



## Town of Seabrook Planning Board Minutes

Tuesday, March 6, 2012  
NOT OFFICIAL UNTIL APPROVED

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

Members Absent; Robert Fowler; Paul Himmer, Alternate; Francis Chase, Alternate;

Hawkins opened the meeting at 6:35PM.

### **MINUTES OF FEBRUARY 21, 2012**

Hawkins tabled the Minutes of February 21, 2012 to March 20, 2012.

### **SECURITY REDUCTON**

#### **Case #2001-06 Stard - Whitaker Way**

Hawkins referenced a letter from Attorney Hector Zumbado, Zumbado & Associates, stating that he represented the interests of Margaret Stard. As Whitaker Way had been a town road for several years, Zumbado requested that the security balance of approximately \$15,000 be returned to Stard. Hawkins asked if the department head sign-offs had been provided. Kravitz said that would have been done at the time of recommending that the town accept Whitaker Way. Morgan wanted to hear from the Public Works Manager. Garand asked if the file was complete. Kravitz thought it was. Hawkins asked if there were a usual procedure re giving back security. Foote explained that security is usually returned after there has been a full one-year cycle without damage, and thought the Whitaker Way top-coat had been in place for about five years. Foote was not aware of any complaints. Hawkins asked for Garand's comments. Garand was concerned because there had been complaints about the Coca Cola property drainage which actually came from Whitaker Road. Hawkins asked that Kravitz get the DPW Manager's comments including whether the condition of the road is ok to return the security.

### **CORRESPONDENCE AND ANNOUNCEMENTS**

Hawkins referenced an **announcement concerning certain stormwater regulations that may affect current projects**. Foote explained that this is the new regulations that apply to MS-4 mandates apply to the property owner, and a stormwater team will have to be on-site. However, the town would be responsible if the stormwater goes off the site, for example, for sedimentation issues. Hawkins said the Planning Board and the DPW would have to get up to speed re these new regulations. Foote said when the run-off goes off-site the town becomes involved. Foote noted that Jim Kerivan or Joe Boccadero would be able to create the report to the Environmental Protection Agency. Hawkins said this seems to be project specific and apply to current as well as future projects, so information gathering should be very timely. He thought that the DPW Manager should coordinate this, and then the Planning Board would have the guidance. Foote said the stormwater team would be the property owner's responsibility to put together.

Hawkins thought the town would be involved in sites over one acre Hawkins said a Planning Board member should be part of the stormwater team. Foote said when the run-off goes on to town property, the town needs to know what's happening; the town would then own the problem Morgan will find out how these regulations apply to Seabrook. The Board would want to know what it can do at the site plan level to help the town comply. This is a technical review item so a consultant would be needed for any case that is affected. Foote noted that this MS-4 regulation



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is not the federal 2012 Initiative expected to be published in the fall, when no community would be exempt. The MS-4 goes by density of population near a water body.

### **FEMA Actions in the Town of Rye**

Hawkins referenced a newspaper article reporting that several homes on the floodplain in Rye have been designated by FEMA as not properly constructed. The homeowners have been given a year to fix the problem, (e.g. fill basement with two feet of soil or raise the level of the first floor) or face the possibility of the town losing FEMA support for flood insurance. Hawkins noted that all of the affected homes had been inspected in Rye, and FEMA was pushing hard on this. It was a reminder to keep up on the regulation changes. Janvrin thought new FEMA maps were due this year. Massachusetts had already been done.

### **Smithtown Village Proposal - Update**

Hawkins said that if passed by the voters next week, the change in zoning would begin at the Home Depot and go south to the Massachusetts line. Smithtown Village would allow mixed residential and commercial development so that smaller businesses could locate there. Building size would be limited, so that there would be no big boxes south of the Home Depot traffic signal. Hawkins said that a power point presentation could be found on Channel 22 as well as the Seabrook website; flyers are in various locations including Town Hall, the Community Center and the Library.

