



Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2012
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Jason Janvrin, Robert Fowler; Dennis Sweeney; About Khan, Ex-Officio; Roger Frazee, Albert (Max) Abramson; Michael Lowry, Alternate; Francis Chase, Alternate; Paula Wood, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;

Members Absent; Paul Himmer, Alternate;

Hawkins opened the meeting at 6:35 PM.

BOARD ORGANIZATIONAL MEETING

Hawkins noted that the administrative work had not been accomplished at the last meeting. He asked for nominations for the Chair.

APPOINTMENT OF OFFICERS

CHAIR OF THE SEABROOK PLANNING BOARD

MOTION:	Janvrin	to nominate Donald Hawkins as Chair of the Planning Board.
SECOND:	Sweeney	Approved: Unanimous Abstained: Hawkins

VICE CHAIR OF THE PLANNING BOARD

MOTION:	Sweeney	to nominate Jason Janvrin as Vice Chair of the Planning Board.
SECOND:	Khan	Approved: Unanimous Abstained: Janvrin

APPOINTMENT OF ALTERNATE MEMBER

Hawkins said that one position as an Alternate Member was vacant. He referenced three letters from residents requesting to serve as an Alternate: 1) Paul Knowles, 2) Sue Foote, who had served on then Board for several years, some of which were as the Chair, and 3) Joseph Jones, who had served on the Board from 1993-6, and also had served as Chair. Hawkins said that the decision would be up to the Board, and added that much of the historical knowledge was gone now that Bob Moore and Sue Foote were no longer Board Members. He wanted to be in the position to tap on Foote's knowledge when it is needed, and asked that the Board consider her nomination. Hawkins asked if there was discussion about any of the other candidates. Khan thought Hawkins had a good idea for the motion. Hawkins called for other comments; there being none.

MOTION:	Hawkins	to nominate Sue Foote to serve as an Alternate Member of the Planning Board for a term of three years.
SECOND:	Khan	Approved: In favor: Hawkins, Khan, Janvrin, Fowler, Sweeney, Frazee; Opposed: Abramson



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REPRESENTATIVE TO THE RECREATION COMMISSION

Hawkins said that historically one Member had represented the Planning Board on the Recreation Commission. For several years Foote had served in that capacity. Khan asked if an alternate member could fill that position. Morgan said it had to be an elected member. Hawkins asked if anyone had an interest in filling the position. Janvrin volunteered to serve on the Recreation Commission, commenting that it would run parallel with his Rail Trail work.

MOTION:	Abramson	to appoint Jason Janvrin to represent the Planning Board on the Recreation Commission.
SECOND:	Sweeney	Approved: Unanimous Abstained: Janvrin

Kravitz said that the Recreation Commission would be meeting on Monday, April 30, 2012 at 7 PM at the Community Center. Khan said an agenda is usually sent out.

APPOINTMENTS TO THE ROCKINGHAM PLANNING COMMISSION

Hawkins referenced a letter from the Rockingham Planning Commission stating that the terms of Khan, Chase, and Janvrin expired, and should be either renewed or another individual appointed in their place. The Planning Board recommends a nominee(s) and the Board of Selectmen make the appointment. He asked if Khan, Chase, and Janvrin had continued interest; each of them wanted the appointment.

MOTION:	Hawkins	to recommend to the Board of Selectmen that Aboul Khan be reappointed to the Rockingham Planning Commission as a Commissioner from the Town of Seabrook.
SECOND:	Janvrin	Approved: Hawkins, Sweeney, Janvrin, Fowler, Frazee; Abstained: Khan Present: Abramson

MOTION:	Hawkins	to recommend to the Board of Selectmen that Francis Chase be reappointed to the Rockingham Planning Commission as an Alternate Commissioner from the Town of Seabrook.
SECOND:	Sweeney	Approved: Hawkins, Sweeney, Janvrin, Fowler, Frazee; Present: Abramson

MOTION:	Hawkins	to recommend to the Board of Selectmen that Jason Janvrin be reappointed to the Rockingham Planning Commission as an Alternate Commissioner from the Town of Seabrook.
SECOND:	Sweeney	Approved: Hawkins, Sweeney, Janvrin, Fowler, Frazee; Abstained: Janvrin Present: Abramson



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MINUTES OF FEBRUARY 21, 2012

Hawkins asked if there were changes or corrections to the Minutes of February 21, 2012; there being none.

MOTION:	Janvrin	to approve the Minutes of February 21, 2012 as written.
SECOND:	Khan	Approved: Unanimous Abstained: Frazee, Abramson;

MARCH 6, 2012

Hawkins had no changes to the March 6, 2012 Minutes, and asked for changes or comments; there being none.

MOTION:	Khan	to approve the Minutes of March 6, 2012 as written.
SECOND:	Hawkins	Approved: Unanimous Abstained: Frazee, Abramson;

MARCH 20, 2012

There being no comments;

MOTION:	Abramson	to approve the Minutes of March 20, 2012 as written.
SECOND:	Hawkins	Approved: Unanimous

Hawkins held the Minutes of April 3, 2012 until May 1, 2012.

SECURITY REDUCTIONS; EXTENSIONS

Case #2005-24 Irene's Way

Hawkins referenced a letter from Paul Lepere requesting that the security for this case be reduced to \$39,000 to complete items to be done in the summer of 2012: This includes:

- \$ 6,000 for 3 street lights
- \$12,000 for sidewalks and granite curbing
- \$ 6,000 for drainage
- \$12,000 for 1-inch finish coat on the road
- \$ 500 for fencing and
- \$ 2,500 for the headwall

Hawkins called attention to a letter from Altus Engineering stating that Lepere's estimates are in line. Hawkins asked if there were sign-off sheets. Kravitz said that had been previously submitted.

