A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administration Center, 809 Pioneer Road, Fairbanks, Alaska. The meeting was called to order at 6:00 p.m. by Chris Guinn, Chairman.

MEMBERS PRESENT:  
Chris Guinn  
Mark Billingsley  
Sean Reilly  
Mindy O'Neall  
Pat Thayer  
Robert Peterson  
John Perreault  
Wendy Presler

MEMBERS ABSENT:  
Charles Whitaker

OTHERS PRESENT:  
Christine Nelson, Director of Community Planning  
Manish Singh, Planner III  
Stacy Wasinger, Planner III  
Wendy Doxey, Asst. Borough Attorney  
Mary Bork, Administrative Assistant

A. **ROLL CALL**

B. **MESSAGES**

1. Chairperson’s Comments

2. Commissioner’s Comments

   **Mr. Perreault** requested that the Planning Commission meeting not be scheduled the same day as the National Election in the future.

3. Communications to the Planning Commission

   **Ms. Nelson** gave updates regarding the following:
   - Planning Commission Conference
   - Upcoming Commission Elections
   - December Meeting – potential cancellation
   - 2017 Planning Commission Calendar dates
   - Term expiration
   - Upcoming changes to agenda formatting

   **Mr. Guinn** inquired about the upcoming security training.

**Ms. Nelson** explained that there was a special session for Planning Commission and Platting Board and advised all to attend.
4. Citizen’s Comments – limited to three (3) minutes
   a. Agenda items not scheduled for public hearing
      NONE
   b. Items other than those appearing on the agenda
      NONE

5. Disclosure & Statement of Conflict of Interest

   Ms. Thayer relayed that she would be conflicted out for V2017-001, V2017-002, & V2017-003 which were postponed to November 8, 2016 Meeting.

   Mr. Guinn added that he would also likely be conflicted for the same cases as he was involved in that project.

C. * APPROVAL OF AGENDA AND CONSENT AGENDA

   Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

   MOTION: To approve the Agenda by Ms. Thayer, seconded by Ms. Presler.

   ROLL CALL

   Eight (8) in Favor: Mr. Reilly, Mr. Perreault, Ms. Presler, Mr. Peterson, Ms. O’Neall, Mr. Billingsley, Ms. Thayer, and Mr. Guinn.

   Zero (0) Opposed:

   MOTION CARRIED

D. MINUTES

   NONE

E. CONSENT AGENDA ITEMS

F. QUASI-JUDICIAL HEARING
CU2017-003 A request by Sherry Gilbert on behalf of CGH Holdings, LLC for conditional use approval of a marijuana cultivation facility, indoor large in the General Use 1 (GU-1) zone on Lot 1, Midway Industrial Park Subdivision. *(Located at 1725 Richardson Hwy, on the south side of Richardson Hwy, between El Paso St and Sinclair Ave) (Staff Contact: Manish Singh)*

**OATH GIVEN**

Manish Singh gave the staff report stating that the request will meet the intent and purpose of Title 18 and of other ordinances and state statutes, will have adequate public services and will protect public health, safety and welfare and recommended approval of the conditional use request with five (5) conditions and three (3) Findings of Fact in support of approval:

**CONDITIONS**

1. The applicant or holder of this conditional use permit shall comply with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:
   a. As required by the FNSB and the Department of Commerce, Community, and Economic Development (Alcohol and Marijuana Control Office), the applicant or holder of this conditional use permit shall ensure the site meets all licensing requirements for a commercial marijuana cultivation facility.
   b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and shall comply with all recommendations and/or requirements resulting from the plan review.
   c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Environmental Conservation and shall comply with all recommendations and/or requirements resulting from the plan review.
   d. The applicant or holder of this conditional use permit shall obtain the applicable floodplain permits and certificates of compliance for each structure to be utilized for the commercial marijuana establishment to comply with Title 15 Floodplain Management Regulations including, but not limited to:
      1) The top of bottom floor of the basement (enclosure) for the house/office shall be filled from the elevation of 463.6 feet to or above the Base Flood Elevation of 464.1 feet.
      2) A new Elevation Certificate for the house/office shall be submitted after the fill has been added.
      3) A Certificate of Compliance shall be obtained to demonstrate compliance with FNSB Title 15 Floodplain Management Regulations.

