dickman:** Motion to recess to confer with his caucus.

[Recess taken from 9:30 to 9:38 p.m.]

**G. PROPOSED TEXT REGULATION CHANGES - Old**

<b>Section 2.5.5</b>	Lot Access and Rear Lots
<b>Section 9.3.1</b>	Procedures ZBA
<b>Section 5.1.4.2</b>	Prohibit Drive-Thru Windows Curb Cuts and Driveways
<b>Section 3.1.4.1</b>	Revise Table
<b>Section 3.1.4.2</b>	Building Height in Residential Zones

**Mme. Chair:** Mr. Sulkis is ill tonight. Will hold off discussion to another time.

**H. BOARD MEMBERS' GREEN GUIDELINE BOOK AND BY-LAWS**

**Mr. Vetter:** As of today's discussion the subcommittee should be able to frame up a recommendation for one important part of the Green Book change. He will be outlining a recommended change for the election process. At the first meeting the members went through the Green Book and identified sections that may need to be updated. Staff is investigating some areas where State statutes are involved and make sure they

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are current. Will now focus on adjusting the portion related to elections, which hopefully will be done over the next couple of meetings. At the next meeting it is his intent to present a recommendation for changes that can be discussed as a Board.

**I. PLAN OF CONSERVATION AND DEVELOPMENT**

**Mme. Chair:** No new work has been done in the past few weeks, in light of events that have taken place at the Planning and Zoning office.

**J. LIAISON REPORTS - None**

**K. APPROVAL OF MINUTES – (8/16/2011)**

**Mr. Vetter:** Motion to approve.

**Mrs. Patterson:** Second.

All members voted in favor of approving the minutes as recorded.

**L. CHAIR'S REPORT**

The Board heard the Mayor's proposal which was tabled. There was an outside discussion that they could have this ready in a week. A special meeting could be scheduled as a super majority is not needed for approval. Six members' approval would be needed. If people do not want to wait two weeks, she is willing to defer. The Board would like to get the language firmed up so it is clear on what it is. An available date next week for the City Hall Auditorium will be determined.

**Mr. Bender:** Asked if this item should be taken off the table.

**Mrs. Harrigan:** The item should remain tabled no matter when the meeting will be held so it can be placed on either a separate special meeting or the next regularly scheduled meeting.

**Mme. Chair:** She is doing this as part of the Chair's Report to say that the next meeting could be held in a week because the context is not being discussed.

She had told the Mayor privately, but should have said it publicly, that she commended the work of the City Departments for the work they have been doing in light of the storm damage, especially the Public Works Department who have been picking up loads of debris along the beach area and they are continuing to do so.

**Mrs. Golden:** Commended the work of the Police and Fire Departments and their efforts in maintaining the safety.

**Mr. Liddy:** Noted the improvements that were made to the pedestrian bridge near Sears Auto Parts. There is a cross-walk and a flashing light. The bridge looks rusty, but that is actually a protective finish.

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**M. STAFF REPORT**

**Jocelyn Mathiasen:** Spoke to the issue of post-hurricane repairs and permitting. There is a link to a page on the DPLU website on post-hurricane repairs. Police, Fire and Public Works have been working incredibly hard through the hurricane. Now it will be the DPLU's time for a huge amount of volume of work. She created a sheet on hurricane relief that gave the public information on the steps they were to take and where to go with regard to questions and matters related to the storm.

She discussed the part that the Building Department and Planning and Zoning Office would play in the reconstruction process. She pledged to all of the people who have all this work to do is that the Department of Permitting and Land Use will do everything it can to make the permitting process as quick, painless and streamlined as possible. A lot of time has been spent over the last year improving and streamlining the process and she feels this will be an enormous test, given the constraints, but the Department will do everything it can. However, it is in the interest of the homeowner and business owner to make sure that they do get those permits. They are necessary to make the construction safe and of high quality.

Some of the results of the hurricane are a testament to the building code and changes over the last ten years in terms of some of the building that did very well, despite the high winds and the surf, etc. The codes are out there for a reason. They are not there to make people's lives difficult.

**Mme. Chair:** Asked about staffing.

**Ms. Mathiasen:** Staffing will be stepped up as best it can. It is hard to have plug in place staff, especially on the Planning and Zoning and Building end, where it is very specialized. She is in the process of interviewing inspectors. There was a vacancy to

be filled and in the meantime, there is a retired inspector who has been filling in and he has been doing a fantastic job. Hopefully, he will continue to be available.

**Mr. Bender:** Can the Citywide Notification System be used for contractors to get the information out there?

**Ms. Mathiasen:** Said that was a good idea and would speak to the fire chief and Mayor to see if they could get that alert out there.

**Mr. Vetter:** The application process takes time. Asked if the volume of applications might be so great as to put the DPLU at risk if too many of these applications come during a certain time cycle?

**Ms. Mathiasen:** In terms of building permits, the building department has not come close to the 30 days except for a brief period in February when there was a confluence of bad events. Permits and reviews have been getting out the door within a week or two, at least since May. Her hope is with a greater staff, that time line can be kept going. Anticipate that a lot of work will be coming in the door and will need to have it

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responded to as quickly as possible. Hoping to have afternoon hours for permitting, over the counter permitting. Basic electrical, mechanical and plumbing permits can be submitted on line and get the permit within a day. There are many things in place which weren't there a year ago, which should help, but it will still be a challenge.

**Mrs. Patterson:** If there is to be a public announcement, there are certain days and hours for residents and it can be streamed on line. The public should be made aware of this which may expedite their needs.

**Mr. Liddy:** Any way to get the message out, including the press, would be helpful to everyone.

**Mme. Chair:** Appreciates the update provided by Ms. Mathiasen. Knows there will be a lot of work coming in.

The Chair thanked Ms. Mathiasen for redoing and providing the updated Zoning Regulations, which are also available on line on the DPLU website.

**Mr. Vetter:** Motion to adjourn.

**Mr. Liddy:** Second.

The meeting adjourned at 9:51 p.m. The next scheduled meeting will be a Public Hearing on September 20, 2011.

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Phyllis Leggett, Board Clerk.