



## Town of Seabrook Planning Board Minutes

Tuesday, February 19, 2013

NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Jason Janvrin, Vice Chair; Dennis Sweeney; Roger Frazee; Aboul Khan, Ex-Officio; Michael Lowry, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;

Members Absent; Robert Fowler, Sue Foote, Alternate; Paul Himmer, Alternate; Francis Chase, Alternate; Paula Wood, Alternate;

Hawkins opened the meeting at 6:35PM

### **PUBLIC HEARING**

#### **NEW CASES**

##### **Case #2013-05.12-26.11-09 NextEra proposal for a Voluntary Lot Line Merger 90 Rocks Road Map 7 Lots 110 & 94-1 (portion)**

Attending: Sarah Gebo, Manager of Communications and Public Relations, Steven Coes, Project Manager; NextEra Energy

Appearing for the Applicant: Henry Boyd, Jr, Millennium Engineering

Boyd recalled the prior appearance before the Planning Board in re the lot-line adjustment affecting the property at the end of Rocks Road and the Transfer Station, and the Assessor's subsequent opinion that this "parcel swap" created a non-conforming frontage issue for the NextEra piece. Boyd referenced the Town Planner's memo, and said that the Assessor asked him to look at the issue. He found that legally there isn't a lot frontage issue, whereas the tax maps, created by a previous assessor had been drawn incorrectly. The parcels as legally defined by the deeds exist as should be reflected on the tax map. Boyd said the Assessor did not feel the [tax map] lines could be changed without guidance from the Planning Board. While he had written letters to the Planning Board, Boyd said that the Town Planner advised that a lot-line merger be submitted to the Board, and Coes had done that by submitting the RSA form expressing NextEra's interest in merging lots.

Boyd noted that usually, mergers have different parcel identifications; however, in this matter the recording for both lots had the same book and page numbers. Boyd felt this adjustment was a "housekeeping" matter i.e. a placebo that would allow the Assessor to make the tax map change. Boyd said this was nothing that the Board would have interest in denying, but the merger could be recorded at the Rockingham Registry of Deeds. He did not think there would be questions, indicating that the Town Planner had been pretty diligent in his review. Boyd thought the board should move ahead.

Hawkins asked for Morgan's view, and asked if the lot merger being presented accomplished his purpose. Morgan said it would and would satisfy the Assessor's concern and eliminate any questions as to what was at the end of Rocks Road i.e. one lot. Boyd commented that the Assessor felt this action was most necessary to establish a paper trail and a history of why the maps would be revised. Hawkins said the Board's position has been that if the depiction was wrong it needed to be fixed, so the maps would be correct. He recognized Boyd's contention that whether lots were merged would be at the request of the owners; the Board's approval was so it could be recorded correctly. Hawkins asked for questions on this matter that related to the exchange of lots by NextEra [with the town.] He thought this would clean up the Town Planner and Assessor's questions concerning the recording of the lot-line



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adjustment. Khan called attention to the 2010 Town Meeting vote of approval for the land swap; there being no other questions or comments.

<b>MOTION:</b>	<b>Sweeney</b>	<b>to accept Case #2013-05 as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Hawkins asked for questions prior to approval; there being none.

<b>MOTION:</b>	<b>Lowry</b>	<b>to approve Case #2013-05 NextEra for a Voluntary Lot Line Merger, 90 Rocks Road Map 7 Lots 110 &amp; 94-1 (portion)</b>
<b>SECOND:</b>	<b>Sweeney</b>	<b>Approved: Unanimous</b>

**Case #2013-02 – Proposal by MacKenzie Heating & Cooling to install a 30,000 gallon propane tank and to construct a 100’ by 125’ gravel loading area off London Lane, Tax Map 5, Lot 8-43.**

The Applicant asked to be heard after the arrival of his professional representative.

**Case #2012-30E – Proposal by N.B. Haily Corp., the Brixmor Property Group, and Centro G.A. Seacoast Shopping Center to establish a paint ball supply store at the Seacoast Shopping Center at 270 Lafayette Road, Tax Map 9, Lot 49, continued from January 15, 2013.**

Attending: Steve Grundy;

Grundy said they were a small business selling paint ball supplies currently located in Salisbury, MA. They began three and one-half years ago, and have opened a small store in Londonderry in a mall environment similar to their Seabrook proposal. The mall setting is more conducive to their business than the current location. The Seacoast Shopping Center unit is too large, so they would erect a petition wall to make it more affordable. Janvrin asked if the unit was between the Game Stop and the old Hallmark store. Grundy Hawkins asked for Morgan’s comments. Morgan had no issues. Janvrin asked if there were age restrictions on the product Grundy said the restriction was 18 years and older. Purchasers had to sign a waiver that they are of age, although anyone could walk around with the product. Hawkins noted that the business would be retail to retail, and asked Garand if the Board should be concerned about issues with the layout. Garand said the business would address some items; at this point the Board would be looking at square footage, location and use.

Janvrin asked about the hours of operation. Grundy said the proposal was seven days per week from 10AM to 6 PM. The hours go along with the Game Stop. If the hours were expanded, they would split the shifts. Janvrin asked if the signage footprint would remain as is. Garand said they would have to come into compliance as part of the building permit. Hawkins asked for other questions; there being none.



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<b>MOTION:</b>	Janvrin	to accept Case #2012-30E as administratively complete for jurisdiction and deliberation.
<b>SECOND:</b>	Sweeney	Approved: Unanimous

Hawkins asked for comments. Grundy said these items are already being sold at Walmart.

<b>MOTION:</b>	Janvrin	to approve Case #2012-30E – N.B. Haily Corp., the Brixmor Property Group, and Centro G.A. Seacoast Shopping Center to establish a paint ball supply store at the Seacoast Shopping Center at 270 Lafayette Road, Tax Map 9, Lot 49, conditioned on (i) signage meeting the requirements of the CEO, and (ii) providing a letter to the Police Department advising of the Planning Board decision.
<b>SECOND:</b>	Khan	Approved: Unanimous

## ONGOING CASES

**Case #2012-18 – Proposal by Latium, Tropic Star Development, Scott Mitchell to remodel and expand a gasoline station, and to construct a convenience store, at 663 Lafayette Road, Tax Map 7, Lot 87. Among other pending issues the board will consider is the applicability of Section 14 of the Zoning Ordinance (abandonment) and the proposal’s compliance with Section 6 of the Zoning Ordinance, continued from continued from July 17, 2012, August 21, 2012, September 4, 2012, October 16, 2012, November 20, 2012; December 18, 2013 (extension);**  
 Attending: Scott Mitchell, Tropic Star;

Hawkins called attention to the letter from Attorney Richard Uchida requesting an extension for Case #2012-18 to March 31, 2013, and a continuance for Case #2012-18. Kravitz said Uchida had requested a March 19 hearing date.

**Hawkins recognized the extension for Case #2012-18 to March 31, 2013, and continued Case #2012-18 to March 19, 2013 at 6:30PM in Seabrook Town Hall.** Subsequently, Scott Mitchell, in attendance for another case, confirmed the date, indicating that the Administrative Appeal was still before the Zoning Board of Adjustment, so there was no need to take the Planning Board’s time. Hawkins hoped ZBA action would occur by March 19, but cautioned it could be continued again.