2. No outdoor storage of marijuana, marijuana products and hazardous substances shall be allowed pursuant to FNSBC 18.96.240 (A) (4). All marijuana or marijuana products shall be stored inside secure facilities.

3. Indoor cultivation, drying, and processing rooms or portions of the building shall be equipped with appropriately sized odor filtration systems to eliminate odor from the cultivation and processing operations.
4. If any of the remaining six (6) existing storage buildings, other than the two (2) existing storage buildings proposed to be used as marijuana cultivation buildings (shown as Building 3 and Building 4 in Figure 2 of the Staff Report) and the existing residence proposed to be used as marijuana employee area and office (shown as Building 9 in Figure 2 of the Staff Report), is used for any functions supporting a marijuana establishment, an amendment to the Conditional Use Permit or a separate appropriate land use permit shall be required.

5. If any modifications are made to the site plan, floor plan, or other FNSB required documents, the applicant or holder of this conditional use permit shall submit revised documents to the FNSB Community Planning Department. If substantial modifications are made to these documents or to the operation of the marijuana cultivation establishment, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050 (D).

FINDINGS OF FACT

1. The proposed conditional use will conform to the intent and purpose of Title 18, Title 15 and of other ordinances and state statutes:
   a. The purpose of Title 18 will be met because the Fairbanks North Star Borough Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 are being enhanced with the development of this site as a marijuana cultivation facility.
   b. The intent of Title 18 will be met because with the conditions imposed, the conditional use will both protect private property rights and promote public health, safety, and welfare.
   c. 3 AAC 306 governs the state licensing and operational standards for marijuana facilities. Title 18 requires that a borough permitted commercial marijuana facility obtain a license pursuant to all state regulations. The Applicant has provided information sufficient to show they intend to meet the state regulations and to apply for a state issued license.
   d. The purpose of Title 15 will be met because with the conditions imposed, the conditional use will minimize flood losses and promote health, safety and welfare.

2. With the conditions imposed, there are adequate existing energy and transportation facilities serving the site and other public services are available to serve the proposed conditional use.
   a. The site has an onsite commercial well and a septic system
   b. The site is served by North Star Fire Service Area for fire protection and rescue services and by Alaska State Troopers for law enforcement.
   c. The site is currently connected to the GVEA grid and will provide sufficient energy supply for indoor cultivation activities.
   d. Seven (7) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed cultivation conditional use.
   e. Richardson Highway is an interstate type roadway maintained by the Alaska Department of Transportation and Public facilities. Traffic generated by the cultivation conditional use is expected to be limited and Richardson Highway has sufficient capacity to accommodate the additional trips generated by this conditional use.
3. With the conditions imposed, the proposed conditional use will protect public health, safety, and welfare as the facility will comply with Title 18 standards for the GU-1 zone, Title 15 Floodplain Management Regulations and Standards for Commercial Marijuana Establishments (FNSBC 18.84, FNSB 15.04 and 18.96.240, respectively) as well as state requirements for a commercial marijuana cultivation facility.

   a. Security systems, alarms, locks, cameras and lighting will meet state regulations required to obtain a commercial marijuana cultivation license.
   b. Any solid or liquid waste including marijuana plant waste will be disposed of according to state regulations.
   c. Odor will be mitigated with appropriately sized odor filtration systems on cultivation, drying, and processing facilities.
   d. Businesses and industries surrounding the property already experience similar noise and lighting levels.

Mr. Perreault inquired about the actual distance between the adjacent homes and the proposed marijuana cultivation facility.

Mr. Singh replied, according to the scaling of the maps, they were more than 200 feet away.

