

**Kingston Planning Board  
Public Hearing/Meeting  
December 4, 2012**

The Chairman called the meeting to order at 6:50 PM. There were no challenges to the legality of the hearing.

Members in attendance:

Richard Wilson, Chairman	Adam Pope
Glenn Coppelman, V. Chair	Ernie Landry
Mark Heitz, BOS rep.	Stanley Shalett
Peter Coffin	

Absent: Richard St. Hilaire, Alternate

Also Present: Glenn Greenwood, Circuit Rider/Planner, Ellen Faulconer, Administrative Assistant, Robert Steward, Building Inspector, George Korn, Selectman.

**Diamond Oaks**

**Rte. 125**

**Tax Map R3, Lots 4, 4A, 4B, 4C, 13**

Attorney Kathy Sullivan was present, representing the developer, Jim Dufresne, who was also present. Attorney Sullivan stated that they were expecting the Groundwater Withdrawal permit any day; they were asking for an extension of the conditional approval until March but would like to come back to see the Board in January. Attorney Sullivan clarified paperwork received by the Board of Selectmen's office as a sale of a condo. unit, not a subdivision of land. (*Board note: Mr. Pope arrived at this time.*)

Mr. Dufresne would like to meet with the Dennis Quintal, the Town Engineer to review his comments; he thinks his engineer, Mr. Cummings, is working with Mr. Quintal to address the comments from the September plan.

**Action Item: Ms. Faulconer to notify Mr. Quintal that the Board has authorized him to meet with Mr. Dufresne.**

**MM&S to continue the continual approval deadline to March 14<sup>th</sup> and to continue this public hearing to February 19, 2013 at 6:45 PM.** (Motion by Mr. Pope, second by Mr. Heitz)  
**PUNA**

**Sign Enforcement**

**68 Route 125**

Michael Garceau introduced himself as the owner of two units at 68 Route 125; he introduced his partner, Jim Coppinss and Matt Rothwell, who works at the Sign Center in Haverhill, MA. He stated that he was here regarding the signs that were put up about three weeks ago; he stated that

he wished to have Mr. Coppins address the sign issues as he had spear-headed the project and then have Mr. Rothwell address the Board as he had actually pulled the permits.

Mr. Coppins noted his background; he stated that it had always been his understanding that the Town of Kingston did not allow EMC's however while doing a project in Salem he was informed by Barlow Signs that Salem wasn't allowing new EMC's but that Kingston now allowed EMC's on buildings adding that this was news to them. He got the Town's sign code; he stated that they interpreted it to say that EMC's could be on their building. They passed the sign code on to Mr. Rothwell for his review who agreed with them. They asked Mr. Rothwell to reach out to the Town of Kingston and get the permits and then have the signs built and installed.

Mr. Rothwell said that he read the application and spoke with the Building Inspector (Robert Steward) about the process; he noted that he never met the Building Inspector but had spoken with him on the phone. Prior to talking about getting an EMC, they spoke about a free-standing pylon sign for this location adding that was how he first got involved with the owners. They then said that they would like to go for the EMC version; Mr. Steward sent him a copy of the sign code; he said he interpreted the code the same as the owners as fitting in the sign code. He continued that he filled out the permit application; in the drawing he has the size of the sign, and then put next to it EMC which is what they use to refer to an electronic message center; he stated that he showed static images since it is kind of hard to show a changing image; He said that there are four companies that are presiding in this building and he decided to show Pro Design and Infinite Creative Enterprises and that is what he put forward to the Town with those measurements on the permit. He submitted it and it was about a two to three week turn before he heard back from the Building Inspector. He left a couple of messages saying that if Mr. Steward had any questions to call him; he didn't feel there were any issues.

