



**Town of Seabrook**  
**Planning Board Minutes**  
**Tuesday, October 20, 2015**

**Members**

**Present:** Jason Janvrin, Chair, Donald Hawkins, Vice Chair, Francis Chase, Michael Lowry, John Kelly, Aboul Khan, Ex-Officio, Steve Zalewski, Building Inspector, Tom Morgan, Town Planner, Maria Brown, Secretary, Rick Friberg, peer review Civil Engineer, TEC.

**Members Absent:** Ivan Eaton III, David Baxter, Paula Wood, Robert Fowler, all alternates

Chairman Janvrin opened meeting at 6:31pm.

**Case # 2015-18** Proposal by Shea & Ihrig Bonfire Associates Corporation for a condominium conversion at 555Hudson street, Tax Map 21, Lot 555 continued from September 1, 2015; [docs 09-29], continued from October 6, 2015. The case will be continued per applicants request until December 1, 2015.

Janvrin stated that Maria Brown will be filling in for Barbara our Planning Board Secretary for a short period of time. With that said before we go to deep in to the Agenda we have things to discuss as a Board in non-public session . The Board moved into non public session at 6:35pm and the Board returned at 6:50pm and continued the regular meeting.

<b>Motion:</b>	Janvrin	<b>To move in to non-public session under RSA 91-A;3,II-(a) Personnel.</b>
<b>Second:</b>	Khan	<b>Roll Call YES; Janvrin, Hawkins, Chase, Lowry, Kelly, Khan,</b>

**CAPITOL IMPROVEMENT PLAN**

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The changes were made to the plan that the Board voted on relative to the Planning Board. The Plan will now go to the Budget Committee for review.

**MINUTES OF September 15, 2015**

<b>Motion:</b>	Lowry	<b>To accept the minutes of September 15, 2015 as written.</b>
<b>Second:</b>	Chase	<b>Approved: Janvrin, Hawkins, Chase, Lowry, Kelly, Khan</b> <b>Abstained:</b>

**MINUTES OF October 6, 2015**

<b>Motion:</b>	Lowry	<b>To accept the minutes of October 6, 2015 as written.</b>
<b>Second:</b>	Chase	<b>Approved: Janvrin, Chase, Lowry, Kelly,</b> <b>Abstained: Hawkins, Khan</b>

**CORRESPONDENCE & ANNOUNCEMENTS:**

**NHDOT – Sidewalk Maintenance by Town**

Janvrin stated that the Selectmen have approved the Sidewalk Maintenance Agreement from Waterstone and the Planning Board didn't need to take any further action at this time as the Planning Board already recommended approval. This is the West side of Route 1. The during construction phase of sidewalks and Route 1 widening the DOT will be responsible for the maintenance of the Rt. 1 corridor and not the Town of Seabrook.

**Henry Boyd, DPW Manager re Case #2007-27 sidewalks**

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Janvrin stated that this case will be taken under advisement until November 3, 2015.

### **RPC 2016 Membership**

The memo is reminding the Town of their obligation to pay dues. Dues for Rockingham Planning Commission have been budgeted for the coming year.

### **Memo from NH DOT**

NH DOT memo references project #40424 for rehabilitation of 3.4 miles of widening on Route 1 from Old South Meeting House to the Route 101 Exchange in Hampton NH. The DOT is looking for any input that the Board or other officials may have regarding this project. Hawkins commented that this may be the time to re-request the Rocks Road Light request. The last time this was measured was during DDR opening. Janvrin stated this very well may be the time to do the request for lights, widening, sidewalks and review master plan. Hawkins suggested that a letter be written to District 6 asking that they consider including the Rocks Road Light under the work that is being proposed under this bid.

Janvrin mentioned that a traffic study may be needed at that location. Janvrin will draft a letter for November 3, 2015 Planning Board Meeting.

### **Certificate of Occupancy**

The Board of Selectmen adopted the new form to add the Police Department signing off as needed. The Selectmen also voted to hold Certificate of Occupancy until Planning Board signs off. This request was due to the number of outstanding invoices which now must be paid prior to the approval of Occupancy. Chase asked if it will be only when money is due? Hawkins stated that it could be for any condition that is not completed. Khan this is vote is to show that once signed off the Planning Board is all set with Occupancy.