Mr. Perreault noted that was the limit for that type of property. He inquired if there were requirements for residences.

Mr. Singh clarified there were regulations and buffer distances from residential zones, not residential uses. This property and surrounding properties are zoned General Use 1, which allows residential uses, but is not a residential zone. There are no buffer distance regulations according to Title 18 for this case.

Ms. Thayer spoke regarding improvements on the site and not meeting the floodplain requirements and proposed requirements for two of the outbuildings and the employee office. An elevation certificate was very expensive; why not require all buildings to meet floodplain requirements.

Mr. Singh clarified the application was for three buildings.

Ms. Thayer suggested that it be changed to a recommendation to have all buildings done at once so the property is not piecemealed.

Mr. Singh clarified that Ms. Durham found that only one of these three buildings did not meet floodplain requirements. All other buildings were compliant.

Mr. Billingsley inquired who enforced floodplain requirements.

Ms. Nelson informed that floodplain requirements were under administered under Title 15 and FEMA regulations. Enforcement is done through Community Planning as a cooperative process between the floodplain administrator and the code enforcement officer. Community Planning is required to self-initiate floodplain violation enforcement.
OATH GIVEN TO SHERRY GILBERT

Lawrence Benton, consultant for CGH Holdings, LLC, relayed that all State requirements would be met within the next few weeks.

Sherry Gilbert, applicant, declined to add information.

Mr. Billingsley inquired if Ms. Gilbert had the State permit already and if they would be leasing or would purchase the property.

Ms. Gilbert replied that they did not have the permit yet, it was in process, and they were in the process of purchasing.

Mr. Billingsley inquired what experience either had in the marijuana business.

Mr. Benton replied that he owned a cultivation business.

Mr. Billingsley inquired if they had spoken with the neighbors.

Ms. Gilbert replied only one neighbor.

Mr. Billingsley inquired if there were trees between the proposed site property and the neighboring properties.

Mr. Benton replied yes and they planned to keep them.

Mr. Guinn enquired what the lighting plan was.

Mr. Benton replied they were going to use motion activated lighting, which had an option for all day on lighting, which would be pointed downward, but would meet the State requirements of 20 feet.

Mr. Reilly queried the procedure for odor mitigation and any steps taken for safety and security.

Mr. Benton replied that for odor mitigation, a carbon air filtration system would be used with replaceable charcoal filters; it was basically an HVAC system that would run all of the air through the filters and exhaust outdoors. Regarding safety, the State regulations were stringent and would be met; they would take every precaution possible.

Mr. Reilly asked what the hours of operation were proposed to be.

Mr. Benton replied 12-8 p.m.

Mr. Peterson inquired if this was a storage facility.

Ms. Gilbert replied it was a former ministorage.

Mr. Peterson inquired if that business was completely closed down or if people would be accessing storage units where the proposed the cultivation would be located.
Ms. Gilbert replied there were several cold storage units that were currently rented to people who were deployed or out of state. When they are able to clear out their lockers they will be treated like any visitors to the facility, they will be escorted at all times, and would have an ID badge. None of the units are located in the building they will be using.

Ms. Presler queried traffic projections, and whether they anticipated opening a retail facility on site.

Mr. Benton answered that this was a cultivation operation and would not generate much traffic. There are plans for a future retail store.

Ms. Presler queried how transportation of product would occur; would they deliver to retail stores?

Mr. Benton replied that they planned to supply their own retail stores located at the front of the buildings. They would transport product to other retail stores in their secure vehicle, behind a locked cage.

Ms. O’Neall inquired if anyone would be living on-site.

Ms. Gilbert replied no.

Ms. O’Neall inquired information on the chain link fence located in front of the office; was that preventing access to the storage area?

Mr. Benton replied there was a chain link fence surrounding the storage area.

Ms. O’Neall asked if any product would be stored in the office area.

Mr. Benton replied that all storage would occur in the storage area, not the office.