Mr. Coppins re-stated that he read the sign code after being told by someone else that Kingston's sign code now allowed EMC's, they went through the official permitting process with paperwork that clearly said EMC on the application; Mr. Rothwell had a conversation telling exactly to the effect of what an EMC was; they applied for permits with the understanding that they could have electronic message centers; they made a significant investment in the signs to have the signs put on the building, to have trees cleared for visibility to the signs; they met all the requirements as far as dimming, when they are on, when they are off, static media. He did say that when the signs were first put up, there was a programming issue where they were running after 10:00 at night, which they weren't aware of until they were informed by someone from the Town; they apologized that it was a programming issue that has been corrected and believe they have been in full compliance. Mr. Coppins said that they felt that they went completely by the book based on everyone's interpretation of the sign code; he re-iterated that they applied for permits based on what the sign code said; he said they put right on the application that it was EMC. Mr. Heitz interrupted by asking where this was stated on the application. Mr. Wilson stated that he had a copy of the permit and it didn't mention EMC's. Mr. Coppins clarified that it wasn't on the application; it was on the attached drawing. Mr. Coppelman said that he also had a hard time finding it; Mr. Coppelman said that if you look down the page, there is a note that says "file name". Mr. Wilson said that he would never know what an EMC sign was. Mr. Coppins said that this was an excellent point; he said that the Building Inspector asked Mr. Rothwell what an

EMC was and Mr. Rothwell explained it to him. He said in the sign world, it means electronic message center. Mr. Steward said that he didn't have that conversation with Mr. Rothwell.

Mr. Coppelman said that "emc" is not defined on the sign permit but on the actual permit it says internal illumination. Mr. Coppins stated that there is no place to put this on the application, that is why the picture is attached with the file name saying "emc"; they weren't trying to hide it. He added that if it said "giant plasma screen" he assumed the Building Inspector would ask what a giant plasma screen was just the same as seeing emc would have him ask for that explanation even though the Building Inspector doesn't remember having the conversation. He re-iterated that they went through the application, not trying to hide everything and making it completely clear based on everyone's interpretation that the sign code allowed EMC's.

Mr. Wilson explained that the Planning Board got involved with this due to the many complaints upon seeing the signs and glare, especially at night. Mr. Coppins explained that the signs are now on an auto-dimmer; they had not been operating properly and after 10:00 PM; in sunlight they are at 90-95%; at night they are at about 15%; that was originally not the case as there were a couple of issues they had to work out.

Mr. Wilson stated that the Town's Sign Ordinance clearly says that no signs shall have visible moving parts; blinking, moving or glaring illumination. Mr. Coppins interrupted by stating that their sign does not have that now. Mr. Wilson continued by reading that no sign shall be of the computer animated-type. Mr. Coppins interrupted by stating that they are not animated, they do not move. Mr. Heitz said that the question is does it have that capability; whether you are utilizing that function or not; but the sign does have that capability. Mr. Coppins stated that he would answer that question with a question; he said if I told you that no they don't, would you be okay with the signs? Mr. Heitz said he wouldn't if he found out that they have that capability; he would be annoyed that he was lied to. Mr. Coppins said that wasn't his question, he wanted to know if the said "no" they don't have that capability, would you Mr. Heitz be okay with the signs. Mr. Garceau asked if they would then meet the sign code. Mr. Heitz replied that if the sign is manufactured so that it can not be animated, then it is not an animated sign; if it is manufactured that it is optional to be able to use it that way, then that is something different; he asked which is it; is it manufactured so that it can animate? Mr. Coppins answered that they applied for permits for an EMC which is an electronic message center and non-animated in the sign code world; he stated that he did not know who wrote the sign code but he assured the Board that when you run this one against sign codes for most cities, people would look at this sign code and say "you have lots of problems, folks"; he continued that they do this for a living, they have close to a million dollars in signage in a warehouse in Plaistow so they know sign code; they applied for permits for an EMC and were approved for permits to put those types of signs on the building; they can, for \$5000, have a software code written and have the firmware changed so those signs would never be of the animated-type. Mr. Garceau added that could apply to whoever owns the building or the property. Mr. Coppins stated that currently, right now, it is a feature you turn on and off when you make a message; all of it is turned off, there is no animation since the time it was turned on; it is called static media; it has a message in the morning and then after twelve hours, it changes and there is a message for the nighttime.