<b>Motion:</b>	Hawkins	<b>Give the Chairman authority to sign the Certificate of Occupancy on behalf of the Planning Board.</b>
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<b>Second:</b>	Kelly	<b>Approved: Lowry, Khan, Chase, Janvrin, Kelly, Hawkins</b> <b>Abstained:</b>
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## **Public Notice**

The public notice has no date as it is in reference to the changes to zoning of the Town recommended by the Code Enforcement Office. Janvrin suggested that we discuss these at the end of the meeting and they cannot be implemented tonight and he would like to set the public notice for November 17, 2015.

## **SECURITY, REDUCTIONS, EXTENSIONS, ROADWAYS**

### **Case # 2008-23 – DDR et al – Request for Various Security Reductions**

Janvrin stated only one of the security reductions has been met to date. They still have outstanding invoices that need to be paid. Janvrin stated that within the next week or so DDR will receive their first release of their security and it's been a long time coming.

### **Case # 2010-24 33-35 Gove Road Realty Trust – Chair's Letter to the principals**

Janvrin, still waiting for written response of time line project will be done and time frame overlays will be done for the abutters. This is still on the agenda outstanding punch list items.

### **Case # 2014-30 Raven – Benoit – 892 Lafayette Road – Request for return of Security**

Janvrin, the matter was adjudicated on October 6, 2015. Janvrin will be calling Mr. Benoit on Thursday to remind him of the outstanding invoices which must be paid prior to the release of Security.

### **Case #2007 – 11 Beckman Woods – Request for return of Security – Consulting Engineer's Memorandum**

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Janvrin, we have received a very lengthy punch list of outstanding items. Janvrin will have this item postponed until the November 3, 2015 Planning Board Meeting.

## **New Cases**

### **Case #2015-22- Proposal by Scott MacKenzie to install a second 30,000 – gallon propane storage tank at 28 London Lane, Tax Map 5, Lot 8-43**

Speaking on behalf of the Applicant: Attorney Jeff Brown and applicant is also in attendance.

Brown stated this is an expedited application. Brown said that the Planning Board had previously approved the site plan at 28 London Lane which included on 30,000 gallon propane tank. The as-built showed a saddle for a second propane tank and the applicant would like approval for the second tank. Brown stated the Fire Department had pre-planned in reference to the hazardous material for a second tank and also provided a letter stating they felt that the previously submitted Emergency Response Plan was drafted with further expansion in mind and adequately addresses the Seabrook Fire Department concerns. In addition they have already pre-planned the site and have planned for the expansion as well. The Fire Department does not object to this proposal. Brown stated they also attended the technical review meeting which requested a letter from the Fire Department, bollards be installed around the tank(s) with that Brown will turn it over to the Board for any questions.

Janvrin stated the case went to tech review on October 13, 2015. Janvrin had a few questions regarding the site plan and he asked Morgan for guidance. Janvrin wanted to make sure section 15 spill prevention plan would apply to this case. Morgan not sure if propane is a regulated substance but his understanding is that propane is not a threat to the ground water.

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Brown stated that if propane spill happened it would turn into a vapor due to the boiling point per the Fire Department from the 1<sup>st</sup> tank original proposal and would not affect the ground water which is the same understanding Morgan has.

Janvrin cited section 5 of subdivision regulations. Morgan initially no issues but the presence of the oil trucks are not part of original plan. Janvrin handed out two letters that were sent to Mr. MacKenzie from the Code Enforcement Officer. One referencing storage containers onsite that were not part of the site plan approval and the second one is oil delivery trucks stored on the site again not part of the original site plan approval and could not be part of it because of zoning. Janvrin prior plan has not been completed or withdrawn per Section 5 which apply to site plan. Janvrin asked the Board if the case has been resolved in a manner that is satisfactory to the Planning Board prior to opening a second case?

Brown according to that section he stated that the original plan was accepted by the Planning Board and closed and there is no further pending case for the Planning Board. Brown stated the applicant will go before the Zoning Board to see if a variance is needed to have oil trucks at this location. Brown stated the original case is not an open case and the case before you this evening is a new application. Brown asked seeing as though this case is an expedited application would that have been allowed if a prior case was still open.