MOTION:	Abramson	to reduce the security held for Case #2005-24 to a balance of \$39,000, at the request of Paul Lepere.
SECOND:	Khan	Approved: Unanimous



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CORRESPONDENCE

Case #2010-29 Midway Utility Contractors, 106 Ledge Road

Hawkins asked why this type of request (to install a generator) needed to come before the Planning Board rather than be handled by the CEO or the Town Planner. Garand said this was an expansion of the approved use; the Board could waive jurisdiction. Midway is proposing a generator on the side of the building that abuts the industrial area. There is no impact on abutters. Kravitz noted that this was one of the items in the April 3, 2012 packet which was not acted upon at that meeting. Hawkins circulated a drawing showing a pad being added for the compressor on the side of the building. Garand asked if the security had been returned. Kravitz believed it had. Garand asked if they had submitted an as-built for that property. Kravitz said they had. Henry Boyd of Millennium Engineering said his firm did the survey work, but he did not remember submitting a certified stamped as-built; perhaps the applicant put something together. He thought the Board had wanted a mylar showing the stormwater EPA requirements. Hawkins asked for Morgan's recommendation. Morgan referenced Garand's recommendation that the Board take no jurisdiction. Garand said his office could take care of this matter. The generator is just needed on-site for security reasons. Hawkins asked about the as-built. Garand said to make it a condition that an as-built showing the generator location be submitted, as well as a mylar re the stormwater. Hawkins asked for other comments; there being none.

MOTION:	Janvrin	to waive jurisdiction with respect to the Case #2010-29 request to install a generator, conditioned on submitting to the Planning Board (i) an as-built showing the location of the generator, and (ii) a signed mylar detailing the stormwater responsibilities
SECOND:	Hawkins	Approved: Unanimous

Case # - Tobacco Depot 167 Lafayette Road

Attending: Rick Riggazio

Hawkins asked about the request from Artisan Electrical Contractors. Garand said they are trying to install lighting at the property and asked Riggazio to explain the purpose. Riggazio said there had been some break-ins, so he wanted to install about five lights that would shine down on the site. Hawkins asked if Garand had any issues. Garand said he did not see a problem as long as there would be minimal or no light trespass. Hawkins asked for comments; there being none. Hawkins thought is appropriate for the board to waive jurisdiction.

MOTION:	Abramson	to waive jurisdiction with respect to the Case #[[[[[request to install 5 lights that would shine down on the parking lot at 167 Lafayette Road as requested by Artisan Electrical Contractors and Rick Riggazio.
SECOND:	Hawkins	Approved: Unanimous

Raven Realty Trust, 892 Lafayette Road map 7 lot 92-1

Hawkins referenced a letter from Attorney Mary Ganz. He thought the waiver request for World of Wheels to expand its business into another building would call for an expedited application. Janvrin commented that this property is across the street from the cemetery and the Eaton properties. Wood said the front of the property had a blinds company, and World of Wheels was



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behind that building. The proposed expansion would be to another building further back on the property. Janvrin commented it is directly across from the property that had a fire about 25 years ago. Hawkins said this was an existing business looking to expand. Janvrin said that at the last meeting a business that was changing some of its space had submitted an expedited application, and wondered why this request wasn't submitted in the same manner. This is an expansion of use. Garand did not have information other than the owner might have mentioned having interest in going into the back building. He would not have signed that as an expedited application; it is a change of use. Hawkins said it is an expansion on the same property. Garand thought this might actually be two lots. Garand was not sure this could qualify for an expedited application. Hawkins said to go back to the procedure where the CFO and the Town Planner determine whether this can be expedited, or should be a full application.

MOTION:	Hawkins	to send the Raven Realty Trust request letter re 892 Lafayette Road, dated March 13, 2012, to the Town Planner and the CEO for determination as to the appropriate submission procedure.
SECOND:	Janvrin	Approved: Unanimous

PUBLIC HEARINGS

Hawkins opened the Public Hearing at 7:05 PM.

NEW CASES

Case #2012-07 – Proposal by Cleve and Valerie Brown for a lot line adjustment at 67 & 69 Collins Street, Tax Map 10, Lots 80-10 & 80-20.

Attending: Valerie Brown

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

Boyd said that Brown had purchased the property which is currently comprised of two oddly shaped lots resulting from an earlier subdivision. Brown wants to clean up the lines and square off the lot. Boyd agreed with Morgan that the title should reference both 67 & 69 Collins Street. A variance was granted by the Zoning Board of Adjustment because the size was just under what is required for detached dwellings. Normally 45,000 square feet would be needed. The upland area is adequate at 36,000 square feet. With the variance another structure could be built, instead of having a duplex. The original subdivision was in 2005; at that time there was no plan for structures. Boyd noted that Morgan had cited that there was no topography, as well as that the 100 x 200-foot box spills over onto lot :B", so waiver requests for both would be needed. Boyd said this case only involves an adjustment for the common lot-line. The wetlands scientist stamp is missing but New England Soils had mapped the wetlands in 2005. It would cost about \$400 to verify this now, so the Applicant would request a waiver.

Boyd will add "69" to the address. This work was done from the compiled information; a new survey was not done. The markers and monuments have to be set. He pointed out the water shut-off for one unit, and said that the water and sewer services would be added to the revised plan. Janvrin asked if the two lots have separate water and sewer services. Boyd confirmed this with Brown; they have been functioning for some time and should be shown on the plan. Janvrin asked if the overhead wire to the telephone pole feeds both dwellings. Boyd pointed out a wire from another pole. Garand commented that one reason for this adjustment was so they don't have to relocate a mobile home that straddles the property line. The family does not have to money to relocate, and the mobile home laws have changed, for example, requiring a cement



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slab and tie downs. The lot-line adjustment allows them to maintain the mobile home in the existing location. Boyd added that the lot would be a lot more square which would be good for the neighborhood in the future. Abramson asked if this would change the final build-out. Boyd thought that eventually Brown would like to put in another unit, which she could do even without the variance.

Wood asked if there was enough room for a driveway, if they were to add another unit. Boyd said there would not be a need for a right-of-way because it would be common ownership. It could be condoed in the future, but it would have common land. There is enough room for a driveway. Hawkins asked for Morgan's view. Morgan said there were three waiver requests (wetlands stamp, topographical contours, zoning box), and agreed with Boyd that depicting the utilities be a stipulation.