**Case #2012-26.11-09 NextEra  
 Lot-Line Matters**  
 [See Case #2013-05 above]



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**Case #2011-31.10-22 – NextEra Energy to amend its conditional approval of August 17, 2010 so that the stipulation (iv) reads as follows: Noise shall not be discernable at the Rocks Road residences closest to the firing range. Noise level along the existing transfer station road shall be limited to 15 dBA] above the measured background of 44 dBA. The indoor firing range in question is situated off Rocks Road and immediately east of the Town's Transfer Station** continued from November 15, 2011; December 20, 2011; January 17, 2012, February 21, 2012, March 6, 2012; March 20, 2012; April 3, 2012, October 16, 2012; January 15; 2013;

Attending: Sarah Gebo, Communications and Public Affairs Manager, Steven Coes, Project Manager; NextEra Energy;

Hawkins called attention to the NextEra summary letter and asked Coes for an update. Coes Deferred to Gebo, indicating they would both respond to any questions. Gebo referenced the letter, indicating they had worked with the Town Planner and the Assessor. Hawkins explained that the Firing Range had been approved in 2011 stipulating no noise discernible at the property line in conformance with the town ordinance. When the facility was built noise was discernible; a new roof was installed to mitigate the sound. The Planning Board brought in a sound expert in trying to figure out whether the case should or should not be approved. It was determined that it was so expensive to do ongoing sound measurement. Instead certain time periods were monitored to see if there was any neighborhood feedback on the noise, and the hours were increased. There had been three potential complaints citing time periods when the range was not open.

Hawkins said the Board had been waiting for feedback for well over a year, and had not had much. He had visited the neighborhood without hearing noise, but could not say that firing was going on at that time. The problem was that the Board wanted to protect the existing neighborhood as best it could, while being reasonable to the Applicant as well. He thought a year was a long time to wait for neighborhood feedback; the Board should now take action. The Applicant had cooperatively answered questions and provided information. The report attached to the letter showed more than 275,000 firings in the range, although the time of day for use was not clear. The usage included all sizes of rifles including the 50 caliber. Hawkins noted that the Applicant's alternative request involved a nuisance standard already in the land use regulations, although he did not think that was necessary. If there were to be constraints, Hawkins felt it should be tied to returning to the Planning Board if complaints were received.

Janvrin said that a standard of 15 dBA] above the measured background of 44 dBA was not realistic because there was no way for code enforcement, for lack of measuring equipment. He said if "nuisance" were the standard, the responsibility for enforcement would be on the Board of Selectmen [or police]. He thought there was no way to determine what would be a nuisance at that level, other than to litigate. Janvrin said that he could discern the firing at the property line; as a shooter and hunter it did not bother him. He thought others living on Rocks Road would say the same thing i.e. they could hear it but not to a bothersome level. Janvrin wanted to remove the reference to the property line in favor of saying it shall not present a nuisance as to excessive noise. Hawkins noted there would be an enforcement issue either way. He asked for Morgan's comments.

Morgan thought the question should be which standard would be practical – i.e. readily enforced. That is why he did not like the nuisance approach. Janvrin recalled that issue at the Honey Pot. Morgan noted that people interpreted that situation differently. He agreed the



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town did not have the staff or equipment to measure decibels, noting he did nine months. He did not think people cared about noise at the Transfer Station. The goal should be to protect the people on Rocks Road, and thought “not discernible was the appropriate standard. Hawkins commented that it is already discernible along the Transfer Station property line. Morgan said to adopt a practical standard to avoid lawyers arguing it out. Hawkins asked if it was practical to require a return to the Planning Board for further discussion; Morgan thought it was. Hawkins asked if that meant the case would stay open forever. Morgan thought it would do no harm, but might not be practical. If the standard for discernible is Rocks Road, the issue would be put in the hands of Code Enforcement; if Garand heard it, he could take action.

Khan suggested bringing the case back for review in nine months. Hawkins said the Board had taken that approach for a year without getting complaints other than someone could hear it but not loud enough to be bothersome. He did not want another nine month continuance, but also did not want to leave the neighbors hanging with no recourse. Sweeney said 50 caliber firing was the big issue; he had asked for and not gotten timeframes for that firing. He noted that the 50 caliber was not fired when the police were there. He did not want that firing at night to be a nuisance. Hawkins recalled that NextEra had agreed to limit the hours for 50 caliber firing. Sweeney did not have a problem during the daytime. Janvrin thought the noise ordinance was 10PM to 7AM. Khan asked if Garand had had complaints during the past three months, and whether the police had had complaints from residents.

Seabrook Lt John Wasson believed that the range starting at minimal usage in October of 2011; at full usage during the last six months, there had been no complaints to the police station except for a couple when the range was not operating. Janvrin thought those complaints might have been due to fireworks. Lawson thought that when Sergeant Jason Allen was present, NextEra had not had the 50 caliber in hand. Sweeney thought the 50 caliber had always been in the discussion. Lawson said he was there for the first firing of the 50 caliber a few months later. Janvrin suggested using the standard of not being discernible at the residences, and having a firing time restriction for the 50 caliber. Hawkins noted that the ordinance refers to the property line; the request is to the residences. Hawkins asked Garand if there had been complaints in re the firing range. Garand said only the two received earlier. Hawkins asked the Applicant if a time restriction on the 50 caliber would be workable. Coes said they had always indicated that would be acceptable. Khan asked if the police were using the range. Lawson confirmed that the Seabrook Police Department and the Emergency Response teams were using the firing range.

<b>MOTION:</b>	<b>Janvrin</b>	<p><b>to approve Case #2011-31.10-22 – NextEra Energy to amend its conditional approval of August 17, 2010 so that the stipulation (iv) reads as follows:</b></p> <p><b>noise shall not be discernable at the Rocks Road residences closest to the firing range, and there shall be no 50 caliber firing between the hours of 10PM and 7AM.</b></p>
<b>SECOND:</b>	<b>Sweeney</b>	<b>Approved: Unanimous</b>



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### NEW CASES

#### **Case #2013-02 – Proposal by MacKenzie Heating & Cooling to install a 30,000 gallon propane tank and to construct a 100' by 125' gravel loading area off London Lane, Tax Map 5, Lot 8-43.**

Attending: Scott Mackenzie, Joy Mackenzie, MacKenzie Heating & Cooling;

Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers; Deputy Chief

Lawrence Perkins, Seabrook Fire Department; Jody Amaden, Town Energy Solutions;

Morrill said the parcel was 1.6 acres with a 12,000 square-foot building improved as part of a 4-lot subdivision. All of the subdivision and buildings were approved through AOT; the drainage was installed although not all of the elevation for the pad. Morrill showed the wetland boundary with the new 25-foot setback. The proposal is to put a paved roadway into a fully fenced gravel yard with a proposed propane filling tank in the back. Perimeter lighting around the fence is proposed. A new swale will take the drainage to a pond created in 2004. Some spruce trees and arborvitaes will be installed; the fence will be slatted. An intended building location and parking was depicted so that the Board knows MacKenzie will be returning for future expansion. The existing sewer and water is stubbed to the site to be extended if there is a new building. Morrill referenced the Town Planner's memo and would provide the Stormwater Operations & Maintenance Manual, the light cut sheets and foot candles.

Amaden said they had been asked to do a construction plan. MacKenzie had worked with the Fire Department on a Fire safety Plan that is in compliance with NFPA 58 designed with the latest safety devices and required setbacks on the site. There was ample water to the street for fire protection. Amaden asked for any questions. Morgan asked about the NFPA designation. Amaden said it regulates propane installations specifying design and setbacks. Khan asked for documentation re working with the Seabrook Fire Department. Amaden said that Scott Mackenzie would submit his own fire safety analysis. Amaden said there were piping schematics and concrete plans

Khan noted that Deputy Fire Chief Perkins was present. Perkins said he had reviewed the plans with MacKenzie; for the most part the engineering is quite well [done]; fusible links were in place. Generally, in these matters the fire department safety is the same. The Department did not want to have to put out fires. The tanks need to be kept cool. A quick look at the internet showed that in 2003 there had been an incident with a remote filling station that dealt with smaller tanks inside of a contained building. That would not apply to this site. Perkins liked the lot elevations because propane is generally heavier than air so it would keep down the air. If it was on a hilltop, he would be much more concerned. The flammable limits were within 2 and 10 percent so this range would handle any grease. He was undecided about a sprinkler system, as they would want a fire to continue to burn out to cool the tank. Inadvertent sprinkler system activity could cause an explosion as happened at a site with 14 tanks. He would not want to commit fire apparatus to that many tanks; this is only one tank. Overall he did not see anything that couldn't be handled. Khan asked if there were other issues; Perkins said there were not.

