



## Town of Seabrook Planning Board Minutes

October 17, 2006

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Mark Preston, Vice Chair; Paul Himmer; Aboul Khan; Peter Evans; Mike Lowry, Robert Moore, Ex-Officio; Paul Garand, CEO, Alternate; Tom Morgan, Town Planner; Walter Mitchell, Planning Board Attorney; Barbara Kravitz, Secretary.

Chairman Foote opened the meeting at 6:05PM, and announced the Board would go into Executive Session for a discussion with legal counsel. Chairman Foote closed the Executive Session at 6:30PM.

**PUBLIC HEARINGS:** Chairman Foote opened the Public Hearings at 6:31PM

**Case #2006-46 proposal by David Benoit for an amendment to the Border Winds Subdivision**  
Evans recused himself from this deliberation.

Attending: David and Regina Benoit, Attorney Stephen Ells.

Henry Boyd Jr of Millenium Engineering appearing on behalf of the applicant described the three plans submitted with this application:

Plan #1. The "as-built" plans documenting the current conditions of the roadway as they have been constructed;

Plan #2. The corrective measures plan designed to take care of the drainage issues to bring the road up to a standard and take into account the drainage issues abutters suffered and things that were wrong, including sidewalks;

Plan #3. This plan specs curbing as prescribed in the original (Jones and Beach) plans approved by the Planning Board. Boyd deem this a hybrid, "ugly animal" calling for curbing throughout and also recommending that if the original approved plans had overhead wires that should be redone; no ties for foundations are allowed into the drainage intercepture that comes to the Town. This plan also indicates Millenium is not in favor of it because [we] will intercept these drains as the curbing is put into the system and end up crushing them, which is going to create a great deal of hydrostatic pressure resulting, in Boyd's opinion, in a lot of the basement floors cracking and possibly the foundations. The perimeter drains have added a lot of siltation into the drainage system which will affect all three plans.

Boyd said Benoit paid Appledore Engineering about \$16,000 to prove out these plans as they related to the hydrology for the industrial subdivision and to look at Plan #3 and Millenium's corrective measures plan (#2) to see if there is a good fit. They had some minor issues with the corrective measure plan -the drainage swales were too shallow and with the pitch of the road being  $\frac{1}{2}$  percent. Boyd said the roadway is probably the best in Town is that Benoit hired Millenium to supervise the base materials and method of construction. There is nothing wrong with the road. There were other deficiencies. The sidewalk is not laid at the proper grade but the top-coat mix is sub- standard. This has been discussed recently with the Public Works Director and Benoit has always said he will replace those sidewalks as they should be built. There are still drainage issues on lots improperly graded low when, subsequently, the development and homeowners owners filled in swales. Boyd said the neighbors should pay for grading work outside the right of way.

Boyd said if the curbing is put in, would cut a perfectly good road. The curbing would be backed up with cement, and leave the road without a topcoat. As a resident and taxpayer Boyd doesn't want to do wrong things to the road. Supposedly the curbing needs to be installed because some



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homeowners were promised curbing. Benoit had previously asked the Planning Board to allow him to do away with the granite curbing. Boyd referenced a letter in which his partner, Norman Brown, said if the road is built according to the standards set forth by the Town it will work and be a better road. Millenium maintains that even with several big storms in the last 15 months, the road is still in fine shape. So how can Millenium ask Benoit to do something harmful to the Town and the residents.

Boyd said, historically, the problem is the meeting in which a motion was made to allow Benoit to do away with the granite curb was not a legal meeting; it wasn't posted, and Boyd thinks Benoit owned the subdivision and was the only abutter at that time. Boyd said the Board moved to go along with not putting in the granite curb. It was the Board's responsibility to tell Benoit it was not a legal meeting. But the bond was reduced to the point that the taxpayers would have to foot the bill because there is not enough money remaining in the bond to do the work if Benoit skipped out. If the Town wasn't planning on letting Benoit leave out the granite curbing, why was the bond reduced below the amount that would be needed.

Boyd said Benoit asked Millenium to produce the as-built because there are deviations from the original approved plans and he was told to submit as-built plans. In doing the as-built plans Millenium noticed drainage deficiencies and some lots that could benefit by changes (Plan#2). The third plan has granite curbs and is unacceptable so Millenium will not stamp it and does not recommend its implementation. The issue is not that Benoit does not want to spend the money.

