



Town of Seabrook Planning Board Minutes

Tuesday, September 13, 2011
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Dennis Sweeney; Robert Fowler; Elizabeth Thibodeau, Robert Moore, Ex-Officio; Francis Chase, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;

Members Absent; Paul Himmer, Alternate; Michael Lowry, Alternate; Jason Janvrin; Sue Foote, Vice Chair;

Hawkins opened the public meeting at 6:35PM

MINUTES OF AUGUST 16, 2011

Hawkins asked for comments, indicating he did not have changes.

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| MOTION: | Chase | to accept the Minutes of August 16, 2011 as corrected; |
| SECOND: | Moore | Approved: Unanimous |

SECURITY REDUCTIONS; EXTENSIONS

Case #2010-24 Eaton, Gore Road Subdivision

Hawkins referenced the request from Ivan Eaton Jr to extend the Notice of Decision Conditions of Approval, and noted that the Board had been granting up to a year. Morgan would be reviewing the ordinance and likely drafting an amendment to change the 180 day regulation time period to one year. Kravitz informed that Eaton had delivered revised plans which had been distributed to the department heads, and also posted the required security.

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| MOTION: | Moore | to grant a waiver extension for the Case #2010-24 Notice of Decision conditions of approval until April 2, 2012. |
| SECOND: | Chase | Approved: Unanimous |

CORRESPONDENCE

Hawkins said that the circulation packet could be reviewed at the members' convenience.

INFORMAL CONVERSATION

Hawkins asked for Richard Gagnon to explain to the Board his proposal for a flea market at 920 Lafayette Road. Gagnon was not in attendance. Hawkins asked if Gagnon knew of the agenda item. Kravitz said he did. Hawkins put this matter aside to see if Gagnon would appear. .

PUBLIC HEARINGS

Hawkins opened the Public Hearings at 6:40PM.



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NEW CASES

Case #2011-20E – Proposal by Khan Real Estate and New England Auto Finance to renovate the building at 481 Lafayette Road (Tax Map 8 Lot 26) and to establish an automobile financing office therein.

Attending: Aboul Khan;

Appearing for the Applicant: Paul Paradise;

Paradise said that he was the agent and the contractor. Hawkins asked for a short description of what is being proposed. Paradise said that the Applicant business is auto financing; it is located in Atlanta, Georgia. New Hampshire locations are Salem, Somersworth, Plaistow, and Nashua. Hawkins asked what is proposed for the building work. Paradise said the building footprint would remain as is, but would be totally renovated and remodeled. The roof and HVAC system would be repaired or replaced. The inside would be demolished and the new configuration would be office space including 4 work stations, 2 ADA compliant bathrooms, and storage. The exterior would be cleaned and painted. Hawkins asked if there would be any additions. Paradise said there would be no additions; the current glass enclosed entrance and an overhang at the loading dock in the back would be removed to create a couple of parking spaces.

Hawkins asked for Morgan's comments. Morgan asked about the lighting plans. Paradise said they would comply with the regulations; the company does whatever the township requires. They would want some outside downturn security lighting that would not go out into the street. Initially, they will just cut the grass, and later probably landscape the side of the building facing Lafayette Road with shrubbery. Morgan said that typically lighting is resolved at this meeting. Paradise said that downturn lighting would probably be 2 on the Lafayette Road side, 4 along the building front, one on the other side, and none in the back. No shadows would be created, but the building would be lit for security purposes Hawkins asked for questions. Moore said that Garand would oversee the process so the signs would comply with regulations. Garand noted they could reface the pylon existing signage as long as the size and location was not changed. Garand said signage on the building had not been addressed, and the handicap spaces not shown. They need to address lighting for handicap spaces, and keep the lighting to a minimum when not operating. Paradise said the first 4 spaces would be labeled handicap. In his experience, the company complies with whatever the town wants. Garand said only 1 or 2 would be required.