Hawkins asked about the potential for a spill contamination. Perkins said the boiling point is -40 degrees. Amaden said it would turn to vapors. Perkins did not see a contamination issue.



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Hawkins asked if there were any ground contamination issues at all. Perkins said that generally the air would disburse it. Hawkins asked if the tank would be built on a pad with stone around it. Amaden said it would be on concrete piers. Morrill pointed out three hydrants within the facility near the fencing: one has an easement for underground services, one was at the front driveway, and another at the entrance to ArcSource. Khan asked if Garand had any issues with this site. Garand said the Board should proceed cautiously as SmartFuel was in the same area that would bring in an exterior tank. He wanted them to be treated the same way. Also, ArcSource is directly adjacent to this property. Janvrin asked if permission was needed from the NH Department of Environmental Services. Amaden said they would need a permit. Janvrin understood that bituminous pavement should not go next to the gravel area, and asked if there would be a concrete pad to get to the gravel area. Morrill thought the plan was for a bituminous drive going into the gravel area. Mackenzie said there would be a paved loading area with a concrete pad on it.

Janvrin noted that a cellular telephone tower was located close to Sam's' Club, in close enough proximity to the chain-link fence. It would have non-ionizing radiation that could accumulate energy with an electrical charge and produce a spark that could flame and cause an explosion. He asked if there were a plan to ground the fence as well as the tank, noting there needed to be a separate grounding system even if it were not required by the NFPA. Mackenzie was sure they could ground that installation. Janvrin noted the same consideration was raised at the Stard Road fireworks container storage area. Khan asked if the state had a regulation inspection system. Amaden said it did when the facility was opened and asked if it would be inspected locally. Garand said local inspection had no jurisdiction on propane, except for best management practice. Amaden said once the installation was complete MacKenzie would have to perform an OEM operation and maintenance plan, and an operator qualification plan for training all personnel on an annual basis. Annual maintenance would be documented like a jurisdictional plan; as well as regulation by the insurance company.

Khan asked for Morgan's comments. Morgan referenced his memorandum noting that the stormwater plan had just been submitted but without a signature. The photometric grid was submitted together with specifications on the lighting fixtures. Janvrin asked if these would be on a separate sheet of the planset. Morrill said that layer would be turned on. Garand asked if this case would go to technical review. Hawkins did not feel comfortable making a decision without department head comments, even though it was a stand-alone tank; there was substantial discomfort among himself, Morgan and Garand with this unfamiliar situation. He wanted department heads to have the opportunity to discuss issues at the Technical Review Committee. Janvrin asked if this would be a retail site, noting the location was in the industrial zone. MacKenzie said it was only for company truck loading. Janvrin asked where they load now. MacKenzie said they were just starting in the propane business, and have been buying from Hartman oil and propane in Exeter on Epping Road who use the same 30,000 gallon tanks. Morrill noted another installation in Epping near the movie theater.

Morgan asked how often the tanks would be filled. MacKenzie thought once a month or every two months. Morgan asked about the delivery vehicles. Amaden thought that would depend on the available resources. MacKenzie thought they would come up I-95 and onto Batchelder Road. Janvrin asked if the turn radius off the road would be sufficient for the truck to turn in. MacKenzie said it would. Morrill said at this time the area would be leveled and stabilized with grass. Morgan wanted the planset to be clear that the future building and parking would have



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to be approved by the Planning Board. Morrill will make it clear that the potential expansion had not been approved during the Case #2013-02 process. Hawkins asked Morgan's view re TRC. Morgan agreed, commenting that if department heads were in agreement, it would be a short meeting. Hawkins asked for other Board comments. Janvrin also agreed on TRC.

<b>MOTION:</b>	<b>Janvrin</b>	<b>to accept Case #2013-02 as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Hawkins explained that at the TRC department heads would discuss the plan and have the opportunity to express their requirements. The Board didn't want to hear from a department head after the approval that something was done wrong. They are asked to clarify their requirements in advance. Khan commented that the company had been doing business in Seabrook for many years, and created many jobs. At the Chair's suggestion that the meeting might be short, he asked for a sooner hearing. Kravitz said that department heads want at least a week to review plans in advance of TRC. Hawkins said it was his personal assumption that if there was not a problem, the TRC might be a short meeting; there is a full planset and the department heads should have sufficient review time. Morrill asked if there were other questions for Amaden at this meeting so she might not have to appear again. Janvrin noted the stormwater plan had only been submitted at this meeting. Morgan said it did not look bad. Morgan said it would require the Applicant's signature. Janvrin asked if the SWO&M would be on the cover page for recording. Morrill said he would work on putting that document on a recordable plan sheet. Kravitz commented that the Planning Board Engineer would also review the plan.

**Hawkins scheduled Case #2013-02 for the Technical Review Committee on March 11, 2013, and continued Case #2013-02 to April 2, 2013 at 6:30PM in Seabrook Town Hall.**

**Case #2013-01 – Proposal by DDR Seabrook, LLC and Provident Holdings, LLC for lot line adjustments in the vicinity of Provident Way and 700 Lafayette Road, Tax Map 8, Lots 49, 51-1, 55 & 55-30.**

Attending: Scott Mitchell, Jim Mitchell; Provident Holdings;  
Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineering;

Morrill said that Mitchell had worked with DDR to acquire two small portions of property to square off the area. The first portion, Parcel A (pink), comprised the left-over area of the current McDonald's site which would be narrower when the entrance to the shopping mall was installed. To make it feasible to do anything with that remainder, a small segment was added so that site could be developed with sufficient green space. DDR would give 1.5 acres to that lot to make the entire lot 1.27 acres. DDR would transfer Parcel B (blue) - 0.12 acres to Provident Holdings LLC to square off the Provident Bank parcel to 1.12 acres. Morrill highlighted the drainage easement, stating that the transferred pieces would not impact the drainage. He noted that four sheets could have been done to fully show the lots, but they wanted to make this adjustment as easy as possible. Morgan said that the scale did not make it easy, and noted that another company's plan was being shown. Morrill stated that he had a letter of authorization that allows him to do that. Janvrin said that Dows Lane was labeled correctly and had been there since then 1700s. People didn't realize that it is a town road.



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Morgan thought Morrill said that the land involved wouldn't be used by DDR for anything else. He recalled that DDR's approach was that every square-inch would be used for something. Given the difficult scale being used, Morgan was somewhat concerned that some details were not shown. Morrill said that DDR had their engineers draw up this plan, and had made a commitment to Provident Holdings to be able to release these properties. He did not think DDR would give away anything that was of value to them. Scott Mitchell said that both would be vacant land. Janvrin recalled that when DDR came to the Board for a condominium conversion, some member of that team brought to the Board's attention that they might convey those pieces. Mitchell said Parcel B would square off the bank property and would return to the Planning Board the next month to show what would be done with the extra land. Given the shopping center development the Bank would need more parking. Janvrin asked if that meant that the Bank siteplan would change. Mitchell said it would and the Bank representative would speak to this.

Janvrin asked about parcel A. Mitchell said it would be added to the remainder of the site that is currently part of the existing McDonald's. Hawkins asked what was in that area in the DDR siteplan. Mitchell said "nothing". Morgan looked at the DDR siteplan and said it did show something. Morrill said it had been the old Murray parking lot for the industrial condominiums, and pointed out how the lots would be squared off. Janvrin asked if 16 – 20 parking spaces from the DDR site plan would be conveyed. Mitchell said they were the old parking spaces that were not there now. Mitchell commented that the McDonald's would be moved to another lot per the Planning Board approval, and the existing building torn down. Garand asked how that would affect the open area on the DDR plan. Mitchell said they had asked DDR about that and was told it had no effect. Garand said that was not in writing.