Jason Page, of 7 Randall Drive, asked if any of the plans that have been submitted represent what was agreed to by the Board and the neighbors at the August 3, 2005 meeting, and whether such a new plan had ever been drawn up. Foote said to speed up the process for this case the newly submitted plans, together with copies of the original subdivision approval, have been sent to an outside consultant to review the consistency and feasibility even before the public hearing. Page said the original approved plan is not what was supposed to be used today.

Morgan asked Boyd to briefly explain how the corrective measures plan and the unstamped plan are consistent or inconsistent with the Planning Board position of August [2005]. Boyd said the Planning Board position is paradoxical and it's not possible to compare to the original approved plans. If the original plans are to be followed no more plans are needed. At the meeting in question they wanted the original plans but also to keep the underground, replace the slope granite with vertical granite (now the standard), and keep the Benoit installed drainage that had nothing to do with the original plans. Morgan said the Planning Board is looking at these [new] plans for the first time and it would be useful to walk the Board through the differences between Plans #2 and #3 and what was approved in August 2005. Boyd said Plan #3 is pretty close to what Jones and Beach would have installed per the original approval. Morgan asked for a comparison with the Appledore recommendations. Boyd said some comments were that the swales were too flat and would breed mosquitoes and included a fence. Boyd said that is wrong; the swales will convey water. Plan #2 is what Millenium thinks should be built now. No construction person would do the installation as in Plan #3 which is not proper practice and will cause harm to the roadway, although it does give the curbing. The property will not be more valuable. Morgan again asked for the comparative differences. Boyd said Plan #3 only calls



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for granite curbing and calls for abandonment and severing of perimeter drains not on the original design. Boyd referenced videos that show how pipes have been placed illicitly into the drain pipe where it deposits soil and sediment so that they couldn't get the cameras through the pipe. Boyd said the road is in good shape and will be harmed in most instances by putting in curbs. To do it throughout because of what a realtor told them is wrong and will harm the Town. Some changes are not a problem but there are no easements. Morgan said the Appledore report had about eight recommendations and asked how close to those are in Plan #3. Boyd said he thinks it is close. The difference is the old plan calls for overhead electric, utility poles, sewer foundation drains et al. Morgan asked if this means Plan #3 is consistent with Appledore's recommendations. Boyd said generally but couldn't say exactly. Morgan said a third party will do that. Boyd said Benoit should not have to pay for that review.

David Benoit said he was the owner and developer of this property. In April of 2000, he bought approved drawings and came to the Planning Board with no problem, with or without curbing. The vote was not to use granite curbing which was an astute idea. There were some Ledge Road problems such as with the Ludeke property that Benoit fixed, including extra drainage, thereby avoiding lawsuits for the Town. Jones and Beach did beautiful drawings, but some garage doors are three or four feet below that road. When curbing is put in the Ludeke property will be under water. Benoit wants to make money, but the Planning Board eliminating the granite curbing was the best solution. The road and drains were built to Jones and Beach's drawings; offsets were put in with the Town Engineer following along. Benoit said for eighteen months everyone was happy, and he can't control what people did after he sold the lots. If the decision is to go back to phase one with granite curbing, he will do that, but only if the Town, the Planning Board, and he [Benoit] are held harmless. Benoit noted that Page has one of the highest points. But if the Board options to go back to Phase 1 he will do it but there are to be no complaints about water in basements.

It is pointless to destroy what works. The sidewalks are crummy and he will replace them. They don't follow the contours of the road because the original design had electric poles; Benoit agreed underground is better and did that. He will be going to Argentina for the winter and return in May 2007. Plowing, mail delivery, and trash pick up is paid. Benoit suggests getting the road accepted. As he can only go thirteen feet without written permission and knows at least three people who won't grant an easement. If granite curbs are installed he will install it but all perimeter drains will be lost. He didn't know the realtor was selling granite curbs. He bought the property from Scott Mitchell as approved and took the drawings and built. Only 4 or 5 neighbors will benefit from granite curbs - it is not a betterment. Benoit has paid for and eliminated some drainage. If perimeter drains come out, the area will be filled with concrete.