Foote stated that she had received up to a dozen emails from individuals that had the misconception that the Smithtown Village proposal was being pushed by outsiders. This was not true; the ideas came from Seabrook residents and were developed by the Master Plan Steering Committee and the Planning Board. The concept developed entirely by Seabrook residents was put into words and drawings with the assistance of Julie LaBranch of the Rockingham Planning Commission. Hawkins said the vision emerged during the Master Plan Update process which involved interviewing many residents. The top items expressed by participants in many interviews and the survey were that there was too much traffic on Route 1, and they missed the old town appeal of the early Seabrook atmosphere. The vision could emerge slowly over 20 years. Hawkins said that the job of the Planning Board was to plan, and the objective was had been to calm down the traffic and bring back the old town feel.

### **Informal discussion with Demoulas Representatives**

Hawkins said there had been a request to postpone this to a later date.

### **Alternate Member Process**

Hawkins explained that he was keeping a list of individuals who want to serve as alternates on the Board, and related that some concern had been expressed about alternates not being able to participate during deliberations. He asked for Morgan's comment. Morgan said he was not aware of a limitation. Janvrin said he'd never seen a statute re not allowing alternates to participate, but they could not vote. Hawkins asked Morgan for comments. Morgan said he had not seen such a statute. Hawkins said that when there were more alternate members at a meeting than could vote, he would announce the member voting in that session. For this meeting, Lowry would be the voting alternate.



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## **PUBLIC HEARINGS**

Hawkins opened the Public Hearings at 7 PM.

## **NEW CASE**

### **Case #2012-03.11-18E – Proposal by Anthony Vorias, Arencos, Inc., and SustainX, and Jayce, LLC to construct an 18,400 square foot addition to the industrial building at 72 Stard Road, Tax Map 4, Lot 19-1.**

Attending: Dax Kepshire, SustainX; Jim Bosco, consultant; Kent Worden Jim Peters, Arencos; Appearing for the Applicant: Wayne Morrill, Jones and Beach;

Morrill said that SustainX was housed in the 38,000 square-foot building with 100 parking spaces formerly occupied by Xaloy and approved in 1999. Part of that application included a future addition of 18,400 square feet and contemplated additional parking; the topographic survey showed clearing to the line; the plan showed the loading platform, driving in back, and roof drains. Morrill said that SustainX now wants approval for the previously contemplated 18,400 square-foot addition, with porous pavement and the roof run-off draining to the rear detention pond; they would not need additional parking at this time. He described how the addition would actually be an extension of the existing building and architecture, and that everything had been stabilized in preparation of the addition. Worden said that in 2011 received Planning Board approval to raise the former Xaloy building roof, although this had not been done yet because the company was not sure of the dimensions they would need. The construction would be done in phases.

Kepshire explained that the SustainX technology is a compressed air storage system designed to expand energy output and store excess capacity for reliable and predictable later use. The company is building its first commercial-scale prototype to be ready in 2013. It would supply enough energy for 2000 homes. Through Unitil they would provide energy to large scale distributors such as Pacific Gas and Electric, Southern California Energy, and First Energy to better control their output. Khan noted that Senator Jeanne Shaheen’s visit had gone well, and said that people want to know how many jobs would be created. Kepshire said the hiring plan in the near term called for several highly specialized talent as this facility is a research and development plant. Later on, there would be hiring some local technicians. Eventually they expect to have hundreds of manufacturing jobs to fill, and they will train technicians to assemble the equipment on site. Hawkins recalled they had been moving along well, and asked if there had been setbacks. Kepshire said they were still going strong, but it took a long time to build the prototype, identify component vendors, etc. They expected to be ready with the prototype early next year, so they have an accelerated timeline. Hawkins asked for Morgan’s view re the application. Morgan said he had commented on a number of technical items in his memo, and recommended accepting the application.

<b>MOTION:</b>	<b>Foote</b>	<b>to accept Case #2012-03 as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Hawkins said that as there would be new construction a technical review would be in order, particularly in light of the new stormwater standards and rules. He noted that Morgan had been reluctant to accept the original stormwater drainage report done for Xaloy. Morgan said the regulations today are more stringent and he did not see evidence that that had been addressed. Morrill said that the existing detention ponds were designed for the addition; they work well and