MOTION:	Janvrin	to accept Case #2012-07 as administratively complete for jurisdiction and deliberation.
SECOND:	Hawkins	Approved: Unanimous

MOTION:	Abramson	to grant a waiver for the 100 x 200 foot zoning box for Case #2012-07.
SECOND:	Khan	Approved: Unanimous

MOTION:	Hawkins	to grant a waiver for the wetlands stamp for Case #2012-07.
SECOND:	Fowler	Approved: Unanimous

MOTION:	Hawkins	to grant a waiver for the topographical contours for Case #2012-07.
SECOND:	Janvrin	Approved: Unanimous

MOTION:	Khan	to approve Case #2012-07 - Cleve and Valerie Brown for a lot line adjustment at 67 & 69 Collins Street, Tax Map 10, Lots 80-10 & 80-20, conditioned on (i) depicting the utilities on the plan, (ii) a confirmation that the submitted plan is the same as when previously recorded, (iii) showing the address for #69 within the title, and (iv) the revised planset being entirely satisfactory to the Town Planner.
SECOND:	Abramson	Approved: Unanimous



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Case #2012-08E – Proposal by G & D Realty Trust and Gregory Burzywski for a change of use encompassing 4,500 square feet at 142 Batchelder Road, Tax Map 6 Lot 13.

Hawkins continued Case #2012-08E to May 1, 2012 at 6:30PM in Seabrook Town Hall.

Case #2012-11 - Proposal by Randall and Joan Lawson for a voluntary lot merger at 27 Atlantic Avenue, Tax map 21, Lot 2.

Hawkins circulated the information and asked Morgan to explain the law on how voluntary lot mergers are handled. Morgan noted that the RSAs have a specific statute on mergers. A proposed merger had to be submitted to the Planning Board, which was not allowed to turn it down. The legislature has determined that people have the right to merge lot. In this case he did not see a reason to try and stop this proposal. Morgan noted that the two lots, at the corner of Manchester and Atlantic to be merged, seemed to have unusual shape – like a snake. Morgan said that the Board had no option except to approve this or take no action. Abramson asked for the RSA 674:39(a) designation; Morgan pointed out that it was cited in the cover letter. Janvrin thought it came to the Board because it had to be recorded. Kravitz said that the motion needs to be framed to allow the Chair to sign the form.

Khan asked if this is two pieces of land on which the owner wants to build one house. Morgan said that is often the case, but no information of intent had been included; only the request that two tracts be merged together. Wood said basically it takes out an odd shape. Wood noted that Tract #1 had the house, and Tract #2 was empty. Kravitz said this would go back to the attorney who would do the recording; the Planning Board does not receive a fee in re VLMS. Janvrin said if the Board did not act, they could petition the Selectmen. Hawkins asked for comments or questions. Khan asked if the Assessor would automatically be notified. Janvrin said they would.

MOTION:	Janvrin	to approve Case #2012-11 - Randall and Joan Lawson for a voluntary lot merger at 27 Atlantic Avenue, Tax map 21, Lot 2, and authorize the Planning Board Chair to sign the form for the Applicant to record at the Rockingham County Registry of Deeds.
SECOND:	Hawkins	Approved: Unanimous

ONGOING CASES

Case #2011-31.10-22 – Proposal by NextEra 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;
 Attending: Steven Coes, Project Manager, Dick Winn, Corporate Communications, NextEra Energy;

Coes said originally Case #2010-22 [for the firing range] was brought to the Board in 2010; it was approved in August 2010. The range was completed in March of 2011. At that time live fire testing occurred. The results were not ok. They did studies, and in September of 2011 they had put a second roof on the range. They modeled the noise and found that the noise levels were



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where they expected. The noise levels toward the neighborhood now are 3 dB above the nighttime background average level, and toward the Transfer Station they are 12 dBs above average nighttime sound levels. At that time they asked for an amendment to the original approval [Case #2011-31.10-22]. In October of 2011, they received a conditional certificate of occupancy and have fired 120,000 rounds of ammunition limited to the hours of 7AM to 6PM. Coes said no complaints had been received, and submitted a usage tracking log to the Board. Coes said at the last meeting he attended, the Board brought in a sound consultant who proposed monitoring at two outside sites and one inside the range for up to one year, with a maximum cost exposure of \$72,000. NextEra was asked to study the proposal and determine what it would like to do i.e. whether to put the money toward that proposal or make other recommendations.

Coes said that, based on the recent experience, NextEra was requesting that the Planning Board agree to extend the hours of operation to 10 PM until July 9, 2012. They feel this is a good time for a test as it approaches the summer months when windows are open. Based on previous levels tested, they do not expect complaints during that time period as the noise going toward the residences is within 3dB of the background noise level. The noise going toward the Transfer Station is greater, but people are not there during the extra hours. Assuming that there will be no complaints, NextEra would like to ask the Board to approve the requested amendment proposed in November 2011 in this case. If things don't turn out as expected i.e. that there will be complaints, the CEO could handle them, as he would any noise complaint. If that occurred NextEra would continue working with the Board. Basically, they feel that the existence of a sound study would not change the outcome, and they would save the \$72,000.

Hawkins asked if NextEra would propose 24 x 7 hours if there were not complaints during the extra hours period. And repeat this exercise. Coes said they could do that, but ultimately they want to get to the amendment which talks about the sound levels. If they are successful (with no complaints up to 10 PM) they would be asking for approval of the amendment which would imply 24 x 7. If that was not acceptable to the Board, they could do another extension of hours. Hawkins said his reservations were that at a point during the year, maybe during the summer, the neighbors, who are the Board's only concern, would have to be recognized as being there first. The Site Plan regulations say that noise does not leave the property. At this point, NextEra has expended money to reduce the noise as much as they think is possible at a reasonable cost. If this goes further, it may be that the noise sounds different to some at 2AM than at 10PM. He would favor adding another couple of hours to the experiment to see what the feedback is.