Garand also said that according to the Court Agreement, the DDR plan could not be changed without coming back to the Planning Board. He recommended putting questions about the DDR plan changes, access easements, utilities etc, and the 2013-01 proposal to Planning Board counsel. Janvrin thought there were cross-easements between the lots abutting Lafayette Road. Morrill pointed out the lots that had cross-easements, and showed references [on the DDR plan] for potential future connections. Janvrin recalled that reference during the McDonald's discussion. Janvrin asked if it would be appropriate to put this to the Board's legal counsel. Morgan thought enough time had lapsed, so it would be appropriate to consult counsel to see if Garand's view was correct. Hawkins agreed that was appropriate.

Hawkins said the other question was that a development was about to change with open space, landscaping for the other lot, but the board had no plan for this. It would just be empty space that would be developed somehow at some point in the future. Mitchell said they had already filed a plan involving [Parcel B] with the Planning Board. Hawkins' had been referring to Parcel A. Mitchell said the first question he asked DDR was if this would affect its open space. DDR's answer was no. He said otherwise DDR would not have made a deal with him, indicating that DDR did not want to come back to the Planning Board. He thought that checking with legal would be for a simple lot-line adjustment. The rule was to get the lot-line adjustment before coming back with a siteplan. Indeed he came to this hearing because he thought that the Board might want to take this further. Khan asked if the road behind CVS that goes up to the existing McDonald's continues to the new McDonald's. Mitchell said it would and that they would be coming back to the Board to shortly to show how that would change. Morrill explained that DDR's road goes through the middle of that lot, so a vehicle would have to go around that lot. Mitchell agreed on that point.



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Hawkins noted there was a right in/out, and thought there was also a driveway entrance. Mitchell agreed there was a right in/out near the top of the shopping center access driveway which he said the Planning Board had approved when Steven Ireland had attended the meeting. Hawkins thought that had been temporary. Mitchell said that's the kind of thing that was done. Morrill pointed out the access. Janvrin thought the new McDonald's would not have such an access. Mitchell agreed, showing the rear access location. Janvrin pointed out that they had a right in/out off Lafayette Road. Khan asked Mitchell who would occupy the adjusted lot; Mitchell could not say, reminding that Case #2013-01 was for a lot-line adjustment. He said they had no problem checking with counsel about the open space. They could not come to the Board without doing the lot-line adjustment first.

Janvrin asked if an approval could be conditioned on the Board's counsel advising that it did not violate the [Court] Agreement between DDR, the Town, and the NH Department of Transportation. Morgan said that could be done if the Board thought its attorney's response would be that cut and dry. Janvrin did not see why it wouldn't be. Hawkins said he had been part of that negotiation when the agreement was being written, and that it stated pretty well that nothing could be done. The goal was to avoid DDR coming back to the Board and starting everything over again, although he heard they might come back on a couple of items. Janvrin noted that had come back for the Condominium Association. Morgan noted that technically DDR was part of this hearing because they are the other property owner.

Charlie Mabardy said he was a direct abutter and asked for clarification as to the square-footage for each of the adjusted lots. Morrill said that Parcel A would be 6,376 square feet, and Parcel B would be 5,091square feet. Mabardy asked for the entrance location for Parcel A. Morrill said that as per the DDR plans it showed a future connection, but at this point they were just seeking a lot-line adjustment. Mabardy asked about the Bank access. Morrill said the Bank would keep its current existing driveway without any alteration. Mitchell said it was just adding parking.

Hawkins asked for Morgan's comments about conditional approval. Morgan said the chances were that the Board's attorney would give a clear answer, but sometimes the answer is not black and white. If that were the case, where would that leave the Board. Janvrin agreed it would still have to be deliberated. He suggested a continuance to March 5 while putting the questions to the Board's counsel to assure it would not be violating the Agreement between DDR, the Town of Seabrook, and NHDOT. Hawkins said as DDR is part of the Applicant, he wanted a comment on the impact to open and green space. Mitchell said they would provide a response from the engineers to the effect that the proposal did not violate open space. He had this but would get something for the Board.

<b>MOTION:</b>	<b>Janvrin</b>	<b>to accept Case #2013-01 as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Sweeney</b>	<b>Approved: Unanimous</b>

Morgan noted that the plansheet provided was not very sharp i.e. what the Board was used to. The lines seemed fuzzy and kind of thick. Janvrin said it looked like a copy of a copy. Morgan asked if there would be a problem recording the mylar with the Rockingham County



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Registry of Deeds. Morrill said they would take the mylar to the Registry to be sure it was recordable as they usually do before bringing it to the Planning Board Office. Janvrin asked if the scale being used was correct with the town regulations. Morgan said it was. Janvrin asked if it would be advisable to waive that so it could be seen in greater detail. Morgan said if he were the Board, he would ask for a second sheet that shows a better scale for what is being done. Janvrin agreed. Morrill said that Mitchell would have to ask DDR to do another plan. Janvrin asked if the scale was 1 inch = 100 feet. Morgan said it was. Mitchell asked why they could not do a plansheet.

Morrill said he could not stamp someone else's plan. Mitchell thought Morrill could draw it. Janvrin said Morrill would have to do an actual survey. Morrill affirmed he would have to do a survey to stamp it. Kravitz said that in order to record a plansheet, a surveyor would have to sign it, as well as the Planning Board. Morrill said they would prefer to keep to one plansheet to make it easier to show the entire thing, although he could understand the desire for clarity. Hawkins said the plansheet was understandable as long as the outlines were in color. He questioned how much trouble there would be at the Registry. Morrill said they will make sure about the Registry. Mitchell said that they would be coming back with the lot plan that would be the usual scale. They already know their depictions, and asked if the Board could work with what was submitted for visual purposes. Hawkins said he could understand it in the color, but not otherwise. Morrill offered to give the Board the colorized copy for the record.

### **Hawkins continued Case #2013-01 to March 5, 2013 at 6:30PM at Seabrook Town Hall;**

Kravitz noted that the Registry had previously rejected copies of copies on that basis. Hawkins said that would be a problem for the Applicant to solve.

## **SECURITY REDUCTIONS AND EXTENSIONS**

### **2004-19 Bergeron Way**

Kravitz said this request is asking the Planning Board to recommend to the Board of Selectmen acceptance for a town road. Janvrin said the security had been used. Hawkins recalled that the town used the security plus an additional amount. Kravitz said there was a negotiation with the Trustee of the Carl Bergeron estate who provided approximately \$6,000 to complete the project, because the security was insufficient. Hawkins asked if there were anything left in that account at all. Kravitz said all the funds were used for construction. This was an unusual situation. Janvrin commented that perhaps 10 percent should be added to a security amount. Kravitz said in this case the funds were provided by a different person than the applicant. When the applicant dies, the Trustee was good enough to work out the sufficient supplemental monies to put the roadway out to bid. Hawkins asked if the DPW Manager had signed off. Janvrin said he had, but thought the time period was not sufficient.

Janvrin asked if the generally security was held for a period after the roadway construction and if the Department of Public Works was involved. Morgan said the Treasurer holds security per the Planning Board. Janvrin said the town built the road. Hawkins asked when it was completed. Janvrin said he'd walked by and thought completion was in August of 2012. It was not plowed by the town in the last storm. Khan asked Morgan if this situation was completely different than any other. Morgan agreed. Janvrin thought the town never took security before. Morgan referenced his memorandum and explained that years ago when the Planning Board approved a siteplan with a road, the town did not send out an engineer to



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oversee the construction work. Eventually, the Board realized that was not a good idea because some roads turned out fine and some did not. In recent years the Board had employed engineers to observe part of the construction. His question was whether an engineer involved on behalf of the town to oversee the construction. The question would also be whether that mattered to the Board in this case.