Mr. Wilson asked about selling signs for the Haverhill sign company which is illegal per the ordinance; Mr. Coppins said that they are in the LED sign business; they sell signs. He said that the warehouse is in Plaistow but they have a sign business out of that building since 2005 or 2006; it is registered with the Better Business Bureau; they stated that they needed a local Occupancy permit which they haven't received. Mr. Wilson asked if they have any local approvals to operate that business in the building; Mr. Garceau said that, he believed, that when he bought the building, there was nothing in place to get an occupancy permit for a business; it is a sales and admin office; signs are not built or stored on location; it is sales and support. Mr. Wilson asked if they have sold signs since 1999 at that location; Mr. Garceau said that they sold vending machines and supplies; they started selling signs in 2005, 2006 and he said that the Town has changed its regulations and during a recent conversation with Ms. Faulconer, he was notified that businesses require an occupancy permit.

Mr. Heitz asked them to describe what they actually do within the building. Mr. Garceau stated that it was sales and support. Mr. Heitz asked sales of what? Mr. Garceau answered sales of signs, sales of massage chairs, sales of vending machines; he said they ran two businesses out of there; two corporations that have been there for 7 and 12 to 13 years. Mr. Garceau added that they would never have spent thirty plus thousand dollars if they thought they were trying to get one past the Town; he re-iterated that they went through the process, filed for the permits, disclosed what the signs were, invested the money in the signs, electrician, boom trucks, they never would have put those signs up if they thought for one second there was a problem with the signs going up.

Mr. Heitz said that he wanted to say one thing to the owners. He stated that they asked a sign company in a different Town what is permitted in Kingston. Mr. Coppins interrupted by saying that they didn't ask, the other company told them and then they read it. Mr. Heitz continued by asking if they contacted the Planning Board, who are the ones who write the ordinances to ask them what is permitted for signage. Mr. Coppins answered that somebody else told them, but they didn't take their word for it, they read the sign code and interpreted it, as they are in the business, that they could have an EMC; the installer agreed with their interpretation; they went through the normal process; they didn't come to the Planning Board, they applied for a sign permit because that is what people do; and they applied for the sign permit and put emc on the diagram and were issued permits for emc's so they spent all the money and put them on the building. Mr. Garceau stated that if Mr. Steward wanted them to come before the Planning Board, they would have been here two months ago; they were never requested or required to come before the Planning Board. Mr. Heitz explained that if they wanted an interpretation of the Ordinance, you would go to the people who write the ordinance. Mr. Garceau asked if that wasn't why the Building Inspector works for the Town, to take a permit, to read the permit and see what it is and grant it; if they needed a variance, they would have been in front of the Board. Mr. Heitz said that it is the Building Inspector's responsibility to issue permits, it is the applicant's responsibility to adhere to the ordinances. He continued that if you read the permit, it says right on it that the permit is void if it is contrary to the ordinance. He explained that if you look at the permit that was submitted, anyone looking at the permit would see a picture of how the sign will look and what the sign is going to say; it looks simply like a box sign on the wall; my interpretation of looking at that is that the sign would never look any different than that shown on the permit; but that is not the case, there is an electronic sign that is advertising selling

chairs and all kinds of different things; this permit was not a true representation of what was being put on the building. Mr. Coppins confirmed with Mr. Rothwell that the rendition with the permit was similar to others he had done; Mr. Rothwell stated that, for the permit, he picked two of the logos of the four companies that run out of the building; he didn't know which logos to pick so he picked those two. Mr. Coppins said the logos could be shown on the signs as depicted on the permit. Mr. Garceau talked about the number of times the messages could be changed per the ordinance; these were only two of the messages that could be displayed on the drawing. Mr. Wilson asked, if they are the sign company, why is a sign company from Haverhill on the permit. Mr. Coppins explained that they had the installer of the signs apply for the permit; they sell signs nationwide but they don't install them.

Mr. Coppelman asked that the applicants pass around the original sign application for the Board to view rather than the photocopied version. Mr. Heitz asked Mr. Coppins to explain their interpretation of the ordinance. Mr. Coppins answered that their interpretation was that they could have an electronic message center that could change every twelve hours; it had to be off from 10 at night until 7 in the morning; Mr. Garceau said that their interpretation was the same as Barlow Signs and Hammer and Sons, Matt from the Sign Center and the Library Trustees. Mr. Coppins added that they just happen to be the first one. Mr. Heitz said what their interpretation was of the portion of the Ordinance that says that no sign shall be of the computer animated-type. Mr. Coppins said that he agrees 100%. He continued that in the sign world that means that it can't move; he added that static media is allowed; there is no flashing, animation, blinking or glaring on their signs. They interpret that they can have a static message. He suggested that if the Town wanted to go a step further, it should say no electronic message centers, period, then the Town would be fine; no animated or static messages that can change, period, then the Town would be fine; then everybody in the sign world would take it to mean that you can't have animation.