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| MOTION: | Moore | to accept Case #2011-20E as sufficiently administratively complete for jurisdiction and deliberation. |
| SECOND: | Chase | Approved: Unanimous |

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| MOTION: | Thibodeau | to approve Case #2011-20E – Khan Real Estate and New England Auto Finance to renovate the building at 481 Lafayette Road (Tax Map 8 Lot 26) and to establish an automobile financing office therein, conditioned on i) the lighting fixtures and placement, and the sign size and design will be approved by the Code Enforcement Officer, and ii) the handicap parking will be shown on the plan. |
| SECOND: | Moore | Approved: Unanimous |



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Case #2011-21 – Proposal by 1994 Seacoast Holdings Realty Trust and Smartfuel America to collect and process waste vegetable oils at 15 Batchelder Road, Tax Map 5, Lot 14-3.

Attending: Hunt Stehli;

Hawkins asked the representative to introduce the proposal. Stehli said that SmartFuel processes alternative fuels and had been located on Folly Mill Road in Seabrook for 3 ½ years, and want to relocate in the town. The company collects waste oil from restaurants in about a 50 mile radius in New Hampshire and Vermont, and also buys larger quantities from other local collectors. They are outgrowing the current plant in size and capacity. It is located in a grandfathered industrial strip surrounded by a residential neighborhood. He thought both the company and the neighbors would be happier if they located in another area, particularly because of the noise issue, as with the company's growth the scheduling can be at all hours.

Stheli said the Applicant would like a firm understanding from the Town. The new site is in an industrial zone, so there wouldn't be noise issues for any neighbors. Currently they have only one shift per day, but sometimes deliveries have to come at night; they need that flexibility. The alterations would be to the existing building is about 11,500 square-feet and has been vacant for about 1 ½ years. The only significant changes would be to fix the paving that has broken up, and to add two pads: one for grease collection from inbound deliveries, and the other for loading finished deliveries. Some asphalt would be replaced to make the surface level. A garage door is being added at the left end. Hawkins asked about Morgan's comments. Morgan asked for a clear idea of what is done inside the building. Stheli said when the oil is received it is full of food particles and residue that is found behind restaurants. The processing involves the screening of solids out of the oil and the mechanical separation into finer solids and water. The result is a clean oil. No chemistry is involved in the current process using centrifuges. The product is stored and goes out the door when there are buyers. They may consider working with biodiesel which would involve a chemical process, but not in the immediate future. Stheli said that that is the extent of their plans.

Morgan said that the company is presently operating on this side of Route 95. When crossing over to the other side of Route 95 they will be in the wellhead protection district, so he thought the Board should look more closely at what kind of mechanisms are in place in case of a spill possibility. Moore said the Town requires containment areas with tanks to take a spill. Garand will inspect the area to assure that what the state requires for aquifer protection is in place. Stheli they will have a secondary plan for the perimeter of the building and any spills would be contained within the largest size tanks to meet the volume requirements. Morgan said he was looking for that type of information when he reviewed the plan, but did not see it in writing on the plan. Stheli said on the siteplan they had focused on the inside of the building and did not know if further [outside] detail was required. Morgan asked about the outside of the building, for example, at the loading area where an accident potentially could occur. Moore asked about a secondary protection plan. Stheli said there was not a practical way to secondarily contain loading areas; possibly a berm. SmartFuels currently contracts with EnPro for clean-up if any trucks had a problem. He pointed out that all of the materials are non-hazardous. Morgan asked if there were a spill at the loading area, what direction would it go. Stheli said it would go to the south, curve around to a riprap with rocks, to an elevation below the roadway; he was not sure where it went after that.

Hawkins thought there was quite a bit of marsh around the property. Fowler said it was also just down from the property, and asked how much oil the trucks carry. Stehli said recent shipments ranged from 6500 gallons to 9000 gallons. Hawkins asked Garand if this plan should go to technical review. Garand said it should be reviewed properly by all department heads. Also there



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was no snow storage on the siteplan. It also appeared that some parking was shown over the property line, and asked if there were easements for that; minimal parking was depicted on the plan. He asked if they intended any outside storage, and if there were to be any dumpsters on the site. Garand recalled that on his last inspection of the current location he found some oil tracking down the building, and asked how that would be addressed in the new site. All of these items should be addressed in the new plan. Hawkins asked for Morgan's thoughts about technical review. Morgan concurred with Garand about technical review. Additionally, he called attention to one corner of the building which was a little into the 15-foot setback. This raises a potential zoning issue because apparently it was built in the wrong place and is a non-conforming structure. The zoning ordinance says that to expand or extend a non-conforming structure requires a zoning variance. He noted that the proposed alterations on Sheet #2 were not that great, and asked the Board if the alterations posed an extension or expansion. If the Board thought it was, the Applicant should be referred to the Zoning Board of Adjustment. If it was of no consequence then nothing needed to be done about it.