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are stabilized. If they had to alter them to today's regulations, it would mean destructing something was that actually working properly. He was not sure that would be helpful. Hawkins said the Board cannot just close its eyes; it is not a rubber stamp. If the building had been built, that would be ok. But this is new construction and a sizable addition, and he wanted another look by the professionals. Janvrin asked for the year of original construction. Morgan said it was submitted in 1999 and approved in 2011. Hawkins said the last application was to make the building taller without changing the footprint. Morrill said one reason for proceeding with the addition now, is so that the elevation would drop down for bringing the large equipment components into the building. This would be more economical; otherwise it would mean ripping up some of the flooring. The Applicant is eager to get going. Hawkins said that SustainX technology is exciting for Seabrook, but the Board had its responsibility to go through the steps. Kent understood, but said the first construction phase would be only 3,000 square feet and that this is critical to get the prototype done this year. Hawkins said the Board has a history of moving projects through quickly. A technical review for this size project would be appropriate, although it might take a couple of additional weeks. He said the Board appreciates the time that the staff is available to the Technical Review Committee.

Foote believed they could start the ground work at their own risk, and had the right to apply for a building permit. Primarily it would be the stormwater and stormwater treatment that might require the restructuring of the detention pond. TRC's main interest would be those sorts of items. The main item would be to bring the detention pond up to today's standards; this included plantings, basins for siltraton, and benches for separations. Foote thought they would not have to just sit on their hands until after the TRC, and did not think this was a negative for the building plans. Hawkins asked for Morgan's comments. Morgan deferred to the CEO's general practice. Janvrin asked if they would have to apply to the NH Department of Environmental Services. Morgan thought probably not. Hawkins asked for Garand's comments. Garand said usually no work occurs on site the building permit couldn't happen until the Planning Board had approved and security was in place. This seemed to be jumping around the procedures around. He recommended that it would be better to go slowly, including for the abutters. All of the requirements needed to be on the site plan. Janvrin said after TRC the case could be back to the Board the first meeting in April. **Hawkins forwarded Case #2012-03 to the Technical Review Committee meeting of March 26, 2012 at 10 AM in Seabrook Town Hall, and continued Case #2012-03 to April 3, 2012 at 6:30 PM in Seabrook Town Hall.**

Hawkins noted the Waiver request re stormwater matters would need to be addressed after hearing from TRC, and said that would be decided through the final deliberations. Foote commented that if the landscaping and lighting were in, the major differences would be re the stormwater during the last ten years. Morrill said that the front pond works well and has vegetation, turtles, etc., and asked if it would have to be altered. Foote thought only the back pond would need alteration, as it would be affected by the building change. Morrill said they would look at both ponds, but would not want to make changes in a well-established pond. Hawkins wanted to know about changes made since 2001, particularly in re potential liability for the Town if water leaves the site. He did not want to fix something that wasn't a problem. Janvrin wanted the comparison of the recently adopted regulations to those applied in the previously approved stowmwater maintenance plan to assure that the current regulations were being followed. Morrill said the criteria did not exist in 2001, so he would be hesitant to put in a gravel wetlands or outlet for a functioning pond. Janvrin thought only the backland would have to be looked at. Morrill will concentrate on any impact to the back lands. Foote thought it might involve some sedimentation traps and berms or plantings.



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### ONGOING CASE

**Case #2011-31.10-22 Proposal by 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 3, 2012; January 17, 2012, February 21, 2012;

Attending: Steven Coes, Projects Manager, NextEra; Eric Wood, Acentech, acoustical consultant for the Planning Board;  
Lowry recused himself because he lives in the neighborhood. Hawkins said that Paula Wood would sit as the alternate for this case.

Hawkins recapped that the Board had identified Eric Wood of Acentech as the sound consultant to assist it with this case. He said that Eric Wood had attended a previous meeting to update the Board on his proposal and how to implement it, indicating that the Board wanted comfort for the neighbors re the noise levels.

Eric Wood said that he had listened carefully at the January 17, 2012 Planning Board meeting, and felt a reasonable response on the part of the neighbors, NextEra and the Board members to do the right thing. His proposal would utilize a transparent methodology in which the noise levels could be quantified with evidence available to all the parties. Wood said he'd been provided with the relevant Minutes of the February 21, 2012 meeting which he was unable to attend, and understood that one year was a long time. However, some individuals had expressed the desire to have noise data for the different seasons, and for the firing of different sized weapons. He agreed that sound does travel differently at various times. Eric Wood said maybe a year is too long time; the data collection could occur only in the spring, or in two seasons, if that was what the Board wanted. The proposal could be adjusted to whatever the Board wanted.