Hawkins explained that the Planning Board had the right to hire its own consultant to define what the decibels levels are at various times of day. If the neighbors complain, the experiment stops because it isn't working. NextEra's proposal is a cheaper, shorter route to find out what the neighbors' reaction to the noise level would be, and gives the neighbors ample opportunity to call in a complaint if the noise bothers them. Wood was extremely reluctant to use the people on rocks Road as guinea pigs. They are already being punished because of the Transfer Station road which they will not be able to use except when the Transfer Station is open. They are already being forced to go back out onto Route 1. At the last meeting, the discussion was about how Market Basket would be widening the road. Now these people are going to be woken up at night. She thought that no one should be woken up at night if it states in the regulation that there will be no discernable noise at the property line. That is how it should stay. Wood said if it costs \$72,000, then that should be the cost. The cost should not be people on Rocks Road getting woken up.



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Khan said it sounded like NextEra was planning to make some improvements to the sound in the building, as the hours were expanded. He asked if that was the case. Coes said all of their sound information had been presented to the Board previously. The sound study at \$72,000 would not negate that Garand had the power to step in if there were complaints, and did not mean they could continue to disturb the neighbors. If the extended hours found complaints they would address that further with the Board. If it came to that, they feel money would be better spent in doing changes to the range, although he did not know what that would be or how effective it could be. They think that would be better than spending \$72,000 now, and still finding out that further explorations for modifications had to be done. Khan said right now there is no improvement. He was looking to know that NextEra was trying every possible technology now to improve the situation.

Janvrin recalled that in the early days of this case he had suggested the Applicant should be doing some mitigation onsite to lessen the noise impact, even though the majority of the board wanted to go to an outside firm. NextEra now wants to leave things as is and do all the firings until 10PM. If there would be an issue, they would drop back to the 6PM limit. The problems are that the Applicant still had not made an effort to come into compliance with the original condition, that [firing noise] not be discernable at the property line. Additionally, if this extra time period is granted, there is still no way for the CEO to measure the sound level to assure that they are staying under the levels they propose. The Applicant has not indicated that they will try further mitigation. Even if they do not, they have made no effort to supply the CEO with equipment and training to assure that they are in compliance. He thought a sound meter, calibrated at the state laboratory, would cost a lot less than \$72,000. He noted that the Police Department could use it on motorcycle noise, as well.

Garand thought that if the Board allowed this test, with any complaints they would have to go back to 6PM. He asked if they had looked at putting plantings on the property line and bringing in screening. As plantings matured, it would protect the residential neighborhood and provide a buffer. Additionally, property owners along Rocks Road might welcome some vegetation. It would mitigate some noise and would beautify the neighborhood. This would cost a lot less money, and provide some sound barrier. He thought they should consider this as well as work at the sound study issues. Coes recognized that Janvrin had advocated putting up a live vegetation screen, and thought that might be effective, although he didn't know how effective. He thought the important thing would be to do the acoustical modeling showing what vegetation would do. Another idea was putting a vestibule around the double door entry which is a major source of noise on the Transfer Station side. They would have to model this to see what impact it would have on the existing noise levels. They could look at other things and bring the information and results back to the Board. Coes asked if that was what Khan was looking for. Khan agreed.

Frazeo asked what was used for sound damping materials. Coes said the range construction is 7 1/2 inch walls; the roof included 20 gage steel and 3 1/2 rigid insulation, and was doubled to get to the current levels. Frazeo asked if sound-absorbent cork was considered. Coes said that was one item Frazeo said on highways across the country, to mitigate the automobile sound to neighbors they use walls that are specifically designed to deflect or absorb sound. He thought that NextEra had many options to absorb the sound. Coes said that one problem with the building is that it is 27 feet high. Frazeo said that cork absorbent materials are used in sound studios, and is a simple, easy fix.

Hawkins asked for Morgan's view. Morgan pointed out that NextEra had been before the Board since 2010. At that time the Board established the standard that noise should not be discernable at the property line. The amendment asks that the standard be for Rocks Road residents. He



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thought the goal was again moving, this time to see if anyone complains. This is also problematic because the application before the Board is to see if it is discernable at the property line, not whether someone complains. Wood noted that residents don't have a tendency to call and complain. Morgan thought they are getting further and further from a solution. Wood noted that Khan had asked about solutions, and now the response is just some "maybes", and asking to for more time. She asked if it wouldn't be more advantageous to tell the Board good ways for mitigation of the sound, whether trees, cork or the like. There's been a lot of discussion, but there's nothing concrete. If there is a building with steel, why wouldn't it be insulated with cork. Frazee said they need dead air space for insulation.

Hawkins said it is not the Board's job to solve the problem. Rather the Board says yes or no to a recommendation, or to continue with some alternative. The Board is made up of laymen; the problem should go back to professional people with knowledge of what can be done. These are not the same as home remedies. Abramson agreed with Wood and Hawkins. Most townspeople don't complain much. Sometimes he hears about a complaint when talking about citizen's petitions and people talk about the quality of life. Sometimes the security and environmental issues at the nuclear power plant need to be addressed as soon as possible with a large taxpayer. Khan favored trying the test timeframe, and would support the proposal. The CEO can always go back if it is a problem because of complaints. Janvrin said if the Applicant does nothing to try to mitigate sound, and more noise is allowed, even if there are no complaints, it makes no difference because the CEO does not have the equipments to test that noise so there is no way for enforcement. Hawkins did not disagree, but was uncomfortable. He did not know what 44dB or 15 dB sounds like. Maybe a practical basis is to allow the testing in increments until the feedback is that it is unacceptable because it is bothering people. Sounds outside this building don't bother him. When he worked in a tall Manhattan building, he never heard the fire engines going by all day – people get used to background noise.