Chase asked if the parking was within the boundaries, and wondered what the issue was. Morgan said it was within the boundaries, but the zoning ordinance says a non-conforming structure could not be expanded without a ZBA action. Chase asked if they were only expanding the parking, but the building is not in conformance with the setbacks. Morgan understood they were only adding ramps and the parking, but he suggested clarifying this matter to be sure everyone had the same picture. Chase noted that they cannot change the building. Morgan agreed, but wanted to make sure all the "Is were dotted" in terms of the zoning. Moore thought This might be suited with a ZBA equitable waiver. Morgan said that if the Board felt that the parking was an expansion, to send this to the ZBA. Hawkins did not think this an expansion. He was more concerned about the runoff and how that was going to be dealt with. It would be an issue to be addressed for technical review or stormwater management. Morgan said that ordinarily when an applicant lays down more pavement, a stormwater analysis is called for. In this case the Applicant had requested a waiver. Chase asked about the dimensions. Hawkins said it was about 1900 square-feet of impervious surface. Moore said that is a sizable amount for the area. Chase asked if the 5-foot sidewalk would be added. Morgan suggested the Applicant describe the expansion. Hawkins indicated the changes on sheet # 2.

Stheli pointed out the current perimeter, lot-lines, and tarmac. They want to square off one area, change the front entrance, adding heavy duty asphalt for the loading and level-off the area and the sidewalk. Chase thought that was about 816 square-feet. Stheli pointed to the total area included for impervious coverage. There is an elevation area at a stone wall. Hawkins asked Morgan if the case should go to the Technical Review Committee and, if so, what items would be the focus. Morgan agreed with Garand, and listed the dumpsters, hours of operation, lighting and sign details, The Stormwater Operations and Maintenance Plan is important because it is good practice and because the Environmental Protection Agency will come after the Town. The Town's practice is to do what the EPA tells it to do; it does not second guess the EPA. Hawkins asked if the only item for TRC was the stormwater issues. He thought hours of operation and dumpster hours could be dealt with by the Board, and also lighting and signage if not changing. He asked if just the stormwater would require a tech review. Morgan said one advantage of tech review is it gives the Fire Department and the Sewer Superintendent something to say.

Morgan reminded that the Applicant's waiver request for the stormwater analysis needed an action. Thibodeau said to wait until it comes back from TRC, because it would be helpful to have some input before deciding on the waiver. Morgan commented that Applicant would find the TRC's signal helpful. Hawkins said the first step was for the plan to be accepted as administratively complete. He was inclined to say no to the waiver or at least put it on hold until



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after the TRC. He asked if anyone differed; they did not. Hawkins said at that point the board wanted to see something in the stormwater maintenance area, unless after the TRC there was enough reason not to deal with the runoff issue. The waiver would be considered by the Board after hearing from the TRC. Stheli asked if the TRC would only take up that specific issue. Hawkins said that issue and any other issue that the fire or sewer departments want to raise. All departments get the plans and they will have a chance to make comments at a TRC meeting. the recommended actions become the basis for the approval deliberations and any changes that might be made to the siteplan. Stheli said he did not understand what judgments the TRC would make, and wanted to clarify what dumpster and operations hours meant. Hawkins said the dumpster location meant where the pad would be; the hours of operation meant when the facility would be open. Thibodeau asked that acceptance be voted at this point.