Wood said if the instruments were installed, they could be removed at the pleasure of the Board at whatever point the Board was satisfied, for example, at eight months. Certainly a lifetime would be unreasonable. Hawkins thought after the installation, complaints might be known within a week, if NextEra were allowed to do firing at night. If there were ten complaints within a week, the firing would be stopped. Eric Wood agreed, but thought that if the noise was unacceptable, NextEra would want to fix the problem; then the data collection would have to be repeated. Wood agreed that the initial installation costs would be the same no matter how long the timeframe. He believed that NextEra wanted to use the range, and commented that the neighbors seemed very cooperative, but want to sleep at night. Hawkins thought so far there had been feedback from one person. Foote said it was unfortunate that the half-dozen people in the Rocks Road and Dows Lane area who spoke with her, apparently don't want to call the Planning Board or the CFO to get this documented. During the daytime they can hear it, but it doesn't seem to be much of an irritant. They aren't sure that if that same noise were at night it could be an irritant. Eric Wood respected that concern, and said it would be almost an experiment for NextEra to demonstrate that night use is what they said it would be.

Hawkins proposed that NextEra be requested to provide a letter agreeing to pay for all the costs, because it is not insignificant. Acentech's installation would be at a cost of \$14,000 per monitoring equipment set-up, plus approximately \$30,000 in consultant analytical fees. Eric Wood said the consulting costs might be less. Hawkins did not want to sign a contract only to



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have the applicant not want to go forward. Eric Wood agreed. Hawkins asked Coes if NextEra would agree in advance. Coes said they would have to know how many meter locations would be involved; he thought three or four. Eric Wood wanted one monitoring device very close to the range, and one or more at selected locations. He noted that Rocks Road was not a very big area, but he would worry about noise prone shopping center commercial location that was considerably away from the firing range; he recommended no more instruments than necessary. Coes expressed concern about the cost.

Eric Wood said he needed to be guided by the parties. He thought it would be important to have one instrument very close to the range, and one or more meters at places in the community where people are concerned for comparison. Rocks Road was not a very big neighborhood, and would not need lots of instruments. He recalled that a concern had been expressed about a new shopping center. Controlling the noise for nearby neighbors was one thing, but a commercial shopping center was considerably further away which he did not think should be an issue. Eric Wood did not want any more instruments installed than the parties thought was necessary i.e. what the project deserves. Coes said he could not authorize anything before knowing the cost. getting Eric Wood said he would be guided by what the Board felt was necessary. Hawkins noted that one person at the previous meeting said he had heard it at his house. . [The Board looked at a street map.]

Eric Wood recalled that someone mentioned a location two houses from Route 1. A location close to Route 1 would not be a help, because there would be sounds every time a car went by on that road. Hawkins asked about going all the way up to the Holiday Inn. Eric Wood recommended not doing that. Foote was concerned that the firing range noise could not be distinguished from that of vehicles, and noted that a tire in that area would also produce noise. Eric Wood agreed, but said that location was really far away; he would focus on the homes. Hawkins asked how many meters for that. Eric Wood suggested two. Hawkins said to put one monitoring device at the Transfer Station because that location is cited in the application request. Foote recommended a location on town property which would have easy access and was near the home of the person who commented at the prior meeting. Janvrin suggested the sewer pumping station. Eric Wood said it would be best to be near electrical and internet resources, rather than have to rely on battery power. He understood the significance of the Transfer Station, but felt that people's homes were most important. Eric Wood said that the Transfer Station would not com plain, but noted that it is in the stipulation. Hawkins said the only reason the Board is going through this process is to see that the people who built before don't have a problem with noise [today]. Foote called attention to two people in this area who say they hear the noise. Eric Wood said if the neighbors have a real problem, the Board will hear about it and be aggravated. Hawkins said that the references that Foote made are further away than the Transfer Station.

Paula Wood said that sound from the power station travel to her house; at her house she hears the fire station sirens too [it sounds] like a straight line. She wanted to know about the next step, if the report shows that the shooting bothers the neighbors, and if NextEra would be asked to fix the building.



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Hawkins continued with his proposal below, assuming the number of monitoring locations would be agreed. Eric Wood commented that this should be reasonable and not an overload.