Janvrin stated the original case is not closed, we are still holding security for site plan and the oil trucks and storage containers are an issue so he disagrees that the case is complete. The new case is a second case however the Board can rule that the 1<sup>st</sup> case has been resolved in a manner that is satisfactory to the Board. Hawkins there are a number of requirements for all of our cases the question is, are they done? Do we have an as-built? Janvrin stated that the Board does not have an as-built. Hawkins confirmed we have two outstanding orders to remove the storage containers and oil trucks which he believes could be added to the conditions upon approval of the present case before the Board.

Mr. MacKenzie stated that two years ago he told everyone he was moving his business and parking the oil trucks in the new location. He also needed to the storage containers as he is a construction site and he has not received his security

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reduction so he feels it is still an open construction site. He is moving the trucks to a safer location and he has had another two year lease on a building due to delays. He could park all his trucks on his property on Washington Street if the Board puts it off tonight.

Janvrin stated that would not be legal and the planning board had no authority to give Mr. MacKenzie permission to park oil trucks at London Lane. Mr. MacKenzie stated that the Board did give permission. Brown the main reason the case is going to the Zoning Board is for clarification and all we have tonight is an expedited application to install a second tank already shown on an approved plan. Janvrin cited Section 5.100 and stated that the 1<sup>st</sup> case has not been closed. Brown also stated that we have a pending request for a security reduction on the 1<sup>st</sup> case which was turned in over a week ago.

Chase didn't feel that the two issues of oil tanks and storage containers being part of the case before the Board tonight. Janvrin the issues are part of a prior case that is still opened. Hawkins case is closed after the Board votes that a security reduction should be returned which has not come to the Board yet. Brown asked what the timeframe of a security reduction request is and reference State statute what is the turnaround time? Hawkins and Morgan stated that the Board doesn't have a specific turnaround time. Hawkins has no problem proceeding ahead with this case tonight as it had tech review and we have information we need, this is a new case, and the Board can make terms conditions. We have Code Enforcement letters with outstanding items that should be part of those conditions.

Khan states the Code Enforcement is a separate entity and not the Planning Board. The Code Enforcement has a lot of power. Hawkins states he agrees with Janvrin that it is an issue for the planning board as we have outstanding site plan issues. The process whether or not someone has cease and desist authority, citation authority, which should be decided in the courts not by the planning board. Janvrin states that this Board would have to find that the prior case was resolved in a satisfactory manner and we can start deliberations. Morgan agrees with Janvrin's suggestion on how to move forward with this case at this time.

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<b>Motion:</b>	Khan	<b>To find that the prior case was resolved in a manner that is satisfactory to the planning board except the second case is administratively incomplete.</b>
<b>Second:</b>	Kelly	<b>Approved: Khan, Hawkins, Lowry, Chase, Kelly</b> <b>Against: Janvrin</b> <b>Abstained:</b>

Brown stated for the record they agree with Morgan's Letter. Jason asked Rick if the retention area has been inspected. Friberg stated that it has not been inspected yet will need to be as part of the sign off on 1<sup>st</sup> case. Friberg as mentioned this case was heard at TECH review a week ago, he added that this is a above ground propane tank, no new water or sewer connections, no driveway changes or modifications, so his recommendation the planning board consider waiving the 5,000 minimum as there is no significantly changed area. Chase asked if trucks have always been stored at the new site and if they could be moved to other site? MacKenzie stated that the oil trucks have been stored at the new site and he could move them but they are unsafe at old site. Janvrin use was grandfathered at the other site but is not at the London Lane site.

<b>Motion:</b>	Hawkins	<b>To approve with the following conditions; 1) No security, 2) Plan to be satisfactory to the planner and engineer, 3) All outstanding invoices be paid, 4)Implement all of TRC recommendations, 5) This vote does not grant permission to park oil trucks at London Lane site. 6) The conditional approval will expire 180 days, April 2016 if conditions are not met.</b>
<b>Second:</b>	Kelly	<b>Approved: Janvrin, Hawkins, Kelly, Khan, Chase, Lowry</b>

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		<b>Abstained:</b>
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**Janvrin moved to take a 5 minute recess.**

**Case #2015-23 – Proposal by Waterstone Chevy Chase, LLC to construct a sidewalk along the north side of the former Bob’s Furniture store at 2 Chevy Chase Road, Tax Map 8, Lot 54-1.**