Mr. Peterson noted that there was no city water or sewer at this location and requested clarification that no water containing fertilizer products would be spilled on the property.

Mr. Benton responded that they were still organizing a gray water system to recycle water; any water to be disposed of will be taken to a treatment facility.

Mr. Peterson inquired if they would be using the water on landscaping on the property.

Mr. Benton responded yes, it was a large property and was common practice.

Mr. Peterson asked what the procedures were for disposal of the trays.

Mr. Benton responded there were State requirements.

Mr. Billingsley noted that the waste water in the winter months would have to be sent away.

Mr. Benton replied probably.

Mr. Billingsley enquired how many employees they anticipated.
Mr. Benton replied two for phase I, they planned on additional phases to follow.

Mr. Billingsley remarked that most businesses attained their State permit before the Conditional Use permit; why the difference with this application?

Ms. Gilbert replied there have been delays.

**Interested Person Testimony Opened**

**OATH GIVEN TO IRIS HOLLAND**

Earl Holland, Interested Person, explained that they had lived in this location for 22 years and were the only residential structure along the frontage road. They had trouble with a previous business, Fantasyland, creating nuisance traffic to their house. Their house was approximately 250 feet away from the proposed cultivation facility; he expressed concern regarding increased traffic from the future retail store.

Mr. Billingsley inquired if they knew any of the residents located on the rear side.

Mr. Holland responded no.

Mr. Billingsley inquired if the vegetative buffer was significant between the storage area and the houses located on the back side.

Mr. Holland replied that there was quite a distance between the storage area and the houses with a few houses between; between his house and the facility there was a large berm with trees growing out of that.

Iris Holland, Interested Person, expressed concern that the proposed business may generate foot traffic to her home.

Jeralee Moschell, Interested Person, described the area as a nice quiet residential neighborhood with small children and expressed concern regarding the clientele this type of business will bring to the area. Additional traffic alone would pose a road issue.

Mr. Billingsley requested additional demographic information regarding the neighborhood.

Ms. Moschell described several of the families.

Ms. Reilly inquired if Ms. Moschell contacted Community Planning after receiving the DPO.

Ms. Moschell replied that she did not; she had the impression that she would not be able to speak at the hearing.

Ms. Reilly queried if she contacted the neighbors’ regarding the case and got a feel for neighborhood reaction to the idea.

Ms. Moschell replied that she did not.
Mr. Perreault assured that calling Community Planning was not required, coming here and testifying was great. He inquired if the other industrial traffic used the back roads or if the used other access points.

Ms. Moschell answered that most used the frontage road and the access to the west; it is pretty quiet there.

Interested Person Testimony Closed

Rebuttal

Mr. Benton, consultant, spoke regarding the improvements to the properties; there is a beautification plan that fits with natural landscape.

Ms. Gilbert added that the frontage road was the only access to their property. She expressed that they sought to be good neighbors and would have an open door policy; if neighbors had an issue they could directly approach them to work it out.

MOTION: To approve the Conditional Use Permit for a commercial marijuana cultivation facility, indoor large with five (5) conditions, adopting the staff report and three (3) Findings of Fact in support of the approval by Ms. Presler, seconded by Ms. Thayer.

DISCUSSION

Ms. Presler spoke in favor of the request. It meets the intent of Title 18 and will bring economic diversification. The testimony given voiced concern regarding traffic, foot and vehicular; this application was for a cultivation facility which would not bring either. Regarding utility availability, the location is great for fire and rescue. The ADEC review would address water concerns.

Ms. Thayer concurred with Ms. Presler’s statements. She opined that it was a tough decision, considering commercial and residential land usage differences; however this was a use in this area. Access is off of the Richardson Highway along the frontage road. If water became an issue, it could be mitigated.

Mr. Billingsley noted the applicant was qualified and noted that this hearing had a poor showing of residents. Twelve other business in the area testified to allow this use. He expressed a personal wish that a different area had been selected, one not bordering on a residential area on two sides.