- (i) NextEra provides a letter of agreement agreeing to pay for one year of equipment installation and monitoring;
- (ii) If the letter is received from NextEra, The Planning Board would sign the agreement with Acentech;
- (iii) Installing the monitors would commence;
- (iv) The CEO would issue a conditional permit allowing certain testing at night;
- (v) The Planning Board would review the data quarterly, however, the permit would be revoked if a lot of complaints were received from neighbors;
- (v) In that event, the sound data would be reviewed in light of the neighbors' complaints, and NextEra's request for the waiver.

Hawkins said that if NextEra could not fix a problem with screening or bushes, it could look at making changes to the building. At that point, the Board would be in a position to make a decision based on the results. It would be good if this takes nine months; if it's a three-week period that wouldn't be good. Hawkins thought it was important to start with some night hours, or the information would never be obtained.

Paula Wood asked if any other ranges have night hours; she was concerned as to why they cannot do the scheduling for all of their personnel during the day. Eric Wood said that if the shooting sounds didn't bother people at night, that would be ok. Thibideau said people are hearing it now, commenting that the town does not allow trash pick-up after a certain hour at night, or allow trucks in any of the malls with their engines going at night. She asked how the Board could allow guns going all night long, and said she would not approve of this at all. Hawkins said that that was what the design of the building was supposed to do. Paula Wood said that people cannot be stopped from breaking the rules. In this case, people hear the noise and do not come forward. Eric Wood said the difference would be that the noise would be quantified with numbers, noting that there is noise all over the town, indoors, with lots of noisy equipment. For example, one applicant who runs air compression equipment, eventually would want to run more than one shift. That's ok if it is in a well-designed building. Paula Wood noted that company was in an industrial area without homes across the street. There are people who are bothered by noise but will not come forward.

Hawkins said it is not the Board's responsibility to dictate how to run a business. But if they are disturbing their neighbors, the Board wants to see that is taken care of. If they can modify their building so the sound doesn't leave the property line, they can operate however, they want. The Board's job is to see if it is disturbing the neighbors. If it is, the Board can stop it. That is why he was proposing a conditional permit so the data could be collected. If after days or a week or so everyone is saying it is too noisy, then the board should ask the CEO to pull that permit because it would not be meeting the conditions that he set. That's the Board's job. Janvrin did not want to bring someone on Rocks Road to a point where they would be turning a gun on him. Hawkins said the Board has to listen to what the neighbors say; if it is too loud the Board would have to stop it. Janvrin said the Board needed a mechanism to stop the [excessive] noise. Hawkins said that is what the CFO is for.

Khan said this discussion during the last few weeks seemed to place the burden on the Board. The Board did not build the building so close to the residential housing. NextEra came to the Board with a proposal; they are a good neighbor and their project was approved. Now it is not working. NextEra is responsible to fix the problem and to show the Board that the residents can



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live and sleep peacefully. Their houses were there long before [the shooting range]. He thought rather than long-term monitoring, it would be best to have a professional review for two to three months so the Board could make a decision about 24 hours. It might be for a more limited time period e.g. 14 hours; if NextEra could improve the building then the Board could reconsider in the future. Eric Wood thought that NextEra built the range and somebody, maybe the contractor and not them, made an error and it was noisier than they wanted it to be. Then NextEra took corrective steps. Now they are asking to run it at night. The Board is asking to measure, listen and quantify with data to see if it is good enough. If it is not, the Board could say that the noise level needs to be reduced by a certain amount. The data is needed to document whether it is good enough and, if not, what needs to be done to fix it. The Board is saying that Acentech could do this. NextEra already had good people looking at this who could do this. Eric Wood felt that at this time his job would be to work with the Board.

Foote said the initial permit had no restrictions as to hours, only what would be imposed on all other businesses i.e. discernible at the property line. If neighbors are bothered by the hum from rooftop equipment, a business would have to figure out what to do - they could use sound reducers. Theoretically, NextEra could already be operating 24 x 7 with the permit they already have. She believed that they have realized that they cannot operate under those conditions, so they came forward to ask the Board to allow them to have 15 decibels above the 44 base level at the property line. That meant 59 decibels (24x7), which did not seem so loud at 2 PM but at 2 AM could sound very loud. Eric Wood pointed out that that wouldn't be a factor at the Transfer Station because no one would be there [at night]. If they complied with "not discernible at the property line", that would be pretty good. She thought if they stick to the request re sounds along the Transfer Station road, the residents would have nothing to do with it.