Because it cannot be measured on a daily basis, Hawkins thought it a good idea to continue the experiment. He also agreed with Janvrin about doing something to bring mitigation along the property line, for example with plantings. The option of hiring a consultant would remain, but he believed some kind of good faith effort along the property lines to help out on the problem was warranted. He did not know how expensive a vestibule would be, or if it would reduce the sound, but it did not sound like a huge project. He also wanted to see what NextEra would do incrementally; if something does not work, what is the next step. He wanted to see that NextEra had a game plan rather than just a waiver from the Board. the Board would be more comfortable knowing that if it grants the 10PM request, there is a game plan in place. They must have some ideas other than building the building somewhere else. They must know that for incremental dollars, the problem could be solved. He wanted to see the steps that would be taken in the future to assure the Board the problem would be solved. The Board had repeatedly expressed that they wanted to know that something was being done on NextEra's part, than just requesting a waiver. Chase wanted to be sure that an approval would not be granted until the Board had another discussion.

Hawkins said the recommendation would be to grant the extension to 10PM to continue to collect feedback. At the end of the extension period, the matter would be on the Board's agenda to see the results, as well as what the Applicant intends to do for mitigation if they don't meet the standard of no discernable noise at the property line. The Board would want to understand their intent for going forward. Janvrin said even if the Board authorizes the amendment, the CEO still needs a way to measure the outcome. There is no way to enforce a standard because the town does not have the equipment. Hawkins commented that the Board had the option to word a motion as it sees appropriate. The ordinance is there to protect the neighbors; it does not go



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away or reduce the Board's responsibility to deal with the issue later on. He did not have a problem with extending the time period while more information is collected, and give the Applicant the opportunity to put together a plan to show the intentions if it did not work. They are not going to abandon the building, but they can give the Board a reason to continue the experimentation.

Khan asked if the Applicant had a device in the facility to measure the sound. Coes said they did not. Khan asked Coes to find out how expensive it would be for them to have a sound measuring device and share it with the town. Coes will do that. Frazee commented that there are hand held units. Janvrin would favor this process provided that if there is a complaint, they would have to drop back to 7AM to 6PM until they return to the Board. Sweeney said if the timeframe is to be extended, he wanted time data showing that the 50 caliber is being fired at 9:30PM to see if it does bother the residents. Hawkins asked how much information they had on the firing. Coes said that information comes from the trainers. Janvrin said a "bean counter" to give the time frames would be helpful. Coes said the nature of the training is intermittent. They might have training in the morning followed by certain minutes of firing. He would find out what could be done as far as information on continuous monitoring. Winn said that NextEra had no interest in trying to hoodwink the firing times. They would do what the training requires and they understood the Board's concerns. They will be here for a long time and want to be the best neighbor they can. That's why they did the Transfer Station road. They will see what they can reasonably do. Frazee asked that they use at night the largest caliber that they fire. Coes said they had done 72 rounds with the 50 caliber. Frazee said that hand-held monitoring devices are common with musicians and sound experts.

MOTION:	Janvrin	to continue Case #2011-31.10-22 until July 9, 2012 with the stipulations that (i) the Applicant be allowed to fire between 7AM to 10 PM, (ii) if there are any complaints the Code Enforcement Officer can drop the hours to 7AM to 6PM until they return to the Planning Board, (iii) the Applicant work on a plan to reduce or mitigate what happens at the property line, detailing what the future steps would be to deal with the issue, and (iv) the Applicant find a way to monitor the sound at the property line and deliver the results to the Board;
SECOND:	Khan	Approved: In favor: Hawkins, Khan, Frazee, Janvrin; Opposed: Sweeney, Fowler Present: Abramson

Hawkins continued Case #2011-31.10-22 to July 17, 2012 at 6:30PM in Seabrook Town Hall.

CASE #2012-05E - Proposal by Glenn Cooper, 112 Lafayette Road llc, and Loanmax, llc to establish a consumer finance office at 112 Lafayette Road, tax map 10, lot 8, continued from April 3, 2012;

Appearing for the Applicant: Alicia Lastowka, Loanmax;

Appearing for the Applicant: Bo Bonin, contractor;

Bonin circulated color copies of the proposed painted building, and signage samples. Khan said they did not fit in with Smithtown Village. Bonin said that the lighting provided by Unitil had been turned off so they could not display the exterior lighting. They propose three cut-off fixtures with dark sky initiatives, two at the front corners, and one on the side. He commented that the lighting



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would be minimal, nothing like was there before. Garand suggested they ask for a waiver of a photometric grid done by a lighting engineer. The three light fixtures would be down cast. Hawkins asked if Garand thought that lighting would not be an issue for adjacent yards. Garand said the adjacent yard if the convenience store. Hawkins asked about the lighting hours. Garand said to put a condition that the lighting would be active during normal business hours, and diminished during off hours.

Hawkins asked about parking. Garand said the original approval was for more than 50 cars on the site for a used car lot. Hawkins said the proposal looked for a reduced number. He wanted someone to review the striping. Garand said if it is 10 x 14 feet and meets all the ADA requirements, there would be no issue. Bonin said after the last meeting 4-inch stripes were added. Hawkins asked if there would be 50 spaces on the lot, as shown on the prior plan. Garand said it would be about ten spaces. Janvrin said two of the spaces would be for handicap. Hawkins asked if the only sign would be the one on the building. Garand said the existing pylon sign would be refaced, and signage on the building. Hawkins asked for Morgan's guidance. Morgan recalled that Khan wanted a Smithtown Village signing. His primary concern was that the Board had taken a lot of time to develop Smithtown [as a New England Village], and the presentation did not look like that. Wood noted that that was indicated at the last meeting. The Board had asked the Applicant for Smithtown Village colors. Abramson was partial to the natural tone colors he saw in Lowe's. He suggested that they change the colors a few degrees, because what they propose is pretty bright for that part of town.