Mr. Reilly spoke in favor of the request, but registered concern that there were still storage units rented to individuals. He recommended the removal of the storage items be removed as soon as possible due to the liability issues to the business.

Mr. Guinn spoke in favor of the request. He foresaw this area growing larger and more commercial within the next 10 to 20 years, which would make residential living nearby harder on those residents.
ROLL CALL

Seven (7) in Favor: Mr. Perreault, Ms. Presler, Mr. Peterson, Ms. O’Neall, Ms. Thayer, Mr. Reilly, and Mr. Guinn.

One (1) Opposed: Mr. Billingsley

MOTION CARRIED

G. PUBLIC HEARING

Ord 2016-59 An Ordinance Providing For Compensation In The Fairbanks North Star Borough Code Of Ordinances For The Board Of Equalization (4.28.020), The Planning Commission (4.80.010) And The Platting Board (4.84.030) (Sponsor: Assembly member Sattley)

Ms. Nelson presented the staff report; this ordinance would provide for the compensation of $50.00 per member per regularly scheduled meeting of the Planning Commission. Individual planning commissioners may waive this compensation if they wish. They could waive the compensation in writing prior to the meeting. The individual could waive it per meeting or for a block of time like an entire year.

Mr. Reilly queried about 1099’s and taxable income.

Ms. Doxy replied the commission members who want to opt in will fill out paperwork that any borough employee and clarification would be needed from HR.

Mr. Perreault queried if the ordinance has been heard by the Platting Board.

Ms. Nelson, replied yes, the Platting Board heard the ordinance last week and they recommended approval.

Ms. O’Neall inquired is there were any administrative overhead costs that are included with this that were not mentioned.

Ms. Nelson responded that there were not any costs associated with Community Planning. Payroll would issue checks and it would be a minuscule cost to be absorbed.

Public Testimony Opened

Diane Hutchison, spoke in support of the ordinance. Ms. Hutchison identified herself as a Certified Public Accountant. She advised that if you make $600.00 or more, then the entity has to send you a 1099 to report to the IRS. If you make under $600.00 you are supposed to report it. It was considered taxable income.

Public Testimony Closed
MOTION: Not to adopt Ord. 2016-059 An Ordinance Providing For Compensation In The Fairbanks North Star Borough Code of Ordinances for the Board of Equalization (4.28.020), The Planning Commission (4.80.010) And The Platting Board (4.84.030), by Mr. Peterson, seconded by Ms. Presler

Mr. Billingsley communicated it's not enough to convince me to become a planning commissioner, the $50.00 is more like a bonus, but he was unsure if he supported it.

Mr. Perreault expressed that the reason for the ordinance was to entice others to fill seats. He spoke against the recommendation because serving on a commission was a matter of public service.

Mr. Guinn supported the ordinance and explained that he has served on two boards before this one and one of them gave us $50.00 per meeting. It wasn't anything that he counted on to feed his family, however it was nice to get it and nice to be recognized.

Ms. O’Neall replied that it was weird that the commission was having this conversation and having to vote on it for themselves. The opting out option was good to know especially in thinking of anyone in the future, who may want to have the option. The ordinance might help entice some engagement with the community. If we have the opportunity to opt out, I don’t see why it would prohibit people in the future from having their own choice.

Ms. Thayer agreed with Ms. O’Neall.

Ms. Nelson shared comments heard from the Platting Board and staff, that when the stipend was available it was used for childcare and gas for people that lived farther out. She believed it would enable members of the community to volunteer that might not be able to pay for childcare in order to come to a meeting.

ROLL CALL

Three (3) in Favor: Mr. Peterson, Mr. Billingsley, and Mr. Reilly.