Morgan commented that under the request residents were not to hear the shooting sounds at all i.e. the sounds would not be discernible at the property line. Hawkins read from the request that "...noise shall not be discernible at the Rocks Road residences closest to the firing range. Noise levels along the existing Transfer Station Road shall be limited to 15 decibels above the measured background noise of 44 decibels." Hawkins said in the original case there was the statement that the noise shall not be discernible at the property line for the residences. Hawkins said this could be approached in steps to get the data, beginning with up to 11 PM, as a starting point. If the data dictates, or the neighbors complain, the [night hours] are stopped and the Board would discuss it and either reject the application or say more work is needed by NextEra and the monitors would stay in place. The Board would be unhappy if there were complaints without a starting point to compare. Thibodeau thought people would first call the police about loud noise in the night; they would not call the CFO who would not be in his office at night.

Morgan said to return to the stipulation in re noise not being discernible at the residences at Rocks Road, not whether people are bringing complaints or are unhappy. If they can, then NextEra is not doing what they said. Janvrin said that about 10:30AM on February 28 he could hear the small arms firing from the sewer pumping station at the Transfer Station Road, and posted a note on Facebook. Foote had seen that posting. Janvrin asked Coes what was fired at that time. Coes did not have that update. Eric Wood cautioned not to go overboard on the number of monitors, which would be a burden to all, and to pick a reasonable number. Another monitoring device could be installed later on, if necessary. He noted that sounds can diminish with temperature changes. Janvrin noted the desire for electric and internet connection. Eric Wood wanted both of these, but said while an internet connection would be real time, it might be done through a cell phone. Coes asked if one were at the pump station (before the first residence), would there be a way to get more sound beyond that. Eric Wood said it would be



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very unusual; as sound waves go out they diminish. Strange things like temperature inversions, rather than a cloud cover, could happen.

Khan asked how many firing ranges that Wood had visited operate 24 x 7. Eric Wood did not know. Most of Acentech's noise monitors are not at shooting ranges. Noise issues happen mostly at hospitals or research facilities when construction noises, like pile drivers, might affect very sensitive MRI equipment by blurring the image. In such situations they are involved in helping the contractors and the hospital staff with scheduling the work. This also happens with research facilities that have super sensitive materials. For example, the town of Richmond, RI wanted to monitor potential noise levels for a proposed mostly indoor shooting range with lots of barrier walls at an abandoned golf course. The town asked Acentech for a simulation of the potential noise levels, which resulted in the developer withdrawing the application, perhaps because they couldn't accomplish an acceptable level; this made the neighbors happy. Lots of shooting ranges used for the military or law enforcement are monitored, but he could not say the hours they operate.

Khan said that NextEra had not offered any solution if the report comes in six months. Hawkins said that after reviewing that data, NextEra might decide to make an adjustment inside the building. If the neighbors are still disturbed, and the data shows unacceptable noise levels, the Board could deny the application. Eric Wood said that NextEra could decide to fix the problem or withdraw the application. Foote said that the Planning Board's job is not to find solutions to problems; handbooks strongly caution boards not to make recommendations, because an Applicant could come back and say that the Board said to do it; it cost a lot of money, and now it didn't work. Eric Wood said the Board would not want that responsibility. Foote said the Board had to be very careful not to make recommendations on how to resolve an issue; it could only approve or deny the proposal.

Morgan said collecting the data would be step one. It appears that Coes is not sure that NextEra would finance this, and could not make a decision until the number of monitors and their placement was determined to arrive at the cost. At this meeting the Board could decide on the number of meters and the logical place(s) to put them. Coes could then inform NextEra. Paula Wood had been leaning toward about four meters, but if the objective were not to be discernible at the property line, monitors should be placed at the Transfer Station and at a residence closest to the property line. If it doesn't go beyond the property line, her neighbors, and people on Dows Lane and Rocks Road, won't hear it. The Board would then have the data. Foote thought the placement should be at the Rocks Road residence closest to the [NextEra] property line and the Transfer Station, which are the points mentioned in the Application. Paula Wood agreed, saying that would not overburden anyone and the appropriate data for the board to make a decision would be there.