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| MOTION: | Moore | to accept Case #2011-21 as sufficiently administratively complete for jurisdiction and deliberation. |
| SECOND: | Thibodeau | Approved: Unanimous |

Hawkins thought there was enough increase in surface area to warrant a set the TRC meeting. Chase asked if TRC would say whether there needed to be a Stormwater Operations and Maintenance Plan, and was that needed. Hawkins said the Board would make that decision; the TRC would state any issues that should be considered. There would be a large volume of oil in and out of the site every day. TRC would let the Board know any issues that they have before the vote [on the merits] is taken. He thought the stormwater was one open issue for the site, with the increase in the surface area. Moore said there is an issue with transferring 6000 gallons of oil when something goes wrong. Hawkins said it is being done now, and hopefully the volumes would be figured out at the new location. But if there are issues, they need to be addressed at the TRC before a vote.

Sweeney asked if there would be trailers outside. Stheli said they would be none outside, only smaller collecting trucks. Sweeney asked if they are drained as soon as they come in. Stheli said they were. Chase asked if this meant a leakage could not occur if no one was there. Stheli said the trucks are emptied as soon as possible. All off-loading occurs through the garage doors. Hawkins asked about loading the larger trucks. Stheli said there is a quick disconnect. Sweeney asked if there would be leakage from the disconnect. Stheli said they had gotten good at using a blow line with air for any excess. One of the great opportunities in the new plant is to increase cleanliness and do a lot of engineering now that they have knowledge and foresight. Inside the new plant the area containing messy parts would be in a small area; they work with the wastewater treatment personnel. **Hawkins set the Technical Review Committee meeting for Case 2011-21 on September 26, 2011 at 10 am in Seabrook Town Hall.** He asked if Kravitz could have the TRC Minutes by October 4. Kravitz said she would do her best, and said that it would be important to have whomever could respond to these types of questions at the TRC. Hawkins asked for other issues or questions Stheli asked what happens after the TRC. Hawkins said they would be back to the Planning Board with the TRC comments and probably Planning Board acceptance. Stheli asked for the next Planning Board date. Kravitz said the TRC minutes might not be done in time for the packets on October 4th. Stheli asked if there was other preparation for the TRC. Hawkins said it would be a question and answer with department heads about how the property would operate. Stheli would be expected to respond. If there were a recommendation for change, that would [come to the Planning Board]. Hawkins did not anticipate a very long list. **Hawkins continued Case #2011-21 to October 4, 2011 at 6:30PM in Seabrook Town Hall.**



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Case #2011-22 – Proposal by Dry Air Systems, Inc. for a condominium conversion at 99 Ledge Road, Tax Map 5, Lot 8-110.

Appearing for the Applicant: Wayne Morrill, Jones & Beach; Attorney Mary Ganz, Ganz Law;

Ganz delivered a check for the escrow required in their previous Case # 2010-02E approval, and paid an outstanding invoice for reimbursements. Kravitz said an agreement would have to be worked out re the escrow amount. Ganz understood that, but did not want the lack of escrow to hold up this new case. Hawkins said to retain the check. Ganz also provided the certification for the condominium documents. Ganz said another issue is Morgan's questioning that there were no individual shut-offs for the water. To meet this issue, the condominium documents were amended with a paragraph stating that all water and sewer bills would go to the Condominium Association. Ganz said if the Association doesn't pay the bill, all 12 units could be shut-off. That would get attention. There was also a waiver request re the shut-off regulations.

Morrill said the Applicant wants to convert the industrial 99 Ledge Road building approved in 2005 into condominiums. At the end of 2009 the owner came before the Board to resolve issues of the sidewalk and the guardrail at the driveway. The final pavement is going down this week and the guardrails are being installed. The building has the mechanical room at the front where the water comes in and splits to the individual units, each of which has a sewer stub; the sewer goes out to Ledge Road. The dumpster pad is at the back. The site will be poured this week; there are access doors for each unit. The pavement markings were approved for the previous plan; the stripping moves a bit so there is access to each unit without having to go around the vehicles. Currently, the owner has one client wanting to purchase 8 units with one bathroom, and another to occupy 2 units; another 2 units remain to be leased. The site is stabilized; all the ponds are installed. They are waiting for one more sign-off on the pavement, and then would ask Garand to do the final occupancy inspection. All the units are the same size and could have individual walls if there were occupancy changes in the future.