Hawkins said originally an outside engineer was engaged because the DPW Manager did not have the time to do this oversight, and wanted to farm out some of the review. In this situation The road is paved over and it isn't known where the electrical wires and other utilities are located. However, since the DPW Manager was involved in hiring the contractor, he did not see what could be accomplished with an outside engineer. Morgan had wanted to know if there were any engineers involved during the construction. Janvrin thought there were not. Morgan had called the outside engineer often used by the DPW, who had not been involved. Janvrin said he walks on that street nearly every night, and believes that one seam is sub-standard. He thought there were drainage issues that were not addressed when they put the road in. Janvrin said the work was done, but not under supervision. A hot-top company laid down a binder coat. Hawkins asked what the Board's recourse could be. Janvrin said ordinarily the applicant pays for lighting, hot top etc, and security is held in case a manhole cover breaks or the like. If someone damages the road, the town owns it; there is no recourse to say it was substandard when it was built.

Hawkins asked how many houses are on the street, and if they were getting trash picked up. Janvrin thought they were, but no plowing was done during the mega-storm. Khan did not know how the road could be accepted just with the binder. Janvrin thought there might be an inch of finish coat, but now when the plow goes down Collins Street it hits the seam lip. Sweeney said usually they would saw-cut to blend it in. Janvrin asked if this could be put off until the Spring. Hawkins wanted to see the DPW sign-off document to accept Bergeron Way as a town road. That would be important if there were questions about the quality of the work or if the road was even complete. Hawkins asked if there were a standard for accepting roads, or just waiting for department heads. Morgan said typically an applicant would approach the Board of Selectmen, who would forward the request to the Planning Board for a recommendation. That is the status now. Janvrin said the issue is not getting money back – there is no security. They just want the town to plow and pick up trash. He thought there were two street lights on the road.

Morgan said ordinarily there would be security for construction. When the department heads sign off, the Planning Board will vote to release the security, but hold on to a maintenance amount of 10 percent. Hawkins said there was no maintenance amount in this case. Khan wanted communication with the DPW Manager to ask the current quality of this road, and whether he would be ready to accept it as a town road. Morgan had not talked with the DPW Manager; what he'd heard would be hearsay. Lowry said usually there is a sign-off sheet. Janvrin said Board Members could walk the roadway to see for themselves. Janvrin regretted there was no security to hold on to. Hawkins. Janvrin reiterated that the residents might be trash pick-up now, but no plowing. A double-wide at the corner of Collins Avenue is up for sale; whether they had services, that could affect the sale. Hawkins said the BOS had the option of providing a service prior to accepting a road. He did not think the Board should recommend acceptance unless the road was in a condition that the town wants to maintain. He noted that the last DPW inspection was in 2007 of the binder course.



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Janvrin thought that work was done in 2012. Morgan suggested that he or Kravitz call the DPW Manager. Hawkins wanted a letter recommending that the town accept Bergeron Way as a town road. Janvrin thought there were 3 or 4 parcels that feed off that roadway. When the binder coat was there some did not have aprons to get onto their gravel driveways; that work now had been done. But he had issues with the connection to Collins Street. Khan asked for a copy to go to the Town Manager.

## **Hawkins continued Case #2004-19 Bergeron Way to March 5, 2013 at 6:30PM at Seabrook Town Hall,**

### **MINUTES OF JANUARY 15, 2013**

Hawkins asked if members had comments or changes, there being none;

<b>MOTION:</b>	<b>Janvrin</b>	<b>to accept the Minutes of January 15, 2013 as written.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### **CORRESPONDENCE/ANNOUNCEMENTS**

Hawkins called attention to the Water superintendent's letter re **increasing the level of sodium and chloride contamination in groundwater since 1990**. He thought this was a BOS and DPW issue, as salt is used exclusively on the roadways. One factor was whether people with high blood pressure were being fed increased salt through the water, or does the new water treatment facility react to clean any of this up. Janvrin said 10 years ago the town was talking about desalination of ocean water. He did not think the power plant did that. Khan commented that businesses use a lot of salt, especially on the west side of Route 95. He thought the Board needed to look more closely at the process for cleaning snow plows. Janvrin added looking at the chemicals being used. Hawkins noted this is a state-wide and national issue. The town did not use sand in the winter so as not to have to clean it up in the Spring. If it has an impact on the drinking water, the BOS should start talking about this with the DPW and Water Department.

Sweeney thought there were signs indicating a low-salt area – town wells. Janvrin thought that was in the wellhead protection area. Hawkins said when this issue came up during the DPW budget session; John Starkey asked why it was a problem if everything flowed toward the ocean. Hawkins thought it might be changing the salt level in the drinking water. Janvrin was concerned about some of the surface outfalls e.g. around Cimarron. Hawkins said the Master Plan stressed the importance of this issue because once ground water was contaminated it couldn't be fixed easily. He recommended the BOS discuss this and have an action plan, if possible. It might be that Seabrook's testing shows something different, maybe less or more contamination, but it should be considered.

Khan commented that the new EPA regulations hit the newspapers during the last week. He thought it would take care of much of this issue because it was so strict. It would affect everyone including businesses, not just Seabrook. Janvrin planned to attend a conference on this next month. Morgan said the siteplan review regulations could be amended to restrict the use of salt near the lots in the aquifer protection area. Hawkins said the article reported that potassium chloride was the corrosive; sodium affects taste. He was not sure which had greater impact from a medical point of view. Janvrin commented that Seabrook draws its



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water from deep wells; he thought the article was addressing surface water contamination. Hawkins thought it a good idea for the Water Superintendent to see if the town testing would be higher or lower than other communities. Khan said that Starkey had attended many EPA meetings. At the next BOS meeting, he would ask Starkey to provide whatever information he knows on this issue. Janvrin commented that in his youth he tapped maple syrup from the Rocks Road trees; ten years later it was salty and some trees died. Morgan thought the Board could consider regulation that would protect the vegetation.

### **2013-2018 CAPITAL IMPROVEMENT PROGRAM**

Hawkins said the Planning Board had not yet approved the CIP. Janvrin said that important Planning Board projects were not listed – Route 107, Rail Trail, Route 1 South. He thought the department heads had been contacted. Hawkins said he had turned in the Planning Board list.

<b>MOTION:</b>	Janvrin	<b>to approve the 2013-2018 Capital Improvement Program with the addition of the Planning Board projects that are missing, and correct the totals accordingly on the summary page.</b>
<b>SECOND:</b>	Khan	<b>Approved: Unanimous</b>

### **OTHER BUSINESS**

#### **HAMPSHIRE INN REQUEST RE SPUR ROAD**

Mark Woolley, Regional Manager

Hawkins asked Woolley to explain his request. Woolley understood that several Board members were unaware of the early DDR history and the situation at Spur Road. In 2004 the then Police Chief had gone to the NH Department of Transportation and asked for solutions to the Spur Road intersection because he felt there were too many accidents for the frequency with which it was being used. In a 2-year study it turned out that there had been 17 accidents at that location. This was important to the planning aspects when the Route 107 Bridge was being expanded. He said that Steven Ireland of NHDOT had proposed three scenarios: 1. A traffic light, but it did not meet any of the criteria, 2. A left turn by [eastbound] travelers to turn into Spur Road which was not feasible at that time; and 3. Only a right turn in and out of Spur Road which is currently on the DDR drawings for Route 107. After that NHDOT concluded they would put an island past Spur Road to stop traffic going toward Route 1 from turning north onto Spur Road.

Woolley said he worked with the Planning Board during that whole process to define the reasons the Hampshire Inn felt it would be detrimental to their business and also for the Town. The current proposal shows a 20-foot wide island at Spur Road all the way to Route 1. This would be a huge, massive island at the entrance to the Town. He said that the DDR studies indicated that 8 to 10 percent of the traffic takes the left onto Spur Road, so that traffic would now be funneled to the Routes 1 and 107 interchange causing people to do U-turns to go back to Spur Road, because they will see the hotel. They get more than 6,000 room nights and that could be more than 6,000 vehicles annually i.e. more than 20 per night. The Inn's



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business was growing and they invested more than \$200,000 in the last 4 years to improve the facility. They will continue to invest because they believe in the business.