Ms. Faulconer said that she felt that it was very interesting that the owners were aware that the Town of Kingston did not allow these kinds of signs but when hearing from another sign company that they were now allowed they did not bother to double check with the Planning Board and instead made their own interpretation of the Ordinance. She continued that the permit itself does not say that it is going to be a different type of sign than what is pictured; what is shown is a picture of the sign and on that page, in very small print there is a notation of a file name made up of letters and numbers. She stated that she didn't believe that it is up to the Building Inspector to look at a file name and make the assumption that he should then know what all of those codes that you are using for your file name refer to adding that she uses file names on computers and they mean all types of things with abbreviations so she will know what the file references; she explained that somebody else looking at the abbreviations would just be guessing what they mean; there is no description on the permit, there are simply letters in a file name. She added that she felt that their saying that this lets everyone know what kind of sign it was is not an accurate statement; it would be shown on the sign permit as opposed to just being a file name. Mr. Coppins said that he is not sure there is a place on the sign permit for that information. He continued that, as far as being aware of the ordinance, and again noting that this is what they do for a business, they tell applicants when going to purchase a sign from them to take note that if these types of signs are not around, there may be a reason for it; when they were told there was a change in the ordinance, they read the ordinance, it is what they do for a living

and they had Mr. Rothwell read the ordinance, too, who had the same interpretation. Mr. Heitz noted that this was good advice and asked them where else in Town they saw them. Mr. Heitz added that he is not aware of any other place in Town; that would be good advice to follow, if you don't see them around, then they are typically not allowed. Mr. Coppins said that was why they read the sign code. Mr. Garceau said that not many people would spend the amount of money they spent being handcuffed to change the sign every twelve hours. Mr. Garceau asked when the sign code was changed; Mr. Wilson said it was adopted about three years ago with Mr. Coffin adding that the latest update to it was 2011. Mr. Garceau said that they were aware of the changes, due to one of their employees saying that the Town changed the sign code, when she heard about signs being installed; the employee is a resident of Kingston and said that there was a vote and these types of signs are allowed now and these signs can be put up. He said that they were aware that there was a change in the sign code; he stated that he has watched the minutes with the Selectmen and Mrs. Hume and he believes that someone in this room thinks that the code is ambiguous. Mr. Wilson stopped Mr. Garceau to correct him that the Library Trustees kept saying it was ambiguous not the Planning Board; he continued that Mr. Garceau and Mr. Coppins keep referencing the Library and the Planning Board has made it clear that their interpretation of the ordinances to permit a sign they want, is wrong, by a unanimous vote by the Board so they should stop referencing this as their example. Mr. Coppins started to review the Library trustees interpretation, Mr. Wilson said that their interpretation is more about an RSA that allows them to be out of compliance with the Town's ordinance by their office. He referenced the Barlow sign company and their interpretation again, as they are in the business, along with Mr. Rothwell, also being in the business, and their interpretation that they are allowed. He continued, referencing the file name and wondered if it said giant plasma screen if it would not have raised a red flag; he would think that yes it would and they put emc in the file name; it is not like they were hiding it.

Mr. Heitz stated that when the applicant first started talking and referenced EMC's a number of times, he was going to stop them and ask what that meant. Mr. Coppins said, exactly. Mr. Heitz said that he had no idea and doesn't know if the Building Inspector knew what EMC meant, he will ask him about that conversation but, to address a couple of things that Mr. Coppins' had said; you tell your customers that if you don't typically see these types of signs in the area that you want to put them, then they may not be allowed. Mr. Coppins interrupted by stating "read the sign code". Mr. Heitz continued that if they are going to spend \$30,000, he would think that they would want to make sure the signs are allowed. Mr. Coppins again stated, "read the sign code". Mr. Heitz said that they read the sign code and interpreted it a certain way; he asked why they wouldn't have asked the Board that authored the code what it means. Mr. Coppins said that they didn't take the other sign company's word for it, they read it and they are in the industry; he said the sign code does not say that you can't have an electronic message center; Mr. Rothwell's interpretation, and he's in the industry, was that you can have an electronic message center. Mr. Coppins re-stated his previous comments about applying for the permit and how it was accomplished. He stated that the permit clearly shows an EMC and that is what they were approved for. Mr. Coffin stated that the applicant told the Board that they felt the sign ordinance was ambiguous, if that was the case, why didn't they ask for the Town's interpretation. Mr. Garceau explained that they are saying that now after watching Selectmen and Planning Board minutes and talking with other sign companies; he added that everyone else believes they are allowed except for the Planning Board and the Selectmen, thus the comment that they are