Eric Wood recommended 2 monitors at residences to better satisfy the neighbors. He preferred a meter next to the firing range, but understood that the Transfer Station was the location cited in the proposal. He asked if the gun shots would be heard at that point. Foote thought they would. Hawkins wondered if a total of three monitors would be enough, and if the cost stated in the Accenture proposal would cover this. Eric Wood said it would. Coes noted that the sound levels are discernible at the Transfer Station as stated in the proposal. [Foote and Eric Wood looked at the area map.] Eric Wood noted a barrier on the roof and that some direction might be blocked. Foote thought [the barrier] might explain why some sounds might be heard away from the range, but people aren't calling about it. Hawkins asked for Eric Wood's expert recommendation. Eric Wood recommended placing one monitor at each of (i) the Transfer Station, (ii) the Heap residence, and (iii) a residence near the mobile park. Hawkins thought Heap would be ok with a



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meter on his property. Thibodeau noted that Janvrin has heard the firing. Hawkins said if people are already saying they can hear it, then perhaps the Board should rethink what it is doing. However, he thought that was NextEra's choice. If they do not withdraw their case, then the Board has the responsibility to decide how to rule on the case. He thought the Board would have to all go out and listen for the sounds, or get some other proof with data that says the sounds are heard. The Board doesn't sign a contract until NextEra says they will pay for it.

Coes asked if the set-up cost would be \$14,000 for the installation cost per meter (in total \$42,000), plus approximately \$30,000 for the monitoring and analysis. On that basis, he thought the cost would be \$72,000 for the year. Hawkins said there might be some reduction, if the duration was for less than one year. The Board would not be signing the contract unless NextEra says to go ahead. Coes said they would not want the hours of operation to go past 10PM in the first phase, so that they could see how it is working. Foote noted that the Board usually allows operation to 10PM. Hawkins said the Board would need an answer from NextEra as to whether this is an acceptable up-front cost, to see if this is a "go", before signing the contract. If not, and the Applicant did not withdraw, the Board would have to decide how to vote. Janvrin commented that if the answer is no, the Board probably would vote not to approve.

Coes understood that the cost would be \$72,000 for installation of three off-site meters, including at the Transfer Station, and \$86,000 if there were a fourth inside the range. Hawkins said the Board did not care how loud the sound was inside the range. The ambient outside noise plus the added noise from the range was what the Board was looking for i.e. how much was NextEra contributing to making that higher. From the drawings shown in the proposal, there would be a "spike" in the reading that could be seen. Eric Wood wanted to see that big spike inside the range because sound diminishes as it goes out. He thought the Board had said that having a monitoring meter at the Transfer Station would satisfy that need. Hawkins asked if Wood was trying to determine exactly when the shot was fired so he could see a pretty big spike on a meter at the same time. Hawkins asked if that meant that he wanted to see the same timeframe on a meter as when the shot was fired. Wood confirmed this. Hawkins asked if that meant that a meter would be required inside the range.

Eric Wood explained that if he sees a peak at one point in time and a meter reading eight seconds later, then he would know that it was a car door, or the like. He needs to get a good signal from a meter that could be inside the building, or outside, or on the roof - someplace close enough to correlate the gun shot reading with the meter readings. In a photograph one might think that a meter at the Transfer Station is good enough. The trouble with the Transfer Station is that the daytime gun fire sound won't be "clean". Hawkins suggested one meter in the building or right outside, 1 in the neighborhood, and one at the Transfer Station. Foote noted that it is often quiet at the Transfer Station, even in the daytime. A dump truck might show up once in three hours to dump a load of rubbish, or a construction company with a load. It's not a big city transfer station; they might just be sorting items. Hawkins wanted a motion to get a letter from NextEra that they will accept the full cost of the project. At that point, the Board would sign the Acentech agreement and have the monitors installed - probably three. Code Enforcement would then be asked to issue a conditional permit to use the range from 7AM to 10PM for a three month period. The Planning Board would review the data at the end of the three months. If there are complaints from the neighbors, the permit would be immediately withdrawn and the Board would meet again to determine the path to take. It would be up to NextEra, or the Board could decide to reject the application.