Woolley wanted the Planning Board to join the Hampshire Inn in writing to Ireland and the NHDOT for the left turn only into Spur Road. There would be no left turn from Spur Road onto Route 107 because that roadway had already been widened an additional 30 feet. Woolley said that no additional traffic lane is being proposed; only a 20-foot island to block the traffic in front of Spur Road.

Hawkins recalled that at some point during the DDR discussions, the Planning Board wanted to leave the left turn into Spur Road to see how it would work i.e. don't put the island in and let the left turn exist. Hawkins said that recommendation was made, but the Board turned down the project and spent a couple of years in Court. At that point everybody was losing track of some of the Board's suggestions. He cited the accident history, noting that there would be 1,800 more vehicle trips per hour going through the intersection created by the 400,000 square feet of retail space. Coming from the east on Route 107n they will be putting in a right turn onto Route 1 that would be restricted with a light; it would likely be right turn on red. He asked where the gap in traffic comes from to take a left-turn onto Spur Road. Woolley said with another lane, even the 1,800 would not double the amount of space given to go eastbound on Route 107. There had been only one lane east, and one lane to the north ramp on I-95. The traffic accidents have been from rear-ending westbound, and also eastbound, because the one lane would be backed up far enough and a driver turning left onto Spur Road would not anticipate the direct lane to the ramp.

Woolley said while there were 17 accidents in 2 years at that location, there were 700 accidents in Seabrook according to the Police Department; all of those roads could not be closed. Hawkins commented on the challenge of trying to take a left turn coming out of Rocks Road; how would a left turn across 2 lanes onto Spur Road be possible. Woolley maintained that a driver would have the greatest visibility taking a left onto Spur Road. He said the distance was twice as long as it would take to go left into New Zealand Road, and was the safest alternative. Hawkins said there would be a light at New Zealand Road. Woolley said it would be the same chances when the light was green. Janvrin was concerned about the human error factor.

Janvrin referenced a NHDOT hospitality service where a facility can pay an amount for a directional sign on a roadway, and suggested that Woolley look into this for the Inn. He wondered the town could ask for that to be complementary. He understood the problem but did not see how there could be a safe left turn into Spur Road, especially with so many out-of-state vehicles. From a public safety and pedestrian safety perspective, people would have an issue with turning cars, noting that many motorcycle accidents occur because people don't pay attention. He understood the merit of what Woolley wanted to do, but how to do it safely; the NHDOT had done the due diligence and decided it couldn't be safe. Khan said that Woolley and the previous Inn manager, NHDOT, and the developer parties asked if the Planning Board had anything to add. It took about seven months for the competitive bidding on the Bridge, and the developer set the timing for opening the shopping center – everyone signed off. At this point, if the project were delayed by trying to convince DDR and the contractor, he did not know who would pay for the cost of new drawings etc. Hawkins said there were discussions about such challenges as the project had been let and the bids were in on the final construction plans. He thought that Woolley was asking for Board support to leave the left turn.



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Woolley wanted the Board to join in a letter to the NHDOT asking them to re-look at the island which is scheduled for the summer, although paving of Route 107 was going on. The Hampshire Inn knows that the Planning Board has no jurisdiction with the state road, but they feel that the authority and weight of the Board is a lot greater than the Hampshire Inn in re the NHDOT. The Inn has followed the process all the way through, but is an independent hotel, and not a national chain. They are asking the Planning Board to help them, and would understand if the Board did not want to do that. Seabrook is important to the Inn which spends a lot of money in the town, so they are seeking assistance. Hawkins felt ok in supporting a letter that asked NHDOT for another review to find safe solutions for people coming east into the Inn property, without specifying what the solutions should be. He did not know how the NHDOT would respond. Hawkins would be uncomfortable supporting a left turn across two lanes. It is a tough challenge if only because the contracts had been let.

Janvrin said the Board understood that there would be a financial impact. At the same time, the roadway construction needs to happen. In his opinion it was not safe to turn across two lanes without a signal, which NHDOT apparently was not willing to do. The compromise would be if the NHDOT made hospitality signs available to the Inn with directions on how to get there. It is not an optimum solution which he thought could not be achieved. Woolley appreciated that suggestion, but thought it was not necessary. His concern was that Inn residents and guests would take a U-turn at Route 1. Janvrin said that would not be allowed, and police would ticket. It would be a left turn onto Route 1 and another left turn onto New Zealand Road and then Spur Road. Woolley maintained that nothing said that a U-turn would be illegal. Khan asked if Morgan was sure there was no left turn into Spur Road. Hawkins had looked at this; it is a solid, wide median.

Woolley said making a left turn going northbound across 2 lanes was difficult, but that was the situation on Route 1 turning into the Lowe's near the gas station. They cannot make everything safe; the sidewalk begins at Spur Road. He said that if the Inn constitutes 10 percent of the Route 107 traffic, local residents on New Zealand Road are 90 percent. If there isn't a Route 107 left turn into Spur Road, the traffic will either make a u-turn or triple the traffic on New Zealand Road i.e. a lot of traffic would be diverted to a residential road. Khan agreed there was no harm in writing to the NHDOT to see if there is any avenue to look at this again. Hawkins said as long as the request was asking for a safe solution to this problem. Actually, he thought NHDOT would not have a positive response. If there were a safe way, he thought the town should be supporting small businesses. There also was an obligation to see that anything that the Board might recommend was in fact safe for travelers. He asked if Woolley wanted to write a letter and ask the Board to co-sign it. Hawkins asked for Morgan's view, saying he wanted to support Seabrook businesses, but did not want to be creating a public safety issue. Morgan agreed, and thought that Hawkins had offered a clever compromise.

Hawkins asked Board members if they would support signing a letter asking the NHDOT to look at this again. By consensus, the Board agreed. Janvrin thought the NHDOT would provide an audience, although he did not think they would arrive at anything different. Khan said even if something was proposed, they would ask who would pay the cost of a design change, or even a traffic light. Hawkins said the traffic did not warrant a light. Woolley added that a traffic signal would not meet any of the 8 NHDOT requirements. Janvrin thought that the original proposal had a larger queuing area for vehicles, but NHDOT said that was not feasible. Khan said that had been taken out. Hawkins recommended that Woolley draft a letter that could be circulated prior to the next meeting, so the Board could sign it.



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Communication should be with Kravitz. He thought the chances of a positive response were about 3 percent. Woolley commented that there was a chance. Hawkins noted that the Hampshire Inn was the only business that got cut off in the process. Janvrin added that the Inn might have been the only business that had an impact. Woolley appreciated the Board's willingness to work with him.

### **PUBLIC HEARING - continued**

Hawkins commented that the following items had been discussed previously. Kravitz said the Board had not voted on one page of the fee recommendations; the entire text of the proposed regulation was set forth below. Janvrin thought there would be a lot of public comment.

### **PROPOSAL TO INCREASE PLANNING BOARD FEES.**

*A) Revise the Subdivision Regulations by amending Sections 4.200 thru 4.400 of the as follows:*

## **Section 4.200 Application Fees**

Subdivisions up to five lots, no road	\$200 + \$100 per lot
Subdivisions up to five lots, with road	\$500 + 250/lot
Subdivisions in excess of five lots	\$1,000 + \$500 per lot
Lot Line Adjustment	\$300
Perimeter Survey	No charge
Voluntary Lot Merger	\$100 + \$50/lot
Abutter Notices	\$100 + \$9.45/owner & applicant + \$7.24/abutter
Public Notice	\$150
Incomplete application processing fee	\$75
<del>Re-submission of an application</del>	<del>\$50</del>
<del>Re-submittal of plan or mylar for non-construction correction</del>	<del>\$400</del>
<del>Bill Administration</del>	<del>\$20 per bill (maximum of \$100)</del>
Recording of mylars and documents	Actual recording cost plus \$100
Application Administration Fee	\$150

## **Section 4.300 Additional Fees**

**4.310 Professional Review - All plans will be reviewed by the Town Planner. All subdivisions that include provisions for roadway construction or connection to Town services, and most site plans, will be reviewed by the Planning Board's engineer. The cost for such reviews shall be borne by the applicant.**

**4.320 Technical Review Committee – The applicant shall reimburse the Town for the cost of Technical Review, if such review is required by the Planning Board. The**



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calculation of such costs shall include the hourly rates for each member of the Technical Review Committee, and that of the Secretary.