Benoit sees 2 options: (i) he will do the work in April 2007, or (ii) the Town can call the bond now. It's a waste of time, including for the Planning Board, to fix a problem that's not there. He did what he thought was right for the nicest subdivision in Seabrook and an asset for the Town. He must plow and keep the lights on. This is not about money - he will "take the hit" but there can be no risk to the Planning Board, the Town or Benoit. Residents who did turnovers made money. If there is water in a basement the owner who wants to sell must declare it which will cause devaluation. Boyd's drawings show the swales and the position of each house versus the road.



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Benoit has 68 acres behind Ames and Market Basket wants to resolve this problem and go forward and do something with it. He's not a Seabrook resident but is a big taxpayer and is not running away. He will do what is decided, even the granite curbs but said why do anything except fix the sidewalks. He will go back to the original plan, but there can be no recourse to the Town, the Planning Board or himself. He urged the homeowners to take a look at the [Boyd] plans. He said Page has nothing to lose with a modular [at the top]. Let's get whatever is chosen done. Boyd said Plan #2 was rejected but it does take care of some of the drainage and driveway cuts problems. He said the Public Works Manager and the Town Engineer approved; even Wayne Morrill of Jones and Beach agrees Millenium's corrective measures plan is the best solution.

Foote said there have been many meetings including, in the Library and the Fire Station, trying to get this resolved. The Board hasn't had time to study the new plans. Because of the extent, complexity and expertise needed, the Board sent them to Altus Engineering for analysis vs the original plans and what is the best feasible option, because it wants to bring this matter to completion. Khan asked who pays for the Altus study? Foote said the Board will have to decide. Generally this is charged back to the applicant but in this situation the applicant has already paid for two studies with which the residents were not pleased.

Chair Foote asked if Board Members had additional comments. There being none, Foote opened the floor to the public for comments and asked for new information. Robert Kenyon, 15 Border Winds, said there is eight foot sink hole around the manhole at the end of his driveway and the pavement is cracked. Boyd asked how long it's been there. Kenyon said about a year and is getting deeper and deeper. The road and drainage is not right - it's coming apart and was never completed. Boyd said he will look at this. Kenyon said Benoit signed his sale papers in which betterments were promised. Benoit said he only sold the land, and Kenyon bought the property from Lepere. Foote said that is a private agreement in a civil matter and to contact the real estate agent. It has nothing to do with the Planning Board and the plans. Kenyon said Benoit is offering a "so bad" choice - the lesser of two evils, or threats to make them miserable.

Page described the history of the controversy: He said the residents first contacted the Planning Board by letter on June 4, 2001. In a meeting on November 5, 2002 to review corrective action, Garand moved to go with the original plans; Phil Stockbridge was the second. The decision was unanimous. [They] went to the Selectmen for enforcement and were returned to the Planning Board. In the August 27, 2003 meeting at the Library, Preston moved to deny [the request] and go with the original plan, saying his denial was based on information from Wayne Morrill of Jones & Beach Engineering and the outpouring of the neighborhood. On September 26, 2003 the Town Manager received a letter from Benoit concerning no more snow removal or road maintenance for that street.

On September 24, [2003] Ledge Road Realty Trust (Benoit) appealed the Planning Board decision. On November 20, [2003] the homeowners went to court to get Benoit to maintain the road and utilities - lights were turned off in October. It's been a long haul for the neighbors who acted as interveners to uphold the original plan. On May 18, 2004 Preston moved, seconded by Lowry, and



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unanimously voted, to deny the Ledge Road Realty Trust proposal. Page said he has letters from Unutil suggesting the homeowners/Association may want to pay for the lights. Page said he has talked to the utilities about the cost for tearing up the underground utilities.