ambiguous. Mr. Wilson asked Mr. Greenwood for any comments. Mr. Greenwood said that he would love to hear from the Building Inspector and his recollection of the discussions that he held in issuing the permit for the sign. He noted that he had two comments to make; first is that if a professional who is in the business reads the Town's ordinance and sees that computer animated-type signs are not allowed, he questioned why anyone would expend the money to do a computer animated sign when the only function you could use on the sign was changeable text adding that he would imagine that the difference in cost for those signs would be pretty high. His second comment was that he is a little offended that it is expected that the Building Inspector would know that a file name that includes the letters e,m,c, which when he reads it is the initials of somebody, because that is what he sees in file names all the time. Mr. Wilson added that for him it would just mean that a certain person wrote the file. Mr. Greenwood continued that he signs his files with GKG because in his office they are on a network and it identifies who is putting a file on the network system. He re-iterated his desire to hear from the Building Inspector as it is important to hear from the person who issued the permit. Mr. Garceau asked how relevant it was for the size of the sign to the application. Mr. Wilson said very. Mr. Garceau said that it is on the diagram where everyone is referring to the file name. Mr. Coffin stated that the size of the sign is actually described on the sign application itself; he asked that the Board hear from the Building Inspector.

Mr. Steward joined the Board. He said that he recollected two conversations about these signs, one was to clarify the address of the application; he had received two applications and he wanted to have it clarified as he didn't know if it was two copies of one sign or two separate sign applications because the address just said 68 Route 125. Mr. Steward said the second conversation with Mr. Rothwell was about the square footage as it applies to the front of the building and that the message could change every twelve hours; that is what he clearly remembers. Mr. Rothwell agreed. Mr. Steward added that these took place on 9/11 and 9/21; just those two brief conversations and he took the application to show the signs as they would be depicted so he was quite surprised, when he heard a couple of days later, that they didn't resemble these at all. Mr. Wilson noted that when Mr. Greenwood was commenting on the significant difference in costs between the current sign and a static sign, Mr. Rothwell was shaking his head in agreement about there being a great difference in the expense between the two and asked why they would do a computer animated-type sign and not just a digital read-out. Mr. Coppins answered that they did it that way because they are in the business and to answer Mr. Wilson's point, is it animated, no it is not. He added that, most businesses can't afford this type of sign, but due to their actual cost and because they are a manufacturer, they can have a product platform built and spec'd out for them as they usually buy 1/4 of a million dollars worth at a time so their cost is drastically reduced and because they are in the business, they wanted to have an EMC on their building, so they did it. Mr. Coppins asked Mr. Rothwell to elaborate on the conversation with Mr. Steward. Mr. Rothwell said that Mr. Steward was right about the conversation of the size and the location of the two properties and the changing of the message every twelve hours; he said that the actual sign couldn't be shown on a static drawing, he decided which two logos to show; he said that it seems that the issue is how the sign is displayed; the code reads a backlit LED is preferred, as far as lighting that is the code but then they would have to change individual letters to change the sign which is actually the cheaper way to go and is seen up and down Rte. 125; these owners, because of the cost to them for an electronic message center did it this way; most people wouldn't spend the money to do a changeable message, they

would do suction cups and letters but this group wanted to have their signs out there and change them every twelve hours and run between 7 and 10 at night to meet that criteria of the interpretation of the bylaws; he says that they are not using the animation capability and that is the difference but it gets a message they want to get across every twelve hours and this is how they do this. Mr. Rothwell said that he spoke with Mr. Steward and he did tell him that they wanted to change the message every twelve hours. He was asked if Mr. Steward asked what an EMC was; he answered that the initial conversations were for a free-standing pylon sign with the new sign codes and that was how he got involved with these guys. He added that the free-standing sign they talked about allowed for very minimal amount of square footage for the multi-tenant business allowed for more linear footage on the building.