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Janvrin said if there's a problem they should go back to what is being done now. Hawkins said that would be acceptable. Khan wanted all calibers of guns [they use] to be fired during the three months, otherwise there wouldn't be enough information. Eric Wood asked Coes about keeping track of the firing times. Coes said Hawkins proposal would be fine up to 10 PM. Coes said they would not be firing large calibers at night, but he understood that the data needs to be collected. Hawkins said if the large caliber gun is fired during the day and neighbors call up, something has to be done. He thought that Khan's request was appropriate. Coes didn't want to fire such guns at night, as that would cause complaints about shooting a 50 caliber weapon. Foote asked if the 50 caliber had been shot during the day; Coes said they shot 72 rounds. Paula Wood asked if three months is enough; she wanted to see a span of seasons. Hawkins said three months would be the initial period. The intent would be to follow the Acentech recommendation. If it can last for a year, that would be good. If not, the Board needs to know, and hours of operation would go back to what it is today.

Janvrin said even if NextEra did some work and had its own consultants, the Board would want to have its monitoring continue to see what had changed. Hawkins clarified that NextEra would be signing up for a year and would have this data and or their own data. But the Board would be covered using its own data. If NextEra made changes to the building, the Board could see what difference that had made.

<b>MOTION:</b>	<b>Hawkins</b>	<p><b>to obtain NextEra's agreement to pay for the costs for the Planning Board to hire Acentech as its acoustical consultant in connection with seeking a resolution to the noise issues raised in connection with Case #2011-31.10-22 – the NextEra firing range amended proposal, in accordance with the process detailed below:</b></p> <ul style="list-style-type: none"> <li><b>(i) NextEra is to provide a written agreement stating that it will be responsible for paying the costs in connection with the installation and monitoring of 3 sound monitors, at \$14,000 per meter, plus approximately \$30,000 in monitoring and analysis fees for a period of one year;</b></li> <li><b>(ii) upon receipt of NextEra's written agreement, the Planning Board Chair will sign the Acentech contract it has in hand;</b></li> <li><b>(iii) the monitors will be set up in the field;</b></li> <li><b>(iv) Code Enforcement will issue a conditional permit allowing hours of operation at the firing range from 7AM to 10PM for a period of three months;</b></li> <li><b>(v) at the end of the initial three months, the data collected from firing all types and caliber of weapons anticipated to be used by NextEra personnel shall be presented to the Planning Board by Acentech or, if there are complaints from the neighbors, the permit will be revoked by the CEO and the daytime permit will be reissued; and</b></li> </ul>
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		<b>(vi) based on the results during the initial three months, the Planning Board shall determine the path forward.</b>
<b>SECOND:</b>	<b>Janvrin</b>	<b>Approved: In favor – Hawkins, Foote, Khan, Wood, Sweeney, Janvrin;      Abstained: Thibodeau</b>

Thibodeau said that she abstained because she did not think NextEra had followed through with its commitments. Eric Wood understood he would hear further from the Board. Coes wanted to confirm that he would be speaking with NextEra’s people about a cost of about \$72,000. Hawkins said NextEra would have to commit to a full year, although the cost could be somewhat less depending on the monitoring outcome. NextEra would pay what the Town pays. **Hawkins continued Case #2011-31.10-22 to March 20, 2012 at 6:30PM at Seabrook Town Hall.**

**OTHER BUSINESS**

Hawkins announced that both Foote and Thibodeau would be retiring from their long term service on the Board. Foote had served as Chair, and Thibodeau had served for many more years. On behalf of the Board, Hawkins expressed appreciation for their hard work that always included a lot of work outside of the Planning Board meetings. He thanked them both very much, and said it’s not often the Town gets people who have served for as long and on so many boards that Foote and Thibodeau have done. (applause) Hawkins indicated that Foote wanted to serve as an alternate member, and he had hopes Thibodeau would do the same.

Hawkins noted that he would not be at the Board’s March 20, 2012 meeting. As there would not be a Vice Chair at that time, someone would have to be appointed as the Chair for that meeting.

<b>MOTION:</b>	<b>Foote</b>	<b>to appoint Janvrin as Chair pro tem for the March 20, 2012 Planning Board meeting.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: Hawkins, Foote, Khan, Wood, Sweeney, Thibodeau;      Abstained- Janvrin</b>

Hawkins adjourned the meeting at 8:30PM.

Respectfully submitted,

Barbara Kravitz, Secretary  
 Seabrook Planning Board