Morgan asked Morrill and Ganz to envision what would happen if one tenant had problems in paying the water bill, and what that would do to the tenant with two units. Morrill said there would be no water. Ganz said the Association would have to deal with that; it would have a budget and monthly condo fees. Morgan said that is fine if there is money, but sometimes businesses fail. Ganz said the Association wouldn't let that happen; they would lien the units. Morgan commented that the 8 unit lease would have 8 votes. Ganz said the Association is giving the Town the power to shut off the water. The people buying in would know that. Morgan said the Board had done a lot of condos and had never seen a similar arrangement [where all of the tenant utilities could be shut off because of a problem relating to only one unit. Hawkins asked for Garand's view. Garand agreed with Morgan's concern and said the water and sewer test manuals should be looked at and the Water and Sewer Superintendents should review this situation. Hawkins asked about one water hook-up for the entire building. Garand said the Water Superintendent should respond to that question. The Planning Board can look at the condominium documentation, noting that Morgan had already commented on this. Hawkins asked if Morgan had other issues; Morgan did not. Hawkins asked for questions or comments by the Board members.

Chase asked if the only concern were the water and sewer bill. Hawkins said the only issue raised was the one water hook-up, which Ganz had a plan to address through the condominium agreement, but Morgan was not totally in favor of it. Hawkins asked Garand to comment on the individual water hook-up. Garand said it depends on who occupies the unit. For example, a



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metals business could have a high hazard rating and have to test the manholes; the Water and Sewer Superintendents should review this. In other condominiums test holes are installed on the side of the building. Hawkins asked if this were the third time the applicant had been before the Board. Morrill said it was approved in 2005, came back informally as JK Connex, and then returned for a formal vote. The contractor has the sign-offs for water and sewer. He thought that Garand was talking about the individual units that would have to be reviewed by the water and sewer departments and sampled. Each unit has an individual sewer service that goes to a manhole where there is an ability to do samples.

Chase asked if sampling would be done in connection with the business application. Hawkins asked if the prospective occupants were known. Morrill did not, but they would have to pull a license from the building department. Hawkins asked if that were the jurisdiction of the Planning Board or the Code Enforcement. Garand explained that the business license goes before all department heads. The condominium documents could address these items but he had not reviewed them. Hawkins asked if Morgan had reviewed the condominium documents. Morgan said he had reviewed them briefly which is the usual practice. His only issue was the individual water shut-offs, because some years ago the Planning Board adopted that regulation at the request of the Water Department. Many documents had been reviewed, but this is the first time the Applicant had decided to get around that regulation by changing the condo documents. This would be set a precedent. Ganz thought the Planning Board regulations were satisfied by the Applicant's proposal. She thought that a metal hazard could be addressed at the enforcement and occupancy level.

Hawkins wanted to have the Water Department's comments on the practicality of the proposal, as they had asked for the regulation. Collecting money might not be the Water Superintendent's primary interest. Moore asked if there were 12 water meters; Chase said there would only be one meter. Moore asked that if one unit uses 100 gallons and another uses 10, they would both pay the same. Garand said there could be cross-contamination issues as well; the Water Department should to address this.

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| MOTION: | Chase | to accept Case #2011-22 as sufficiently complete for jurisdiction and deliberation. |
| SECOND: | Thibodeau | Approved: Unanimous |

Hawkins asked for the Board's preference on technical review. He thought the Water Department should have the time to review this in light of their original request. Agreed by consensus. **Hawkins set the Case #2011-22 Technical Review Meeting for September 26, 2011 at 10 AM in Seabrook Town Hall.** Morrill hoped there would be no other changes for the plan other than in re the Water Department. Hawkins assumed not. Morrill commented that they had installed the water service, and pointed out how it cuts and curves throughout the lot with an easement through the property for the Town of Seabrook. Morrill said at the time of the original approval submission they had a condominium proposal ready, but were told to get the building done first. Now, they would have to rip up the pavement to put in 12 water services, so that the town could shut off individual service. **Hawkins continued Case #2011-23 to October 18, 2011 at 6:30PM in Seabrook Town Hall.**



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Case #2011-23 – Proposal by Joseph & Kathleen Patterson for a condominium conversion at 29 Collins Street, Tax Map 10, Lot 67.

Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering; Attorney Mary Ganz, Ganz Law;

Ganz provided the documentation certification. She said that Boyd could not attend the hearing, but acknowledged that the comments in Morgan's August 21, 2011 memorandum were valid, and was prepared to make those changes including adding the note to the plan, the revision block and the monuments. Ganz said that Boyd asked for conditional approval based on making the changes requested by Morgan; she would draft an easement. Ganz pointed out several references in the planset. Hawkins asked if Morgan had looked at the condominium documents. Morgan said he had briefly, commenting that the practice with condo documents is to make sure that all the elements were there, and that the applicant had their attorney certify them. In that respect, he did not see anything unusual about the case #2011-23 documents. Hawkins asked for questions from the Board, and then Garand. Garand asked when Unit 2 was expected to be finished as well as the removal of the mobile home which was a condition of approval for the building permit. Also he noted that equipment was to be contained and was not allowed on the site. Ganz said she would let her client know that.

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| MOTION: | Chase | to accept Case #2011-23 as sufficiently administratively complete for jurisdiction and deliberation. |
| SECOND: | Moore | Approved: Unanimous |

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| MOTION: | Chase | to approve Case #2011-23 – Joseph & Kathleen Patterson for a condominium conversion at 29 Collins Street, Tax Map 10, Lot 67, conditioned on (i) the conditions stated in the Town Planner's August 21, 2011 memorandum. (ii) the locus being consistent and correct, (iii) removal of the mobile home prior to occupancy of Unit 2, and (iv) no equipment allowed on the site. |
| SECOND: | Moore | Approved: Unanimous |

ONGOING CASE

Case #2011-08 – Proposal by Harold & Beverly Perkins, Ken Wilson, Valerie Brown, and the Town of Seabrook for lot line adjustments at 79 Centennial Street, and a proposal by Harold & Beverly Perkins and Valerie Brown for a 3-lot subdivision at Anchor Way and 79 Centennial Street, Tax Map 9, Lots 29, 33, and 34-3, continued from April 5, 2011; May 3, 2011; June 7, 2011; June 12; July 19, 2011;

No one appeared for Case #2011-08. Hawkins recalled that Henry Boyd had on several occasions told the Board that the applicants want to withdraw. There has not been a written request to do so. Boyd had been reminded about that on numerous occasions. When the time frame expires, this case would come off the agenda.



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OTHER BUSINESS

Moore asked about the Informal Conversation scheduled earlier in the meeting. Hawkins said Gagnon wanted to talk about his idea for a flea market at 920 Lafayette Road. The Board had discussed that location many times. He thought Gagnon should have a chance to get some guidance from the Board; perhaps another time. Thibodeau wanted to know a bit more. Kravitz said Gagnon was interested in a unit for a flea market with several vendors. His concern was the meeting a Christmas timeframe, and was concerned about paying an application fee for something the Board might not entertain. However, he did not appear.

PLANNING BOARD ALTERNATES

Hawkins said that on April 25, 2011 a letter was received from Paula Wood asking to be appointed as an Alternate Member of the Planning Board. Hawkins had informed the Board that the RSAs did not allow two members of a town board to serve together on the Planning Board at the same time. However, recently the Legislature recognized that it is hard enough to get people to serve on town boards and recently passed legislation that does allow two members of the Budget Committee to serve together on the Planning Board. The only stipulation is that they could not serve on two land use boards, or the Planning Board and the Select Board, at the same time. Hawkins felt that a fourth Alternate to the Planning Board would be a good idea.

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| MOTION: | Hawkins | to appoint Paula Wood as an Alternate Member of the Seabrook Planning Board for a 3-year term ending on September 12, 2014. |
| SECOND: | Thibodeau | Approved: Unanimous |

Hawkins commented that the next meeting would be on September 20, 2011. Two new cases and the budget were among the agenda items. Kravitz said a presentation on a potential coastal Adaptation Study would also be on the agenda.

Hawkins adjourned the meeting at 8: PM

Respectfully submitted

Barbara Kravitz, Secretary, Seabrook Planning Board