Page said, in an August 17, 2004 meeting Preston said to send a letter from the Planning Board to the Selectmen informing them that Page appeared to request the original plan be enforced. The vote was unanimous. In a court decision on December 28, 2004] for Beachwood Homeowners Association, a temporary order to maintain the street lights and snow plows. On the same day the Town and the Homeowners Association received Ledge Road Realty Trust vs Town of Seabrook an order upholding the Planning Board's decision of the meeting held at the Library. On January 4, [2005] a new site security agreement was requested. On March 15, [2005] in a Planning Board work session this was put out for peer review because a lots have been sold and the developer could not do exactly what was on the original plan. In a July 12 [2005] work session with information from different engineers, the vote was to go forward with the results of the August 3 [2005] meeting that the Planning Board called at which motions were voted unanimously to accept some of the items (Sanbourn abstained). Foote moved to approve retaining the off-site drainage structures and underground utilities (approved with Lowry opposed and Sanbourn abstained). Foote motioned sidewalks to stay on the inside of the circle ie existing location; no grass between the edge of the road and the sidewalk; vertical granite curbing on both sides of the street. The existing driveways to be honored with the layout of the sidewalks.; berms across the driveways as determined by the inspecting engineer and will require a signed waiver from the homeowners should they not want the berm; perimeter drain to require inspection and verification for proper installation. The Town Engineer to be requested to analyze the work to be done, provide a cost estimate for the developer's site security and seek an escrow for the independent engineering firm that will inspect the work as it progresses. Page said that was passed; seconded by Preston (Lowry opposed, Sanbourn abstained). Garand amended the motion to include Randall Drive extension and that passed as well. Sue Morse of the Hampton Union asked if the developer does nothing is it up to the Town to do something about it or is it up to the Homeowners to enforce what was done tonight. Page believed the response to be that the developer does nothing because he already has one court order to take corrective action and build what was supposed to have been built. I f he does not comply with our request and recommendations for what we would like to see tonight, [we] will probably be back in court with him. Page said those are the relevant meetings except for a meeting on July 18, 2006 when Preston moved to have attorney Mitchell inform Benoit /Colliander or their representative that the Planning Board wants to enforce the court order and the conditions that were set forth on August 3, 2005, and get a time table for completion. Page said that motion was seconded by Khan and approved unanimously. From that point forward, I'm now hearing that August 3<sup>rd</sup> [2005] doesn't exist - a plan was never drawn up. Page asked, if this is what we want to do, how did we get away from it.

Preston asked if they were informed in August. Boyd said at the fire station meeting they didn't want just the original plan but wanted "plus and plus". Boyd asked Attorney Ells to address what the judge actually did say. Ells said when [you folks] voted not to approve the proposed amended plans we thought that was illegal or unreasonable - we took an appeal. The Judge said "no" - what was done was based on some engineering data. If there's any reason a court can find what you did



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was reasonable the court will go with you. The judge affirmed [your] decision not to grant the request for an amended plan. The other court action that Page referred to was the homeowners against Benoit which ended up with a settlement agreement approved by the court (referred to as the temporary order) that Benoit will plow and maintain the power until the Town finally accepts this road. Page said that's all that's happened in court to date. Page said he wants to find out what happened from asking the attorney to get this thing going from August 3<sup>rd</sup>, 2005 going to today looking at three plans to amend something that has never been drawn. Preston said that was Appledore's study. Page said Boyd is mistaken, and left the meeting early. We [homeowners] did not come to the Board wanting vertical granite curbing. The Board stated the regulations have changed and the Town is now doing vertical granite curbing. This was fine with the homeowners.

Foote said there was an extensive meeting that night; just about everyone who was a resident of Beachwoods was there [in the fire station]. The proposed plans, Appledore recommendations, etc were gone through and a lot of things were hashed out. The minutes of the motions referenced by Page were out of context as they referenced what the Planning Board recommended be done. It was not a ruling on what will be done. Preston asked Boyd if any of the Appledore recommendations were incorporated into any of the new plans. Boyd said he did not want to be misleading. Foote said specific Appledore recommendations were supported by the Board. Boyd said some of the recommendations made sense and some did not. One reason Millenium did not design plans based upon that meeting at the fire station was because essentially it was said to just install it. When Boyd left that meeting he felt if the sidewalk is to be up against the pavement with the curbing, just do it. There was no sense in designing any more plans. How many more thousands of dollars of Benoit's money does Boyd need to spend. His anger at that meeting was because we were going to keep everything else that wasn't on the plan and add to it doubling the cost. There were two motions and something is wrong with the whole situation. Preston said Benoit should do something that would appease the neighbors, doesn't hurt the Town, so he can walk away and the neighbors would be happy. Boyd said Benoit is interested in doing that.