Mr. Coffin said that this type of sign is a matrix of LED's directly shining out and asked about the number of bulbs and maximum output per bulb in lumens. The owners said they did not have that information available; Mr. Coppins said that lumens is a kind of an interpretation and he was not versed on it; he could tell them in NITS which is normal sign acronym for a brightness of a sign. Mr. Coffin reminded Mr. Coppins that the Sign Ordinance requires the signs also must comply with the Lighting Ordinance and refers to lumens for compliance. Mr. Coffin continued to reference aspects of the Lighting Ordinance regarding controlled glare, lumens, maximum output, shielding of the lights, property bounds; he referred the owners to that ordinance and the need to know the required output to comply with the Lighting Ordinance. Mr. Wilson said that basically the light being emitted is to be at zero at the property line. The Board discussed the difference between internally lit and externally lit signs; excessive glare is in both ordinances. Mr. Pope stated that the Board needed to add restrictions within the Lighting Ordinance.

Ms. Faulconer stated that when Ordinances are written, they are written by a Board of volunteers, not professional sign people and where the Board might not have used the correct industry term, the Board was clear that, when writing the ordinance, there was a reason why they didn't say computer animated signs, they used the phrase computer animated-type signs so that it was clear that any sign that had the capability of being computer animated, whether it danced or whether it didn't; was not allowed. Mr. Wilson said that if the sign has the capability then eventually things start moving all over that screen. The Board clarified that the Board of Selectmen is the Town's enforcement body. Mr. Garceau asked if there were a lot of signs in Town that did not meet the requirements. Ms. Faulconer said there were currently enforcement actions on signs with different compliance issues. Mr. Pope stated his opinion on the signs clarifying that the current sign is not allowed by the Ordinance; he asked if firmware was changed in the sign to not allow it to be animated, would it still be considered an EMC. Mr. Garceau answered yes and Mr. Coppins answered yes as it would provide a static message. Mr. Pope said that this means that there is more than one type of EMC as well; to be clear, there is a static EMC and there is animate-able EMC. Mr. Coppins agreed.

Mr. Garceau stated that it is obvious to all of them that there are questions regarding the sign code; they do not think they need to apply for a variance since they have their permits and were straight forward in their application but if the Town truly feels that they are adamant about not allowing these signs in Town; issue them a variance and grandfather them in and then change the sign code so nobody else can do it again going forward; if this is the out that the Town needs to



stop more signs from going in then so be it. He noted that they went through the process, they disclosed what the signs were; they are static signs and not animated so he requested that the Town give them a variance if that is what the Town feels they need and then change the sign code going forward. Mr. Wilson said that they just agreed that there are two types of EMC's so how was the Town not to assume it was the other type. Mr. Heitz suggested that they make the signs so they could not be animated to possibly bring them into compliance. Mr. Garceau said that they feel that they are already in compliance and asked if they spent the money to change the sign would it be in compliance so they are. Mr. Heitz said without changing the restrictions, the signs could be changed at any time, or if sold the next business could use them. Mr. Garceau replied that the Selectmen could then proceed with enforcement by citing, fining and getting the new business to stop using the animated signs. Mr. Landry asked why the Town would put themselves in the position to have to do this type of enforcement. Mr. Heitz asked how they would respond if they were sent a fine for \$275 a day for the two weeks that they agree the sign was illuminated too brightly; he felt they would say that it was just a mistake and they shouldn't have to pay the fine. Mr. Garceau answered that honestly, he would pay it because he is too busy to fight over \$500; Mr. Heitz corrected him by saying that it would have been \$275 per day. Mr. Garceau said that it was only seven days before they lowered the sign lighting but if the Town wanted to fine them for those seven days, they would pay the fine.

Ms. Faulconer said that everyone keeps saying that the Ordinance book does not say that EMC's are not allowed; she wanted to remind everyone that there is nothing in the Ordinance Book that says that they are allowed.