Hawkins thought that the yellow color was more problematic than the red. Wood said the yellow and the white was kind of bold. Abramson said that to be a successful business it had to be visible. He thought the signage colors were pretty bright. He thought the Board might have to go through colors to find some that are bright enough to attract business without being a "McDonalds" color. Khan commented that if this business was in a different part of town, there would not be so many questions. The town worked so hard over the last few years to build the Smithtown Village district, and this is the first case. The concern and the concentration should be about how it should look in the future. He recalled that a few weeks ago, there was a similar situation about landscaping because the ordinance had recently been approved. The town wants the businesses to be successful, while fitting into the town's future. Abramson thought that he had voted against the concept, but said the majority of voters were intent that the area around the Town Hall have a certain look.

Bonin said the Applicant's intent was not to shock and awe and was open to changing the color to a more historical hue. He noted that a building painted the Loanmax yellow existed up the street. They want to work with the Board, and had tried to find out where the town is going with this historical district, and understood that this is a draft in process. They want to open a store that is appealing to residents and customers. The property currently is abandoned and that is not what they would do. Bonin said that the white could be toned down. Khan asked if they had other versions that could be shown to the Board. Bonin said the proposed colors had been approved in another state for a historical district. They had to alter the fireman red, but could use the yellow. Bonin had some samples from Sherwin Williams, but there might be more to choose from. Hawkins asked if Bonin had a draft copy of the proposed site plan regulations for Smithtown Village. Kravitz said it had been offered to Bonin. Hawkins said the Board is trying to create the new England village feel; the colors that Bonin is proposing do not fit. Hawkins said the Board did not want to dictate the colors, but did want the colors to fit into traditional New England type colors e.g. nothing florescent like the proposed sign. Bonin had received the signage late that afternoon, and thought that one color had been changed and the other did not.



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Lastowka asked if the red and yellow were objectionable, Hawkins said they did not like the brightness. She asked if it would still be objectionable if the colors were toned down. Hawkins said a combination of those colors might work if they were toned down. Lastowka showed other color samples and asked if that might be ok. Hawkins said that was more like what was wanted. Janvrin asked if the brick was to be painted. Lastowka confirmed this. Janvrin asked if there was a reason not to leave the brick as is. Bonin suggested painting the main part of the building an off-white. Lastowka asked if the Board wanted to keep the original brick. Janvrin suggested leaving the brick and making the shaker panels off white or some kind of a burgundy red. Wood especially did not like the yellow sign. Bonin noted that he had shown the company's colors that had been toned down to a more historical color. He wondered if they could keep that.

Hawkins said this is a village district that had just been approved by the voters. They are trying to accomplish not flashy colors. The draft ordinance showed what the Board had in mind for signage as well favoring the brick facades and stone work. Bright, flashy, attention getting colors were not what the Board was looking for. He called attention to the Smithtown Village signage requirements. Bonin said because the pole sign is existing, and did not know how to address it. Hawkins asked Bonin to get the guidance for what the Board had in mind for this district, tone down the colors to be more in line with that, and to think about the Applicant being the first in this area of the town. it would be a problem to approve something that was so far off the idea. Lastowka thought they might keep the original brick, with a soft color above it, perhaps use a country red. Bonin said they could trim out the window soffit in the same color, and put in a yellow band underneath. They will return with another, better mock-up. Wood asked if the village district was the place for them if they were stuck on the colors. Bonin and Lastowka said it was. She was concerned that it would not be advantageous.

Bonin said that altering the color of the building could be done easily, but he did not know how far they could go with the pole sign. Janvrin said one of the colors shown would be acceptable. Bonin pointed out the Loanmax sign up the street was that vibrant red and yellow. Hawkins asked Morgan to speak about the signage for the district which was not 20 or 30-foot signs. Janvrin said [the pole sign] was existing and would only be refaced. Abramson thought one proposed sign was a little better. Janvrn thought they'd had some guidance from the CEO Garand said they are not changing the location, just the face. Hawkins thought the Board would have to deal with this issue repeatedly, and needs to decide the path to take. Abramson asked if the Board wanted to come up with some pre-approved colors to show people the concept. Hawkins said that maybe a range of colors was the way to proceed. Abramson said a lot of small towns have tried to go with form-based codes, but found it too expensive. So they picked up a few books of paint chips and identified the ones that they liked. Hawkins noted that some historical colors were very vibrant, like some in Portsmouth. He agreed with Abramson that the Board might have to give some guidance about what would be appropriate. Wood wanted to give at least some guidance so the next applicant wouldn't flounder.

Abramson said to have a pre-approved development alternative where any business owner or developer could already know some colors that are ok. They could even come back with an alternative, because they would have a general idea e.g. earthy tones. Hawkins said Bonin could get a color copy of the proposed ordinance. Bonin said that he knew what the Board was looking for. Abramson wanted to make sure that there were colors and color schemes available. The colors need to at least attract the eye and may not be successful if they are too subdued. If an area get's a reputation that it is too expensive to build or doesn't attract customers, those businesses would not be profitable. Khan aside if Morgan had other thoughts. Morgan said that landscaping could make a difference; there wasn't much on this site. Wood thought landscaping could be attractive. Bonin said because it had been a car dealership there was a lot of black top;



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there is a planter on the side and another in front of the house; nothing at the front entrance. There is a small section of grass on the road. Also there are about seven poles in front of the property, which they did not plan to use. Typically, they would use bright red mulch. Garand asked if the poles could be removed. Bonin said they had talk about that. Garand thought that would be preferable; the last tenant had flags lining the roadway. Bonin asked if there were ordinances that would restrict them from using the poles. Garand noted they are non-conforming. Hawkins asked Bonin and Lastowka to work on the colors and the sign; the lighting seemed ok. He agreed with Garand that removing the poles would be appreciated. At this point the parking and the striping looked ok.