Five (5) Opposed: Ms. Presler, Ms. O’Neall, Ms. Thayer, Mr. Guinn, Mr. Perreault

MOTION DEFEATED

MOTION: To recommend Ord 2016-59 An Ordinance Providing For Compensation In The Fairbanks North Star Borough Code of Ordinances for the Board of Equalization (4.28.020), The Planning Commission (4.80.010) And The Platting Board (4.84.030) by Ms. Thayer, seconded by Ms. O’Neall

ROLL CALL

Five (5) in Favor: Ms. O’Neall, Ms. Thayer, Mr. Perreault, Ms. Presler, and Mr. Guinn

Three (3) Opposed: Mr. Peterson, Mr. Billingsley, and Mr. Reilly

RECOMMENDED APPROVAL
Ord 2016-60 An Ordinance Amending FNSBC 18.112.030 is regarding Initiation of Complaints And amending FNSBC 1.16.030 Regarding Complaints and Complainant Personal Information (Sponsors: Assembly members Hutchison and Dodge).

Ms. Dodge presented that she and Ms. Hutchison often hear from citizens that see things that they want to have addressed. The citizen makes the effort to go to or call Community Planning to make a complaint only to discover that they cannot. Ms. Dodge and Ms. Hutchison agreed that people should be able to make a complaint at large about their community if they feel that strongly about it. The ordinance creates the ability to make an anonymous complaint, because citizens report that they are frightened of their neighbors. This would allow for people to talk to Community Planning, describe the situation, and have enforcement actions be considered; at the very least, the situation is evaluated.

Public Testimony Opened

Ms. Hutchinson spoke in support the ordinance.

Mr. Billingsley inquired where the ordinance was achieving the first and second goal; the first goal being not standing and second goal of being anonymous.

Ms. Doxey replied that line 39 removes the section in Title 18, which required complaints to be brought in writing and to establish standing. There will no longer be a requirement.

Mr. Billingsley inquired if records defined as not public records were, therefore, exempt.

Ms. Doxey replied there were exceptions carved out in state statute, which was what we currently rely on to determine whether something is or is not public record. We will continue to do that but our code has set some specific parameters including requiring the complaints to be in writing and includes that the citizen has an established standing, thus identifying who they are.

Mr. Billingsley inquired how does this interact with the public records law. At this time, if some of these records were exempt under public records law, then why does it need to be written into here?

Ms. Doxey replied because they are not necessarily exempt.

Ms. Nelson elaborated that the current practice requires that someone has to come in and file a written complaint, provide their address and establish a property interest which goes to whether or not they have standing. Many times Community Planning has to tell the complainants that their complaints cannot be addressed because they don’t have standing. That was not the practice all through history; it’s gone back and forth. The standing requirement went into place in 2005. This amendment would allow anyone, essentially, to make a written complaint if they chose, or a verbal complaint anonymously if they chose. The complainant gets to make the judgment call on if they feel safe enough to provide their personal information. If they do want to provide their personal information, then potentially it can be disclosed as public record. In the past, we have processed complaints regarding violations under criminal processes, which had an automatic exemption from the public records request laws. This is now under a civil procedure so that automatic exemption does not exist, but on a case by case basis the legal department would review (a request) as to whether or not it could be or should be released. Citizens can file an anonymous complaint and Community Planning will go out and look at the
site to verify the violation. If we can’t verify the violation we won’t proceed if we don’t have contact information for the complainant, the process stops there. If we have contact information, then we can follow up. Essentially, the ordinance allows the public to file a complaint despite their property interest or where they live. It allows the Borough to investigate complaints that we currently can’t and it allows the borough to self-initiate code violation enforcement or accept referrals from other agencies.

Ms. O’Neal inquired if it affected DPO’s or testimony in cases that would come before the commission?

Ms. Nelson replied this only refers to code enforcement.

Mr. Reilly inquired what stops someone from using this to harass someone that they don’t like anonymously and what processes are in place to protect someone who is not doing anything wrong but someone thinks that they are in some violation.

Ms. Dodge requested clarification regarding Ms. Nelson’s statement that when Community Planning investigates the site and there is nothing wrong, they would not proceed.