Mr. Wilson suggested that the signs might be in compliance if they take away the animation capability away and they take care of the glare problem; he clarified that he was only speaking for himself. He added that the Town did not want signs that distracted motorists or created glare. Mr. Garceau suggested that they would put into writing that if they sell the business or sell the building that the signs would leave with them; Mr. Coppins stated that they could easily take them down.

Ms. Faulconer stated that she believed that everyone had made their comments this evening and unless the Planning Board was going to make a motion that the current sign is now allowed, it was not up to the Board to come up with these odd solutions; if the owners have an alternate solution, they should propose it to the Board of Selectmen. She continued that the Planning Board has already voted that the signs, as they stand, do not comply with the ordinance; if they want to come up with a solution that they think will make the signs comply with the ordinance, they should write up their proposal so it can be reviewed. Mr. Wilson said that the Planning Board sent an enforcement request to the Board of Selectmen on October 23<sup>rd</sup> asking that the Selectmen direct the owners to turn off the signs immediately. Mr. Garceau said that, in all honesty, it is obvious that the Town does not want to be Las Vegas out there on Rte. 125 so if the true intentions of the Board of Selectmen and the Planning Board were not to have these types of signs, then he encouraged the Boards to re-write the code so that it is clear and they don't have to go through the issue again; he continued that if the Town truly does not want these types of signs, which he knows the Town doesn't based on the other meetings he watched with the Library trustees, then it should be re-written because the interpretation is that they are allowed. Mr. Coppelman stated that this is his interpretation. Mr. Greenwood vehemently stated that the

Ordinance clearly states that computer animated-type signs are not allowed; it is on the first page of the ordinance. Mr. Coppins explained that in the sign industry, animation relates to movement. Mr. Greenwood said that if they don't install a sign that allows for computer animation than they will comply with the ordinance; he continued that Mr. Coppins said there are two kinds of EMC's, one that allows animation and one that doesn't; he questioned that if they are in the business, how this is ambiguous. Mr. Coppins said that it is not ambiguous; their signs are not animated. Mr. Greenwood re-iterated that the phrase is animated-type; he said that the owners know they installed a sign that allows animation; he doesn't understand how someone in the business can say that they thought the sign they installed complied with the ordinance.

Mr. Wilson ended the discussion at this point and told the owners that it is up to them to talk with the Selectmen about coming into compliance with the Ordinance as it is the Board of Selectmen who is the enforcement body. He explained that it is up to the Planning Board to notify the BOS when something does not comply with the Ordinance and that is the action the Board took. Mr. Coppins re-iterated the explanation of the signs interaction with the ambient light. Mr. Wilson again suggested that they meet with the Selectmen. Ms. Faulconer confirmed with Mr. Wilson that the Planning Board was not revoking their previous enforcement request. Mr. Wilson thanked the owners for coming in to meet with the Board.

### **Noise Ordinance Discussion**

Mr. Wilson told the Board that he and Mr. Greenwood rode around Town taking meter readings at several locations including those recommended by Chief Briggs; the loudest levels being at 69 except for a large truck, which they were right next to which went to 85. He explained that the purpose for this exercise was to get range levels for commercial lot lines. Mr. Pope noted that he thought a decibel level of 90 was too high. Mr. Greenwood reviewed two other Town ordinances, Hudson and Durham; he stated that he thought a decibel level of 87 is close to his idea of a "crazy" number of 90. Different types of noise and sound levels were discussed; unreasonable sounds and noises, and sound levels at the site of the noise versus the levels at the property lines were discussed. Mr. Heitz talked about prohibiting noise that was obnoxious; Mr. Pope suggested noise levels no greater than 74 decibels. Noises/sounds such as chain saws, back-up alarms, snow-clearing equipment, lawn mowers and general equipment were reviewed. The Board talked about language describing sounds as annoying or obnoxious being subjective; Mr. Coffin and Mr. Pope agreed that this was one reason to set specific levels. Mr. Pope explained some of the requirements already in the Ordinance. Mr. Coppelman said that he believed 70 was not an unreasonable number based on readings done by Mr. Wilson and Mr. Greenwood and the levels in the other Towns' ordinances. He clarified that 70 for daytime was reasonable; he thought daytime and nighttime levels should be different. Certain requirements in the Industrial Zone were briefly reviewed. Mr. Wilson stated that a commercial business would want customers to be able to carry on a conversation and that with levels above 75, that couldn't happen. The Board reviewed enforcement issues; it was noted that the Board of Selectmen could decide not pursue a frivolous noise complaint. Mr. Coppelman said that it didn't make sense for the Town to have noise standards for the rest of the Town and not have them for the Commercial Zones.