Hawkins asked about the dumpsters. Bonin said they would get a two-yard dumpster and locate it behind the building so it won't be visible from the street. It would be serviced regularly. Janvrin asked if they needed a waiver for screening the dumpster. Morgan said this was a change of use so it could be negotiated. As the dumpster location would be behind the building, Janvrin did not think the screening was necessary. Hawkins asked them to return with the colors, and the signage. Bonin asked for guidance on the signage. Hawkins thought the Board members disagreed, but they would have to make that decision. He was sensitive to the fact that this is an existing building and a sign pole that was allowed in the past. However, the town had not before faced a complete new zoning of an area, so the Board would have to struggle with the signage requirements for the new zone. Every applicant in this area would have to meet the requirements of the zone as it was laid out. There could be a compromise such as allowing usage for a period of time, after which it would have to be a new sign. Bonin thought that they could get to a satisfactory point if they alter somewhat and tone down the colors. Hawkins said that would be easier, but felt that if the Board was moving in a direction for this area, it should just make the move to get what was envisioned.

Wood felt that if the Board felt so intensely about the colors, it should do the same for the signage and the lighting, even though it is an existing building. Janvrin asked if they would occupy the whole space. Bonin said they would occupy the entire property. Hawkins said this would be an example of an individual business; a professional building would have several tenants. These things were worth the discussion because they would have to face many similar situations as properties redevelop. Abramson liked the country red color with white letters for the sign, and thought it might fit in better. Hawkins said the Applicant's dilemma was the company colors and logo when following the local rules. Abramson wanted them to accommodate to the regulations as much as possible. Bonin understood that Loanmax had its colors. Janvrin asked for alternatives. Abramson wanted, as much as possible, to present examples of pre-approved colors. Hawkins agreed, although he did not want to approve building designs. Bonin agreed that examples would be good instead of saying only traditional colors.

Hawkins continued Case #2012-05E to May 1, 2012 at 6:30PM at Seabrook Town Hall.

CASE #2012-06E – Proposal by Mark Casper, Tim Johnson, and M & K Complex to establish a marketplace and flea market at 920 Lafayette Road, tax map 7, lot 91-204; continued from April 3, 2012.

Attending: Mark Casper

Wood recused herself from Case #2012-06E. Chase would be the voting alternate.

Hawkins confirmed that at the last meeting the Applicant stated that the hours of operation would be from 8AM to 6PM on Saturday and Sunday. The Applicant was to address the signage. Casper had not done that yet because he wanted to accomplish the interior changes first. The



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dumpster would be placed at the rear of the parking lot next to where the Chop Shop keeps their dumpster. He said the property owner and Chop Shop management are fine with this, and that Johnson intended to put in a pad for all of the dumpsters. Casper wanted to return to the Board on the signage. Janvrin asked about the lighting, Casper will be meeting with the electrical contractor that Johnson had hired to go over the lighting and coordinate with Garand about what would be required, including the safety lights. Hawkins asked for Garand's view. Garand said a conditional approval had been given. The building needs quite a bit of work to bring it to standards for occupancy. They would be allowed a small roof sign, a place on the pylon sign, and a wall sign on the end of the building.

Khan asked the kind of business, and what products would be sold. Casper said it is a flea market where people sell used and new goods including sneakers, homemade jewelry, clothing, dollar items like tools and house wares – a big mix. Wood was concerned about another dumpster as there are already two up against the mobile home park. She said that no dumpster company abides by the 7 AM pick-up limitation, and are there as early as 5:30AM. Another dumpster and a pad were a concern; the noise is bad enough that the dumpsters are let down on the grass and turf. Hawkins asked Garand about any options. Garand said the parking is so limited; a dumpster in the front of the site takes up a parking space. On the approved plan the dumpsters were at the rear of the site; for health reasons the Chop Shop dumpster has to be on a pad. He walked the site with Johnson and pointed out the mess up against the residential area, and they talked about moving the dumpsters further south and installing a small stockade type fencing to keep the rubbish off the residential lot. This was already on the approved plan; he was not sure what could be changed.

Hawkins said that the approved plan was nine years old, and yet it was not done. Janvrin noted there is no security. Garand said the Applicant is renting an existing space and not changing the exterior, Hawkins said that a dumpster pad would be added. Garand said a pad was already on the approved plan, shown as a 16 x 8-foot pad. Casper asked if they were required to have a dumpster; he and his son could remove trash on Saturdays and Sundays. Hawkins said they are caught up in a site plan that was approved a long time ago and is not in compliance with what had been originally shown to the Board, noting that he did not intend to hold up this business. He wanted to know the owners game plan and timing. Garand said that Johnson was looking to do a lot of work on the site; it was moving forward slowly. Cash is difficult now when they don't have [enough] tenants. Janvrin thought it was a good thing that they are starting to get tenants. Garand said the positive thing was they are trying to move forward. Hawkins asked if another dumpster should be added to the location of two other dumpsters that are already creating problems. Garand said it is not enlarging the problem; rather it was a step in the right direction to bring the site into compliance with what was on the approved plan. Garand said he made an on-site call to move the dumpster further away from the residential portion, because of the debris on abutter property after a holiday or on hot days. The owner was in agreement.

Hawkins asked about the spotlight. Casper had talked with Garand and Johnson about a spotlight, and would be meeting with the electrical contractor that Johnson hired. He said they would address the recommendations and concerns. Hawkins noted that the sign would not be the kind of problem that had been discussed in the case heard earlier. Hawkins asked if these concerns were outside the Applicant's control Garand said they were minor and did not warrant returning to the Board. AS long as the signage is compliant with the ordinance details, there would not be a problem with the building permit. They were also addressing the life-safety issues including the handicap entrance and making the building have a useful status, as it had been vacant for a number of years. They would work to bring it into compliance. Hawkins and Morgan were in agreement with Garand; there being no other comments. .



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MOTION:	Hawkins	<p>to grant final approval to Case #2012-06E - Mark Casper, Tim Johnson, and M & K Complex to establish a marketplace and flea market at 920 Lafayette Road, tax map 7, lot 91-204, subject to the following conditions stipulated on April 3, 2012:</p> <ul style="list-style-type: none"> (i) the hours of operation will be Saturday and Sunday 8AM to 6PM; (ii) the Applicant to show that the signage is in compliance; (iii) the Applicant to identify where the dumpster is to be located; and (iv) the lighting to be brought into compliance.
SECOND:	Janvrin	Approved: Unanimous

Casper thanked Garand for being of great help.