Ms. Nelson confirmed that Community Planning will not create a case file until it verified that a violation existed.

Mr. Guinn commented that he envisions someone just complaining to make the case work go up.

Ms. Nelson responded that planning will have to establish priorities, like safety, etc. It could dramatically increase planning’s workload although we feel this is important enough to the community that we are supporting it.

Ms. Doxey added that borough enforcement was discretionary, just because a complaint comes in does not require us to then go out and verify or take an enforcement action.

Mr. Guinn communicated that he liked the idea of this. However, staffing could be an issue.

Ms. Nelson responded there is nothing in code that established a timeline requiring when Community Planning must go out and visit, although Community Planning has procedures regarding how to proceed. We will have to decide what the most important cases are and if we can’t get to cases, then we will have to explain to the FNSB Administration or the Assembly why we haven’t addressed them yet.

Mr. Peterson inquired about amending the ordinance to have a fee involving the people making a complaint who could be reimbursed if there was an actual violation.

Ms. Nelson responded that just the reimbursement process would cost more than any fee that we would charge. She would not support that.

Ms. Dodge commented that she would worry about that being a barrier, there might be someone who cannot afford a fee, but they have a neighbor that’s a nightmare.

Mr. Perreault inquired about the process, does planning just visit the site and takes a visual account or is there some sort of contact made to the property owner for a complaint like this?
Ms. Nelson answered that, in general, the first round is to go inspect the site from the public right-of-way, not going onto the property. Then, attempt to contact the property owner. It varies based on a case by case complaint, who the property owner may be, etc. Friendly contact was always the first step in contacting a property owner.

Mr. Perreault inquired who currently decides whether the complainant has standing or not.

Ms. Nelson responded staff, Community Planning Department administration, and Legal.

Mr. Perreault inquired what protects neighbors from complaints in code.

Ms. Nelson answered that we don’t have a written procedure yet. Currently the Code Enforcement officer keeps in contact with the complainant and property owner. We do explain what is and isn’t allowed in the zoning district to the complainant and/or property owner over the phone. If we don’t find a violation we will park the complaint until the complainant calls or comes back in.

Mr. Perreault asked for clarification, would the proposed ordinance allow complainants to complain and leave their contact information with you and not have that be part of the record.

Ms. Nelson clarified that it gives the complainant the option not to leave their contact information. They do have the option to leave it, however, and then it could be disclosed as a public record. We won’t say it always would, but we can’t say it never would.

Mr. Perreault communicated that he wanted to ensure that there are procedures in place to insulate a property owner working within the bounds of zoning to not be persecuted or bothered by constant complaints by neighbors who either don’t care or don’t realize something is an allowed use.

Ms. Nelson responded that planning will not proceed until it has verified a violation independently of the complaint. If the property owner is meeting code, then Community Planning will not proceed with code enforcement action. This allows for a neighbor to have a little more say in what their neighborhood looks like.

Mr. Perreault clarified that the ordinance allows more than just neighbors to complain since a complainant does not have to leave contact information and it allows people whose standing has not been determined to make complaints.

Ms. Nelson affirmed that this was correct.

Ms. Dodge noted that part of the process would be education - it would help the neighborhood and educate both parties.

Mr. Reilly asked if the ordinance allowed anyone to complain about anything at any time. He further inquired if planning was not able to verify or access a property, does the borough have access to take aerial photos of properties at this time?
Ms. Nelson responded no. She added that the ordinance gives more flexibility to all citizens of the borough to address code violations. As a community, there were ways to make zones more liberal or more restrictive, but as a community there is a process to establish what kind of activities happen in each zone.

Mr. Billingsley referenced lines 61-68; if the complaint was verified, what was the standard to disclose the complaining person’s name.

Ms. Doxey answered that, typically, a person’s information was probably disclosable under the public records act unless they have a privacy interest. We often redact cell phone numbers but usually disclose someone’s name and address. If something is submitted to the borough it is searchable as a public record.