Benoit said he tried that in 2003 without success. Everybody wants to go back to Phase 1. that's fine but when they are under water don't come back to him or the Town. Preston said there has to be a middle ground and compromise. Benoit said [you people] have to come up with what is a middle ground. Preston said right now the middle ground in all these plans have been sent out to see where there is overlap and come up to a middle ground. If the curbing will work properly and leave the utilities where they are - what ever is recommended all should agree and follow it. Benoit referenced a prior meeting at which all of the engineers, including two who work for the Town, agreed that the way it is now built is fine. The Jones and Beach drawings in the very beginning would have worked if some driveways were not lowered. Preston said to wait for the engineer's report and Benoit agreed. Boyd said he did not understand what this review will do that Appledore's didn't. Foote said it is because Boyd submitted an assortment of plans and the Board doesn't have the technicality to study the differences and the deviation from the original plan and what will and will not work. Boyd said the new plan (#3) only installs curbing and the Board is aware of the other two and when curbing is set it will crush these pipes. Foote noted the Board has been given multiple options.



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Benoit suggested that the road be accepted without relinquishing the bond, and do the snow plowing. When this comes together. Benoit would have the option to walk away and leave the \$70,000, or he has never walked away from anything and would like to finish this up. He doesn't know how to do that; only Page seems to know. Benoit said he doesn't want to see someone under water. Come up with something. Another option, as Boyd said, is to view the pipes sticking out which [Benoit] did not put there and decide what to do about it and whose fault it is. Benoit said he only sold a lot. Preston said right now they're connected to Benoit's property. Benoit said keep the bond, accept the road tonight so the homeowners get full services all winter, and come back with a proposal and Benoit will say he will or will not do it. Preston said to ask for the Board to recommend acceptance by the Selectmen would put the Town in a very bad liability situation. Benoit said it is a bad situation now. Preston said if a compromise that keeps everyone happy, fix the place, and get [Benoit] out of there, that is a better situation. Recommending acceptance tonight means the Town would inherit the problem and \$70,000 won't cover it.

Foote said it would be premature for the Board to consider anything before the Altus Report comparing the original plans to these proposed corrective actions to see how they comply and how close they come is in hand. One item proposed corrective action just at the entrance to Border Winds Avenue, is a proposed masonry headwall and pipe cut-back to headwall that may be draining into a wetlands. Boyd said that actually drains a garage for a homeowner at the bottom of the hill. The new plan is actually trying to help with some of those on-site issues. Benoit said for the third house in on the right hand side that pipe is lower than in the original plan, which started the elimination of the granite curbing to begin with. Foote said the road was already in and built to Jones and Beach plans. It would have to be lifted one foot and one inch and cause an underwater condition. Preston said the Altus report is needed first.

Evans of 44 Border Winds Avenue, said at the end of the fire house meeting he thought there was a happy medium between the homeowners Association and the Planning Board. Unfortunately the most vital component, the developer, was not there to endorse or study the results of that meeting. He asked the Planning Board to have the developer take another look. All this talk is not cheap. All Evans wants is to get his road plowed and accepted. He has no water in his basement and otherwise would like to forget about all this. Ledge Road Realty Trust has been at best a benign landlord. It's been six years and it's time for the Town to put it to rest.

Moore asked the Town Planner to send a copy of the Appledore report to the reviewing engineer. Morgan said that would be done to aid in coming to a compromise. Lenny Demarais of 55 Border Winds Avenue, did purchase his house from Ledge Road Realty Trust. He has perimeter drains without which he'd be under water as his back yard is underwater. He thought it was all set up at the fire house meeting. This just keeps going on and on. Foote did not recollect discussion on perimeter drains at the firehouse meeting. Demarais said he meant to convey only that he has them. Foote said there is a long time Town ordinance about draining into storm water or sewer with possible fines involved. Demarais said he did not put them in, the Ledge Road builder did. There were several homes involved. If he'd known of the water problems he might not have bought there. He just wants to get it squared away without everyone going under water. There have been previous threats about crushing the perimeter drain. Stanley Saracy said he was there when this started



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with trees and open wet areas. The reason the curbing wasn't put in is because the lot was down four feet lower than the road. The curbing was eliminated to get the water off the road as quick as possible into the drain systems away from the houses and out into the detention ponds. Curbing keeps water in the roadways until it hits the catch basin. It was nothing to do with money only to get rid of the water. Benoit said he paid for all of the offsets, swales and drains that were put in because the lots were too low. Preston said this is going back five years and it's time to move on with the engineer's report. Kevin Brown, 15 Randall Drive, asked who is plowing the road this year. Benoit said this is arranged and Saracy agreed. Foote said the Board agrees there's no action to take until the engineering comparison is received. Boyd can be trusted to look at the existing sinkhole find out what's wrong. Morgan said Altus has indicated it has a heavy work load. Benoit said give the engineer time to think about it as nothing would be done until April 2007. The snowplowing will be done done. Boyd said Millenium did look at the Homeowners and Planning Board consensus but did not agree.