PROPOSED AMENDMENTS TO THE TOWN'S SUBDIVISION AND SITE PLAN REVIEW REGULATIONS THAT WOULD GOVERN DEVELOPMENT IN THE NEW SMITHTOWN ZONING DISTRICT THAT IS SITUATED IN THE VICINITY OF TOWN HALL.

Janvrin had browsed the proposed regulations but wanted more time to study this. Hawkins asked all members to make that review. Given the first case in the area, he thought that the draft was not as specific as some would want. The discussion should be about how specific to get, and how general. The Board did not want to be designing buildings, but did want to give guidance on what they might look like. It is a lot of information to go through it step by step, but would be very worthwhile as it is the first time such regulations would be addressed. He asked what the May 1 agenda looked like. Kravitz said there were a couple cases, and was not at this point a heavy agenda. She noted that the Steering Committee is also reviewing these regulations, and that a work session is scheduled for June 5. Hawkins wanted to have the work session sooner, and asked about May 15. Khan asked if these regulations would need voter approval. Morgan said these were Site Plan regulation revisions; the Board could decide how it should be written and hold a public hearing to adopt it. The zoning revisions were adopted on March 13, 2012, and cannot be touched until the next town meeting.

Khan also suggested that when this is discussed, it be done at the beginning of a meeting, before the cases. Hawkins was hesitant to have applicants just sitting and waiting for a couple of hours. He thought there would be discussion about a potential palette of colors, at least, at the next meeting because of the case that it would affect. Janvrin suggested that if the work session were posted for May 15, cases could be postponed except for what would be statutorily required. Hawkins said if there were time at the next meeting, he wanted to take an hour for discussion. Items that need to be more specific, or more general, could be identified to get a flavor of what is liked or what needs to be changed. On May 15th, the work would be on the changes. First, there needed to be a quick overview to see if the format is generally what was wanted. He said that the Steering Committee had already put in a lot of thought and many hours. As the cases come up, items that weren't thought of would come up. The discussion had been on traditional New England attributes like stone and brick. Colors seemed too specific, but now there is a need for



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better guidance. The concept was on writing the new zoning provisions and site plan language. Now the implementation procedures would have to be the focus. Should this be formed in increments or a single standards framework.

Janvrin said if the standards had been in place the first applicant in the zone as well as the Board would have had it easier. Tonight's case helped realize that there are going to be new things to think about. It would be good to spend a work session on it and prepare for the public hearing.

Hawkins scheduled a work session on the draft Smithtown Village regulations for May 15, 2012 at 6:30PM in Seabrook Town Hall. If there is time on May 1 the discussion would continue at least for an overview and setting the priority issues for May 15th.

OTHER BUSINESS

Hawkins commented on the work that began for the Steering Committee with the Workforce Housing and Planning Program grant, then the master Plan, and now on a Memorandum of Understanding with the MH Department of Transportation re Route 1 so the town has some input in what the State is approving or not approving. Generally, it is more efficient to work this through for a few hours in a group. However, some people left the Committee with the completion of the Master Plan. He wondered if any Planning Board members would want to volunteer to participate on the Committee which can address new items prior to presenting proposals to the Board itself. There will be the opportunity to sit in on discussions and formulate items for consideration and direction by the Board. This work could not be done at regular Board sessions as it takes so much time away from the cases. Abramson thought this was like a subcommittee. Hawkins agreed, and noted that Bob Moore had retired as a Selectman, and Sue Foote was in a limited role. The Steering Committee was open to the public and had business representation, so anyone with an interest could participate. The Committee met on Thursday mornings once or twice a month.

Hawkins had developed a list of items that he thought should be addressed for the town by a subcommittee that could make a recommendation to the Board of provide directional comments as with Master Plan Chapters. Kravitz said the final Master Plan was expected to be delivered the next week. Hawkins said only a few books would be printed, because it will be on the website. Khan asked if this would come in front of the Board. Hawkins said every Chapter was done individually as they were finalized, and it is all done. Chase asked if this would be on a CD. Kravitz said 4 binder copies and one clean copy would be delivered along with a CD. The chapters would go up on the website. chase asked if it would be downloadable from the web; Kravitz said it could. Morgan cautioned that it is a large document. Kravitz said that the revised Site Plan Regulations and the Revision listing were not on the website; the zoning and index are already there.

Kravitz said that the Town had been informed that the NHDOT had let out the bid for the Route 107 Bridge on this date. Janvrin thought that meant that DDR had delivered its money the week before. Kravitz said DDR had delivered close to \$2,500,000 and the Town had delivered \$200,000.



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Chase called attention to a Rockingham Planning Commission meeting that had a presentation on "Complete Streets", and asked if that would be appropriate to show at the Planning Board. Hawkins said it was a great presentation, and made people think about roadway design. Chase said he had the power point. Hawkins said that would be a good presentation for a work session, possibly for May 15. A lot of decisions are made just thinking about cars, and not about pedestrian or bicycles. The presentation brings about different thinking. He noted that it was an eye opener for the NHDOT representative as well. Janvrin thought the presenter was from Portsmouth. Hawkins said every Planning Board should watch this for thinking about future decisions. Chase said he would be showing this at the next Safe Routes For School meeting because it covers a broad range of subjects.

Abramson said there would be a Freedom Expo in Exeter on Saturday, April 28, and this would become an annual event. It's an all-day event with some town planning and pedestrian safety topics. There would be tables and businesses are attending. It is free. Hawkins asked who was the sponsor. Abramson said it was put together by a bunch of organizers. The handout showed progress made in Holland on traffic issues, redesigning roads and the like. Abramson said they cut their pedestrian fatalities by 75 percent with changes like sidewalk and crosswalk placement, and other improvements.

Hawkins adjourned the meeting at 9:17PM.

Respectfully submitted,

Barbara Kravitz, Secretary Planning Board