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Admitted in: ME

October 29, 2024

Martha Currier, Assistant Director
Maine Ethics Commission
135 State House Station
Augusta, ME 04330

Martha:

The Sporemetrics report from Dr. Summerbell (the 'report') provided to the Commission in my initial letter last week is an in-kind contribution to the Yes on 12 campaign that clearly puts this group over the \$5,000 threshold and requires it to file as a ballot question committee.

21-A MRS Sec. 1052 (3) A defines a contribution as "anything of value made to or received by a committee for the purpose of initiating or influencing a campaign." The report is an in-kind contribution to the Yes on 12 campaign, irrespective of whether it may have been sought for the purpose of a planning board discussion, as claimed by Mr. Flaherty in his recent letter to the Commission.

I am attaching screen shots of the Yes on 12 website taken as of October 17, 2024 and October 22, 2024. The Yes on 12 website directly referenced Dr. Summerbell's report and included a link to that report. The website used language in this report challenging a conclusion made by our campaign that no baudoinia exists in the area of the distillery. This is the central issue of the Article 12 campaign, and the purported reason for the ordinance for which the Yes on 12 campaign is advocating.

Interestingly, within the last 72 hours, **this link and all references to the report have been removed from the Yes on 12 website.** This suggests that individuals responsible for the Yes on 12 campaign are well aware that the report constitutes an in-kind donation meant to influence the upcoming election.

It is worth noting that the report was not timely submitted to, reviewed by, or discussed by the board at its September 26, 2024 meeting. The application at issue was for the construction of a new kitchen and storage building at the distillery, neither of which has any bearing on the baudoinia issue. In fact, Town Counsel and

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the acting Planning Board Chair advised the board that the application before them was focusing on the building itself and not anything to do with the baudoinia issue. The report was unrelated to the application.

Additionally, Mr. Flaherty and the Concerned Neighbors Group made direct references to the report in numerous Facebook posts. Upon information and belief, it appears they have now deleted some of those posts. Although it may not be germane to the question of whether the report is an in-kind contribution, when viewed in light of the substantial changes to the Yes on 12 website – to which Mr. Flaherty has access - it calls into question the transparency and accuracy of the letter he provided to the Commission. In any event, there are other examples of other individuals engaged in the Yes on 12 campaign who have cited the report in their advocacy (see attached).

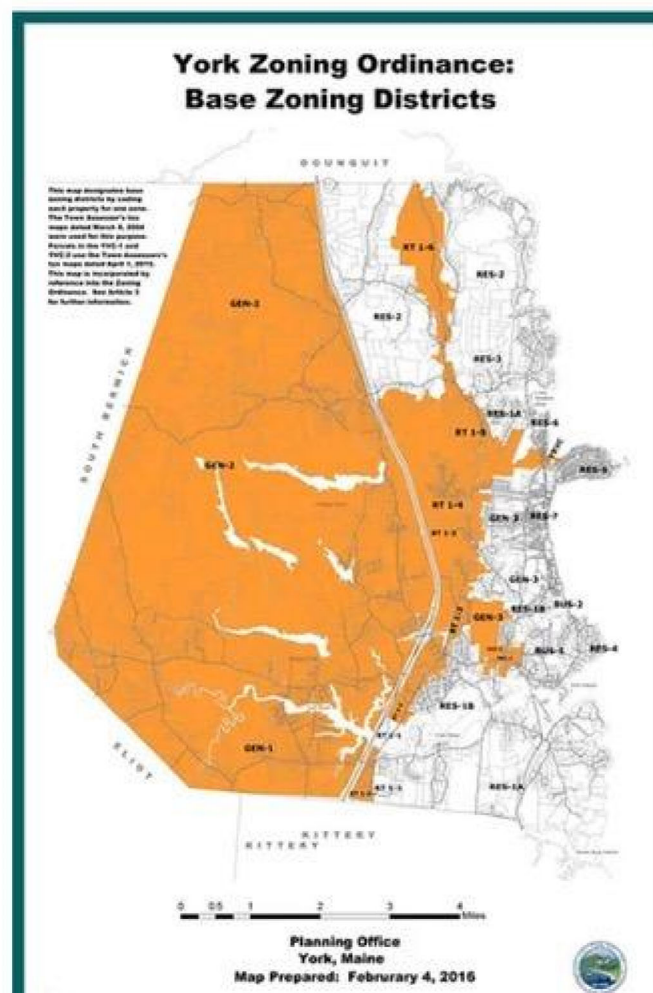
I appreciate you bringing these matters to the attention of the Commissioners in advance of tomorrow's meeting. I will be present for the discussion. My client, Amanda Woods (who took both of the screen shots referenced above) would be pleased to participate via Zoom and can provide further information as requested.

Sincerely,



Newell Augur

Despite being instructed to (and agreeing to) conduct an Atmospheric Dispersion Model in the Fall of 2023, WBD opted to privately fund their own study to try to disprove the Spatial Analysis Report conducted by the University of Maine in Summer 2023. The results of the DNA study did indeed show no presence of Baudoinia—however, the sampling methods and results were quickly called into serious question by mycologist Dr. Richard Summerbell, a leading expert on Baudoinia. Without further independent review by the town and additional testing using the correct methods, WBD's DNA test does not in any way constitute proof that there is no present Baudoinia. Regardless, Question 12 pertains to the location of future spirit distilling and aging structures.



"There's a new DNA study which shows no Baudoinia at all."

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→ Please vote **YES on 12** to support distilling that is safe, responsible and respectful of York residents' properties, health, and the environment.

→ [Read the ordinance language here](#)



Rhiannon's post



dna has proven that the deposits are *not* whiskey fungus, why is this finding not embraced instead of ridiculed?? If I were a prospective seller of a home in that area and I could show the dna proof that it is not whiskey fungus, I would be celebrating that fact.

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**Rhiannon Razzaboni** Author

Top contributor

[Kat Lang](#) because the distillery is trying to expand and increase manufacturing, thus increasing the pollution, that is why it is an issue. The DNA report has been reviewed by a mycologist on Dr. Scott's team (the world leading expert on this fungus) and in his report he used words like "smokescreen." He also found certain details of collection methods to be "not reasonable." Thus impacting the results.

"The most serious scientific shortcoming of the Frey report is that the method used lacks a suitable positive control. The report says, 'During DNA extraction, both positive and negative controls were included. The positive control was a known fungal standard, while the negative control was Millipore water.' This implies that a single fungus type chosen arbitrarily, or for its past desirable performance, can stand in for the accuracy of the testing method in relation to every type of fungus in nature, including distantly related and phenotypically distinct targets like *Bananae* species. This is not reasonable. The positive controls used in such a *Bananae* study must include a field-collected (not cultured, since cell walls and chemistry may be different) sample of material that has previously been shown to contain *Bananae*, along with a demonstration that the current test, using current reagents and conditions, has faithfully indicated the correct identification of that *Bananae* and correctly gauged its quantitation." Dr. Frey states, without evidence, "Our methodology (high throughput sequencing) is highly sensitive and is readily able to detect *Bananae* (we have experience and documentation of detecting *Bananae* in other contexts)." I have found no publications in public databases that attest to this. Even if it is true, reagents and equipment conditions in

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