Chairman Foote called a recess at 7:40PM and resumed the Public Hearing at 8PM.

### MINUTES OF OCTOBER 3, 2006

<b>Motion:</b>	<b>Foote</b>	<b>To continue Case #2006-46 proposal by David Benoit for an amendment to the Border Winds Subdivision to January 16, 2007 AT 6PM</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

### CAPITAL IMPROVEMENTS PROGRAM (CIP)

Foote announced the Public Hearing for the Capital Improvements Program would be on the November 7, 2006 Agenda. Preston said last year some vehicles were purchased. A long-term plan would result in better equipment for a lower price but the Budget Committee doesn't follow the

<b>Motion:</b>	<b>Evans</b>	<b>To approve the Minutes of October 03, 2006 as written.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Planning Board recommendations. Moore said the Budget Committee is doing it more and more. Previously the Town had funds available. Preston said the department heads should carry their CIP to the budget meetings and noted when there is a "spike" budgets get voted down for three or four years. Foote said the CIP should be on the Town and Town Planner's websites.



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### **SCHOOL BOARD RE CAPITAL IMPROVEMENTS PROGRAM**

Attending: Michele Knowles and Michele Heyward

Foote described a series of e-mails with Knowles asking for Planning Board data that would help in defining the future school population. Foote has explained that Planning Board data is subject to many variables and rumors. Moore said about 20 percent growth is anticipated and the question is how to absorb this potential growth. Foote said, for example, there are grandchildren in several mobile home parks for seniors. Moore said that happens in the smaller parks. Morgan asked for the cost per pupil. Knowles said \$8500. Preston asked if the schools ever had a CIP. Knowles said some years ago this came from the Superintendent's office and was prepared by the principals and maintenance staff. There is a potential for a warrant article for a school building study. Foote said in connection with the Middle School, the Department of Environmental Services said there can be no further incursions into the wetlands area or the ground water could go up. Moore said it might be possible to restructure space internally. Knowles asked for any data that could be of help. Garand said a 15 year study of building permits is being compiled. Preston asked for the number of open residential building lots. Garand said there are many duplexes and large lots. Evans asked how many. Garand said 384 overall in 2005. Evans asked if there might be a relationship between the number of residential units and the school population. Moore said there might be another 200 lots. Foote said with the new wetlands impact fees developers could make a deal with the State for more units. Garand said there is a potential for small subdivisions on twelve to fourteen acre sites. Preston suggested looking at historical figures. Moore said there has been a tapering off as land is more expensive. Garand noted the increase in duplex and mobile homes.

Knowles said there are 864 preschool through Grade 8 students of which 491 are in elementary school and 373 in the middle school. Morgan suggested looking at the preschool census. Heyward said there is now an extra preschool session. Garand said information such as the number of births is in the Town Reports. Foote suggested conferring with the Town Clerk. The Secretary said useful information was compiled for Winnacunnet High School

Khan asked if the big development (DDR) could have an effect on schools. Foote didn't see commercial/retail development having an immediate effect. Preston said the buses might arrive late. Moore said there would be some effect from new employees. Foote said many would live out of Town or are already residents. Moore said the traffic impact of residential development is not like commercial development. Foote said the Planning Board would review CIP proposals on November 7. Morgan said proposals could be packaged together but school matters are separate warrants. Herb Ludeke said the Seabrook Library, where he volunteers, has lots of data. Evans suggested talking with members of other school boards.

### **CORRESPONDENCE**

04-61, 10, security checklist submitted for 103 Ledge Road, not complete.