**MM&S to adopt noise levels in the Commercial Zone of 70 dcb. during the day and 65 dcb. at night.** (Motion by Mr. Pope – no second prior to discussion). Mr. Coppelman thought that the maximum level at night should be 60 dcb. Mr. Heitz didn't think that the decibel level at night should change stating that the Town should not force someone to not work past 9:00 at night. Mr. Coffin stated that there might be a whole slew of items that might create sound too high at the property line.

**Mr. Pope amended his motion: MM&S to adopt noise levels in the Commercial Zone of 70 dcb. both day and evening.** (Motion by Mr. Pope, second by Mr. Coffin) **Motion failed: 3-3-1 (with Mr. Wilson abstaining).**

Mr. Coppelman said that he thinks it sends the wrong message to allow the same levels 24 hours a day.

### **Sign Ordinance:**

Mr. Pope said that the Board needed to analyze the types of signs they were trying to stop; he clarified that he does not think that the Ordinance currently allows computer animated-type signs now; he added that if the sign can be animated it is not allowed. Mr. Coppelman noted that the Board did not know the term "EMC" at the time the Ordinance was written. The Board reviewed current language and terminology regarding signage. Mr. Wilson brought the Board back to the agenda items to finish before any further discussion.

### **Board Business, continued**

#### **Correspondence:**

- Bond List reviewed
- Budget reviewed
- Previously approved invoice for Mr. Mayberry signed
- 2011 encumbered funds okayed for dispersal
- 2012 funds okayed to be encumbered (per contract)
- Letter from Benevento Bituminous products read; Mr. Greenwood stated that based on information provided, they needed site plan review. Mr. Coppelman added that it would be an expansion of use and agreed that site plan review would be required.
- DOT memo re: Intersection Update
- Memo re: Veterans Club selling Christmas Trees
- Town and City Magazine

**MM&S to approve October 23, 2012 minutes as written.** (Motion by Mr. Landry, second by Mr. Coffin) **Motion carries 4-0-3** with Mr. Coppelman, Mr. Heitz, and Mr. Pope abstaining)

**Next CIP meeting:** December 27, 2012.

The Board returned to discussing Sign issues. Mr. Heitz reviewed the Board's Enforcement Request: 303.1 hasn't been reviewed by the Board since the request was submitted; 303.3A, the Board needs to look at the sign, 303.3C3 the sign is still not in compliance with this section. The

Board discussed intent; reviewed sections of the existing ordinance. Mr. Greenwood explained that the current ordinance excludes any type of sign that can provide animation; if you are a professional that chooses to put up an animated-type sign than you are either stupid or thumbing their nose at the Town. Mr. Coppelman said that what is shown on the sign permit is a starburst graphic that is allowed by the sign ordinance. Mr. Coppelman suggested reviewing the original minutes; he said that the Board's original intent was to allow changeable text and light sources to create text; anything beyond that was not what the Board was looking for; he believes the ordinance is clear. Mr. Shalett suggested adding language excluding signs that are animated or images that are offensive. The discussion continued. Mr. Wilson recalled an initial discussion with the biggest comments being that they didn't want signs that were like those in Plaistow; they wanted no pictures, no flashing, no changing text; nothing animated, nothing flashing. Board members discussed requirements they might change or adopt in the future. Mr. Coppelman asked if anyone else on the Board would like to look at the original discussions. Mr. Heitz did not think the minutes would add information for the discussion other than the Board did not want a sign like the one in Plaistow. Mr. Heitz stated that he believes the Board's intent was to not allow any signs that move, change colors or look like a different sign every day. Mr. Coppelman added that signs with changeable text is a distraction, Mr. Heitz agreed.

**MM&S to adjourn at 9:55** (Motion by Mr. Coppelman, second by Mr. Pope) **PUNA**