Ms. Dodge added that if someone submits a public records request, we examine the public records that they have requested to see if there is anything that is not disclosable.

Ms. O’Neall asked how many people tried to make a complaint and then retracted their complaint after finding out they could not be anonymous.

Ms. Nelson responded that Community Planning frequently makes determinations that a complainant does not have standing. She has only heard about a few where someone is really scared of their neighbor.

Ms. O’Neall inquired of Ms. Nelson to gauge how much of an increase there will be.

Ms. Nelson estimated that there have been at least 50 instances of complaints over the last 2 years which Community Planning has turned away because the complainant did not have standing.

Mr. Peterson inquired about laws to protect someone’s identity. Can it be a year or two years, or can we make it what we want to make it the borough.

Ms. Doxey responded no, that the borough must comply with the state public records law. Upon request, our policy is to fulfill that request within 5 days unless we tell them that we can’t for some reason.

Ms. Dodge noted that there will likely be an increase but many more will be valid and people will appreciate being able to make complaints.

Ms. Hutchinson agreed with Ms. Dodge. She voiced that, in general, the majority of our population are responsible and are frustrated and this will allow them to engage.

Jeff Cook, resident of the borough, spoke of a continuous string of junkyards that he views daily and that has a citizen of the borough, he has standing. He questioned why the borough has codes if they do not enforce them. He spoke to the image of the community if we let it be a continuous junkyard.

Mr. Guinn communicated that the junkyard ordinance it has been difficult to enforce over the years.
Ms. Nelson commented that junkyards are difficult because people don’t see their resources as junk. She communicated that it’s mostly an education process and it is often difficult to achieve voluntary compliance. Having the ability for someone else besides the next door neighbor to complain would help with that type of enforcement.

Mr. Cook commented that he has complained to DOT also; there were too many areas in the borough like this and all people should have standing.

**Public Testimony Closed**

**MOTION:** To approve Ord. 2016-60 An Ordinance Amending FNSBC 18.112.030 Regarding Initiation Of Complaints And Amending FNSBC 1.16.030 Regarding Complaints and Complainant Personal Information by Mr. Billingsley, seconded by Ms. Thayer

**DISCUSSION**

Mr. Billingsley spoke in favor of the ordinance.

Ms. Thayer agreed and said that as a citizen who pays property taxes and whose neighbors pay property taxes, we should be proud of our community. She also agreed with Mr. Cook’s perspective.

Ms. O’Neall spoke in support of the ordinance and added that the speculation that people will do this as a malicious act was unfounded.

Mr. Guinn spoke in support of the ordinance.

**ROLL CALL**

Eight (8) in Favor: Mr. Reilly, Mr. Perreault, Ms. Presler, Ms. O’Neall, Ms. Thayer, Mr. Billingsley, Mr. Peterson, and Mr. Guinn,

Zero (0) Opposed:

**RECOMMENDED APPROVAL**

**H. APPEALS**

**NONE**

**I. UNFINISHED BUSINESS (Continued)**

**NONE**

**J. NEW BUSINESS**

PC Rules and Procedures

Ms. Nelson explained that Rule 5 was the only update to the Planning Commission Rules and Procedures; it consisted of a reordering of items on the Agenda.
MOTION: To pass the Planning Commission Rules and Procedures as noted in the Meeting Packet, by Mr. Peterson, seconded by Ms. Thayer.

ROLL CALL

Eight (8) in Favor: Mr. Billingsley, Ms. Thayer, Mr. Reilly, Mr. Perreault, Ms. Presler, Mr. Peterson, Ms. O’Neall, and Mr. Guinn,

Zero (0) Opposed:

MOTION CARRIED

K. EXCUSE ABSENT MEMBERS

L. COMMISSIONER’S COMMENTS

1. FMATS
   
   NONE
   
   Ms. Thayer requested that FMATS be removed from all Planning Commission agendas that did not follow a FMATS Technical Committee Meeting.

2. Other

M. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:32 p.m.