**06-27 Case #2006-27 Ray Grasso for a condominium conversion at 103 Ledge Road, Map 5 Lot 8-120**, continued from August 15. Letter from Jones & Beach Engineers requesting a continuance. Foote continued to December 5, 2006 at 6PM



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**Case # 2000-24: Proposal by Scott Mitchell and Eugene Dean for site plan approval at 22 Stard Road.** Letter from Jones & Beach Engineers on behalf of Eugene Dean requesting a continuance to the second meeting in April, 2007. Lowry said to continue to November 7 to check that the security is in place. Foote continued to November 7, 2006 at 6PM.

**Case #2005-29: Proposal from Ed Adams for a restaurant on route 1 South of Loew's,** continued from August 15. Letter from Jones and Beach Engineers on behalf of Ed Adams withdrawing requesting this application be withdrawn without prejudice. Foote declared Case #2005-29 withdrawn and closed.

**Letter from Millenium Engineering on behalf of Dr Francis Hamilton** requesting a 60 day extension to complete the Case #2002-05 Bieder/Hamilton Trust 1 & 3 Elephant Rock Road project. Foote has walked the property with a beautiful clamshell driveway. The concern is the gravel fill moving into the easement area. The easement needs to be checked. Garand said there is no permanent structure. Boyd will send a letter from Hamilton for road acceptance and is doing the sign off sheet. The pathway and fencing is done. Preston said a sign off sheet is needed. Garand noted abutter had previously appeared. Foote noted the no-cut concern by abutters. Foote continued to November 7, 2006 at 6PM when the letter and sign-off sheet is expected.

**Case #2004-51 Request from Millenium Engineering on behalf of E Patel and Patel Realty Trust for a 360 day extension at 5 Main Street.**

Attending Patels' nephew.

Henry Boyd appearing for the applicant.

Foote asked about the detention area. Garand said it is to late in the season to make a big impact. Boyd said the back area is stabilized with stone in the swales. They are redoing what is wrong. Don't want heavy rains to impact. They had the wrong contractor; close to two years for completion. Foote continued this case to May 15, 2007 at 6PM. Evans asked Garand to check the paving.

**Letter from Todd Gerrish at Port Lighting, 24 London Lane, requesting an extension for Phase 2.** Garand said Gerrish wants one year for Phase 2. Phase 1 is stabilized, grassed with drainage and infrastructure. Fifty percent of the building is done. Preston recommended six months. Moore asked for a pending items list. Foote said the Planning board concern is the detention pond and site work. The platform for Phase 2 is prepared. Garand said Planning board approval is needed to add on - worked on at site.

<b>Motion:</b>	Evans	To grant a one year extension for the Port Lighting 24 London Lane project and continue to October 16, 2007 at 6 PM.
<b>Second:</b>	Himmer	Approved: Unanimous

**Case #6-31 Proposal by Developers Diversified Realty (DDR) Seabrook LLC for a 4-lot subdivision at 700 Lafayette Road, Tax Map 8, Lot 55; continued from October 3, 2006:**



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**Case #6-32 Proposal by Developers Diversified Realty (DDR) Seabrook LLC to construct a 441,290 square foot shopping center at 700 Lafayette Road, Tax Map 8, Lot 55; continued from October 3, 2006:**

Foote read a letter from Attorney Malcolm McNeill requesting a continuance to the October 26 special DDR/traffic meeting. Foote continued 06-31 & 32 to October 26, 2006 at 6PM.

Foote referenced the letter from Paul Lepere requesting **Belgian Drive** be recommended for a Town Road and asking that the maintenance security be released as the road has been through three winters; there is no intent to build out the other lots. Garand said the public Works Manager has submitted a report with a small list [including a final paving.]. Foote continued to November 7, 2006 at 6 PM.

Foote referenced a letter from Jones & Beach justifying the **Pineo Farms** [paving]. The Public Works Manager has responded that there are some variations [but the developer did substantially comply with ½ inch [paving stone.]] He recommends the Planning Board formally adopt the new Town standards.

Foote referenced the code Enforcement Officer's Inspection Notes re **#Case #03-19 Azoury Family Property, 209 Ocean Boulevard.**

Foote referenced a letter from the Department of Environmental Services referencing changes in the Dam Regulations now means the **Poland Springs** detention Ponds 1,2, 3,& 4 are exempt.

Foote announced the Town Deliberative Sessions are scheduled for Tuesday, February 7, 2007.