4.330 Charge for Extensive Review – In the event that the Planning Board review extends to three meetings, the applicant will be assessed a \$3,000 fee. After three meetings, an assessment of \$500 per meeting will be levied.

4.340 Re-submittal of an Application – A re-submittal fee will be assessed, said fee to be at least one half the original application fee, but no less than \$500. In the event that the Planning Board’s review of the re-submittal extends more than three meetings, the applicant will be assessed the original application fee in addition to fees specified in Section 4.330 above.

4.350 Administrative Services – The applicant will be assessed an administrative fee of 20% of the cost of professional services rendered to the Planning Board. Said fee is intended to cover accounts payable and record keeping, but in no instance shall the fee exceed \$100 per invoice.

4.360 Construction Oversight – The applicant shall reimburse the Town for all costs of outside inspection services incurred by the Building Department.

**4.3270** Additional Fees may be required for administrative expenses, special investigative studies, review of documents, and legal and other professional services that may be required by a particular application. The Planning Board reserves the right to recover all legal fees in connection with an application, including court related fees.

## Section 4.400 Refunds

~~4.210~~ **Refunds**– Upon withdrawal of an application, eligibility for refunds of application fees are as follows: 75% refund after the application is accepted by the Planning Board’s secretary; 50% refund after the application is reviewed by the Town Planner; and 25% after the Town sends abutters notices. Should the application be reviewed by the Planning Board at a formal acceptance hearing pursuant to Section 5 below, no fees will be refunded.

~~4.214~~**4.10** All out of pocket expenses for public notices, abutter notices, Town Planner, Town Engineer, special studies, professional reviews & inspections and other professional services are the responsibility of the applicant, and will only be returned if the funds have not been expended.

~~4.212~~**4.20** The Planning Board has sole discretion on the decision to return fees.

~~4.213~~**4.30** The Application Refund Policy shall apply to all applications made to the Planning Board.



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**4.214440** The minimum application fee shall be \$100. No refund shall be approved by the Planning Board that reduces the fee below \$100.

***B) Amend Section 2 of the Site Plan Review Regulations as follows:***

**Impacted Area: Any area altered from its current state. For the purpose of calculating application fees, an application for building re-modeling shall calculate, at a minimum, the area of the building's footprint.**

***C) Revise the Planning Board fee schedule by amending Section 3 of the Site Plan Review Regulations as follows:***

**The application fee for site plan review is \$300 + \$100 per every 1,000 square feet of impacted area, said application fee not to exceed \$50,000. For purposes of determining the appropriate application fee, the plans shall identify and measure the area of all impacted areas, including, but not limited to, buildings, parking, landscaping, woodlands, and wetlands.**

**All additional fees specified in Section 3 of the Subdivision Regulations apply to applications for site plan review.**

~~Additional fees may be required for administrative expenses, special investigative studies, review of documents, and legal and other professional services which may be required by a particular application (See Section 3 of the Subdivision Regulations).~~

~~The application fee for condominium conversion is \$300 plus \$100 per condominium unit. The fee for document recording is the Registry's fee + \$125.~~

Hawkins said that his intent for Section 4.330 was to say that fees greater than \$3000 get [up to] three meetings. All other plans, including expedited plans, with fees of less than \$3000 should get one meeting. Extra meeting fees will be \$500 for more than the allocated number of meetings.

<b>MOTION:</b>	<b>Janvrin</b>	<b>to eliminate paragraph 4.330 Charge for Extensive Review from consideration on February 19, 2013.</b>
<b>SECOND:</b>	<b>Hawkins</b>	<b>Approved: Unanimous</b>

Hawkins said to leave the title of 4.330 as a placeholder. Janvrin asked if the Refund Section was simply renumbered. Morgan confirmed this. Kravitz preferred that the entire writing of the Revised Fee Schedule as set forth in the Agenda be voted at one time, so that it could be extracted as a whole. Hawkins said the Board would first make any changes, and then vote on the entire Section. He commented that most changes are in the Subdivision Regulations, and there are a few references in the Site Plan Regulations. Hawkins said to remove the cap of \$50,000 in Section 3 of the Site Plan Review Regulations. Morgan confirmed that in the



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sentence about additional fees, the reference should be to Section 4 of the subdivision Regulations. Kravitz noted that two new cases had been submitted under the fee changes that the Board approved at the last meeting.

Hawkins asked for other comments. Frazee asked if this would scare anyone away. Janvrin recalled that Francis Chase thought Seabrook was not expensive. Hawkins said the word outside is that Seabrook is fairly inexpensive and easy to deal with. He thought the fee schedule had been fairly low, although some surrounding towns without much development would never cover their costs. He thought that Portsmouth and Exeter fees were equivalent or higher. Janvrin noted that other towns have full time staffing. Khan said that each Board member was elected by the people and work for the taxpayer, and not for the developer who has to pay for this. Hawkins thought Frazee's concern was if fewer people will want to develop in Seabrook. He thought location was a big factor; Seabrook is on the Massachusetts border and did not have a sales tax and would remain popular.

Hawkins asked for public comment; there being none.

<b>MOTION:</b>	<b>Hawkins</b>	<p><b>to approve the changes to the Subdivision and Site Plan fee schedules as posted in the Planning Board Agenda of February 19, 2013 with the elimination of the proposed Section 4.330 of the Subdivision Regulation and the \$50,000 cap in the Section 3 of Site Plan Review Regulations, as follows:</b></p> <p><i>A) Revise the Subdivision Regulations by amending Sections 4.200 thru 4.400 of the as follows:</i></p> <p style="text-align: center;"><b>Section 4.200 Application Fees</b></p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">Subdivisions up to five lots, no road</td> <td style="text-align: right;">\$ 200 + \$100 per lot</td> </tr> <tr> <td style="padding-left: 20px;">Subdivisions up to five lots, with road</td> <td style="text-align: right;">\$ 500 + 250/lot</td> </tr> <tr> <td style="padding-left: 20px;">Subdivisions in excess of five lots</td> <td style="text-align: right;">\$1,000 + \$500 per lot</td> </tr> <tr> <td style="padding-left: 20px;">Lot Line Adjustment</td> <td style="text-align: right;">\$ 300</td> </tr> <tr> <td style="padding-left: 20px;">Perimeter Survey</td> <td style="text-align: right;">No charge</td> </tr> <tr> <td style="padding-left: 20px;">Voluntary Lot Merger</td> <td style="text-align: right;">\$ 100 + \$50/lot</td> </tr> <tr> <td style="padding-left: 20px;">Abutter Notices</td> <td style="text-align: right;">\$ 100 +</td> </tr> <tr> <td style="padding-left: 20px;">owner &amp; applicant +</td> <td style="text-align: right;">\$ 10.11+</td> </tr> <tr> <td style="padding-left: 20px;">abutter</td> <td style="text-align: right;">\$ 7.56</td> </tr> <tr> <td style="padding-left: 20px;">Public Notice</td> <td style="text-align: right;">\$ 150</td> </tr> <tr> <td style="padding-left: 20px;">Incomplete application processing fee</td> <td style="text-align: right;">\$ 75</td> </tr> <tr> <td colspan="2" style="padding-left: 20px;"><b>Recording of mylars &amp; documents</b></td> </tr> <tr> <td style="padding-left: 40px;">Actual recording cost plus</td> <td style="text-align: right;">\$ 100</td> </tr> <tr> <td style="padding-left: 40px;">Application Administration Fee</td> <td style="text-align: right;">\$ 150</td> </tr> </table>	Subdivisions up to five lots, no road	\$ 200 + \$100 per lot	Subdivisions up to five lots, with road	\$ 500 + 250/lot	Subdivisions in excess of five lots	\$1,000 + \$500 per lot	Lot Line Adjustment	\$ 300	Perimeter Survey	No charge	Voluntary Lot Merger	\$ 100 + \$50/lot	Abutter Notices	\$ 100 +	owner & applicant +	\$ 10.11+	abutter	\$ 7.56	Public Notice	\$ 150	Incomplete application processing fee	\$ 75	<b>Recording of mylars &amp; documents</b>		Actual recording cost plus	\$ 100	Application Administration Fee	\$ 150
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owner & applicant +	\$ 10.11+																													
abutter	\$ 7.56																													
Public Notice	\$ 150																													
Incomplete application processing fee	\$ 75																													
<b>Recording of mylars &amp; documents</b>																														
Actual recording cost plus	\$ 100																													
Application Administration Fee	\$ 150																													