<b>Motion:</b>	<b>Foote</b>	<b>To cancel the February 7, 2007 Planning Board meeting.</b>
<b>Second:</b>	<b>Evans</b>	<b>Approved: Unanimous</b>

**PUBLIC HEARINGS reopened by Chairman Foote at 9:00PM.**

**Case #1999-11:Proposal from Charles Bagley for a subdivision at Austin Way, continued from September 19, 2006.** This is 99.9 percent finished except for some grass but the intent is to request the road be accepted as a Town road before the winter. Foote continued to November 7, 2006 at 6PM.

**Case#2003-7: Proposal by Langis/Silker for a condominium conversion at 15 & 17 Elephant Rock Road, Map 16 Lot 11-4Lot, continued from September 19,2006.** Foote continued to December 5, 2006 at 6PM.

**Case #2006-28: Proposal by Scott Sheehan for a condominium conversion at 14 Katelyn Way, Map 15 Lots 110-10 & 110-100, continued from August 15, 2006.**



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NOT OFFICIAL UNTIL APPROVED

Henry Boyd of Millenium Engineering appearing for the applicant said they will go with "Katelyn" and there is a place for the trash and placing the fence. A continuence is requested. Foote continued to November 7, 2006 at 6PM.

### **Case #2006-45: Proposal from Bergeron & Ludeke for a condominium conversion at 50 Ledge Road, [Map /:Lot]**

Attending Herbert S Ludeke

Foote asked if the missing signatures for the subdivision had been received. The Secretay indicated "yes".

Henry Boyd of Millenium appearing for the applicant, said the second water main has been added on sheet #2. There is now a note on Sheet #1 referencing a paved access to Town Wells as "proposed" Sheet 2 Note #5 references a water easement to access the shut-offs; [drainage easement].

Three sheets are to be recorded. Garand asked about the reference to the deck and hot tub. Boyd said the pipe is in place, [Sewer and the pump station] Boyd said these are to be referenced in the condo documents by attorney Ganz. Boyd will don the digitals. Foote said the subdivision gets recorded first.

<b>Motion:</b>	<b>Evans</b>	<b>To accept the Case # 2006-45 proposal from Bergeron &amp; Ludeke for a condominium conversion at 50 Ledge Road, [Map Lot] as administratively complete for deliberations.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Evans asked if the condominium documents show payment responsibility for electric service. Foote asked Morgan to review the condominium documents including re the sewer pump station and whether an easement is needed. Preston said to stick with the condominium conversion focus. Evan said this is a valid public health matter. Boyd will ask Ganz to look at the document re the electricity item. Foote asked if the pump station is large enough to be shared. Evans asked if the mylar for the subdivision had been recorded. Foote said this would be recorded first. Evans said the digital is still to come. Foote polled the Board for comments. There being none and no abutters present:

<b>Motion:</b>	<b>Evans</b>	<b>To approve the Case # 2006-45 proposal from Bergeron &amp; Ludeke for a condominium conversion at 50 Ledge Road, [Map Lot] in so far as it complies with the New Hampshire condominium requirements and the rules of the Town of Seabrook, contingent upon installation of the water service, and clarification of the electric utility payment responsibility.</b>
<b>Second:</b>	<b>Preston</b>	<b>Approved: Unanimous</b>

Boyd referenced delivery of the written waiver for the **Valerie Brown** project.



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Boyd said he had submitted request by **Lloyd Perkins re Irene's Way**. As they had a wash out spill, they put in pipe basins and drains and show the as built. Foote confirmed the recommended changes in storm water. Boyd said the pipes will be sized properly. Morgan said the abutters must be notified. Boyd said Lepere is the owner. Foote said this is a legal subdivision for 11-12 lots. Garand said it should have been stabilized. Evans said this is a major change requiring public notice. Preston said this sounds like Boards Winds all over again. Foote noted the need for new plans. Morgan asked how much time is needed. Boyd said two weeks. Morgan said Perkins is proceeding at his own risk. The Planning Board doesn't want to have an illegal decision. Boyd said he will do amended plans and show the abutters. Morgan said an amendment to the subdivision plan needs to go to all abutters. Foote said some are legal lots. Evans said the notice must go to the original abutters list plus new lot owners.

Chairman Foote adjourned the meeting at 9:30PM.

Minutes Respectfully Submitted by  
Barbara K. Kravitz, Secretary  
Seabrook Planning Board