## **Town of Seabrook Planning Board Minutes**

Tuesday, February 19, 2013

NOT OFFICIAL UNTIL APPROVED

### **Section 4.300 Additional Fees**

**4.310 Professional Review** - All plans will be reviewed by the Town Planner. All subdivisions that include provisions for roadway construction or connection to Town services, and most site plans, will be reviewed by the Planning Board's engineer. The cost for such reviews shall be borne by the applicant.

**4.320 Technical Review Committee** – The applicant shall reimburse the Town for the cost of Technical Review, if such review is required by the Planning Board. The calculation of such costs shall include the hourly rates for each member of the Technical Review Committee, and that of the Secretary.

**4.330 Charge for Extensive Review**

**4.340 Re-submittal of an Application** – A re-submittal fee will be assessed, said fee to be at least one half the original application fee, but no less than \$500. In the event that the Planning Board's review of the re-submittal extends more than three meetings, the applicant will be assessed the original application fee in addition to fees specified in Section 4.330 above.

**4.350 Administrative Services** – The applicant will be assessed an administrative fee of 20 per cent of the cost of professional services rendered to the Planning Board. Said fee is intended to cover accounts payable and record keeping, but in no instance shall the fee exceed \$100 per invoice.

**4.360 Construction Oversight** – The applicant shall reimburse the Town for all costs of outside inspection services incurred by the Building Department.

**4.3270 Additional Fees** may be required for administrative expenses, special investigative studies, review of documents, and legal and other professional services that may be required by a particular application. The Planning Board reserves the right to recover all legal fees in connection with an application, including court related fees.

### **Section 4.400 Refunds**

**A) Upon withdrawal of an application, eligibility for refunds of application fees are as follows: 75% refund after the application is accepted by the Planning Board's secretary; 50% refund after the application is reviewed by the Town Planner; and 25% after the Town sends abutters notices. Should the application be reviewed by the Planning Board at a formal acceptance hearing pursuant to Section 5 below, no fees will be refunded.**



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		<p><b>4.410 All out of pocket expenses for public notices, abutter notices, Town Planner, Town Engineer, special studies, professional reviews &amp; inspections and other professional services are the responsibility of the applicant, and will only be returned if the funds have not been expended.</b></p> <p><b>4.420 The Planning Board has sole discretion on the decision to return fees.</b></p> <p><b>4.430 The Application Refund Policy shall apply to all applications made to the Planning Board.</b></p> <p><b>4.440 The minimum application fee shall be \$100. No refund shall be approved by the Planning Board that reduces the fee below \$100.</b></p> <p><b><i>B) Amend Section 2 of the Site Plan Review Regulations as follows:</i></b></p> <p><b>Impacted Area: Any area altered from its current state. For the purpose of calculating application fees, an application for building re-modeling shall calculate, at a minimum, the area of the building's footprint.</b></p> <p><b><i>C) Revise the Planning Board fee schedule by amending Section 3 of the Site Plan Review Regulations as follows:</i></b></p> <p><b>The application fee for site plan review is \$300 + \$100 per every 1,000 square feet of impacted area. For purposes of determining the appropriate application fee, the plans shall identify and measure the area of all impacted areas, including, but not limited to, buildings, parking, landscaping, woodlands, and wetlands.</b></p> <p><b>All additional fees specified in Section 4 of the Subdivision Regulations apply to applications for site plan review.</b></p> <p><b>The application fee for condominium conversion is \$300 plus \$100 per condominium unit.</b></p>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: In favor: Hawkins, Khan, Sweeney, Frazee, Lowry Opposed: Janvrin</b>



# Town of Seabrook Planning Board Minutes

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## **RECORDING SITE-PLANS –DRAFT LANGUAGE**

Tom Morgan, Town Planner

**Add the following to Section 5 of the Site Plan Regulations:**

**5.200 The site plan shall meet the recording requirements of the Rockingham County Registry of Deeds.**

Janvrin recalled that this had been discussed. Kravitz said this public hearing was posted. Morgan noted that the Board only records lot-line adjustments and subdivisions, and could decide to record site plans. Kravitz pointed out that this language did not address the site plan potential. Morgan said that adopting this provision would facilitate the filing of siteplans. . Hawkins said not every site plan page would be recorded. The Board needed to decide what part of site plans should be recorded.

<b>MOTION:</b>	<b>Hawkins</b>	<b>to add the following to Section 5 of the Site Plan Regulations: 5.200 The site plan shall meet the recording requirements of the Rockingham County Registry of Deeds.</b>
<b>SECOND:</b>	<b>Janvrin</b>	<b>Approved: Unanimous</b>

## **OTHER BUSINESS - continued**

### **CHALLENGE GRANT PROGRESS**

#### **Round 1 Progress**

Separate meetings were being scheduled with Rocks Road neighbors to see if they want to be part of the discussion, and also with other neighborhoods and businesses. He commented that more of that should have been done for Smithtown. That grant is proceeding well.

#### **Round 2 – Application Submitted**

Hawkins said that the submission for Round 2 would be to look at Route 107 going west to see if there should be changes to the applicable zoning, in accordance with the Master Plan. If gambling were passed in the state something would happen, and that is the town watershed area. The approach would be similar to that used for Round 1 to envision what could and should happen while protecting the watershed area. As it stands, we can expect another Route 1, so the objective is to do some panning work beforehand and maybe influence the way it happens. Neighboring towns want to be involved in the discussions because they get impacted as well. The application had been submitted. Hopefully it will be successful; he thought it would. This work had to be done, even if Seabrook did not get this award. If not, it would have to look for funding somewhere, although he did not want to ask taxpayers. Janvrin said this subject had come up at RPC with Kensington and Hampton Falls. Kravitz reported that the Town of Kensington wrote in support of our application. The Water Superintendent sent a brief statement about how important this study would be.



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Khan noted that the Town spent about \$100,000 some years ago for water near Pineo Farms. The then Town Manager recommended that the Town purchase that land for future water supply. He suggested that this be included in the scope of the grant work. Hawkins asked who would have that study. Khan thought that the Water Superintendent would have the study. He had visited the land, owned by Green & Company, about six years ago, and thought the Town should acquire it. Janvrin asked for the location. Khan said it was near the Pineo Farms development.

### **APPLICATION TO BE REVISED**

Kravitz said that the Planning Board Application would have to be revised to accommodate the new fees. She asked for consensus so that this could move forward. Hawkins said that was a given. Khan asked for a copy. Kravitz would bring this to the next meeting. However, two of the cases for this hearing were submitted with the new fee schedule, so this cannot wait.

Hawkins adjourned the meeting at 9:15 PM.

Barbara Kravitz, Secretary,  
Seabrook Planning Board