Wayne Morrill from Jones and Beach is proposing to use a space in the old Bob’s store for a mattress store. The new store will be located in the same part of the space used for mattress sales by the old Bob’s store. There will be no change of use. Waterstone took over the whole building. They have a need to add sidewalks in the rear of the building for better access to security doors and load in this area. They will also add an additional rail to sidewalk to make it handicap accessible. This sidewalk will be in the front and as requested by the TRC will connect with the Route 1 sidewalk. They will be installing roof drains. They have put in a request for a waiver as this was originally an expedited application since changed to a full site plan application. At this time we have 36 parking spaces which will remain unchanged and due to the size of the whole building we would need 49 spaces. Existing landscape will remain as is. A waiver is in asking for an additional security light in the back of the building. Monument is missing on the northwest corner of the lot which will be set. An external domestic water service will be added and currently we have 6” water service which splits internally.

Khan asked how many units in the building? Wayne Morrill the front one is the one with a lease and we have two more spaces. Douglas Richardson stated no building lease for restaurants.

Janvrin one thing that has been used is a cross connection between this lot and the lot next to it. Richardson is investigating and looking into that now. At this time it will not be blocked off and if it becomes a nuisance they will review. Janvrin would like to see an agreement with Waterstone to leave that access

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open. Morgan stated that the Seabrook Master plan for many years now has encouraged cross connections along the Rt. 1 corridor. Douglas Richardson is not denying the cross connection and not looking to cut it off at this time. If it becomes a problem and we have issues with the parking it will be revisited at that time. Morgan asked if Waterstone would be willing to formalize the agreement in the form of an easement. Douglas Richardson stated that Waterstone would not be able to commit to that at this time. Janvrin asked if there will be any change in elevation to the parking lot as it can be a swimming pool at times. The catch basin where the drainage will go has been cleaned up and reactivated for about 5 months now no pooling since that time. The asphalt will be freshened up but no change to elevation of current parking lot. Janvrin commented on the security light being added toward the north and asked if Waterstone could assure that no light would trespass to the north. Douglas Richardson agreed that there would be no trespass of light toward the north, the same LED fixtures would be used, and he will provide a cut sheet per Janvrin's request.

Chase asked if the handicap areas would have paint added. Douglas Richardson stated that was correct just paint and the upgrade sidewalk by adding a handrail to make it handicap compliant. Janvrin questioned signs on that property and what will be proposed. Douglas Richardson stated that the each door will have a small sign on top of them. At this time they have no signage on the building and a sign may be placed on the west side. A cabinet sign would be added to what he would call a tower sign that is in place at this time will file under a separate permit. No reconstruction to the miniature pocket park will remain the same and will be cleaned up on the west side facing Route 1. Friberg comments that they will have a new water connection and some minor drainage changes so he is recommended minimum \$5,000.00 for security.

<b>Motion:</b>	<b>Hawkins</b>	<b>To Approve the waivers for parking requirements, landscape stamp, Liberty Elm, and lighting request.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Lowry, Janvrin, Hawkins, Chase, Kelly, Khan</b>

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		<b>Abstained:</b>
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Morgan suggested that we reference the cross easement and the lighting seemed to be all set. Douglas Richardson will provide a memo within 30 days regarding the cross easement. Chase was in the area and that cross easement was completely blocked off as the business seems to be doing well. Janvrin said that the Board will address with the party next door when they come before the Board.

Khan asked if Mr. Green the abutter would like to speak. Mr. Green commented this would be a much needed facelift.

<b>Motion:</b>	<b>Hawkins</b>	<b>To Approve case 2015-23 with conditions – 1) Implement all tech review recommendations, 2) No restaurant uses allowed in the building, 3) Provide light fixture cut sheets, 4) Execute cross access easement with property to the north, 5) Signs will comply with Town regulations, 6) Security will be 5,000 for the water and drainage, 7) Conditions of approval will be listed on the plans, 8) All outstanding invoices must be paid, 9) Final plans must meet all requirements of from the Engineer and Town Planner, 10) Application will expire in 180 days April 2016 if conditions are not met.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Lowry, Janvrin, Hawkins, Chase, Kelly, Khan</b> <b>Abstained:</b>

Zewlowski asked if it is ok to issue building permits but not the co's for Waterstone. Janvrin confirmed that is correct no co's until we have dealt with the

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Route 1 phase 2. Janvrin stated that it is fine for building and construction phases, but no occupancy until Route 1 is fixed.

## **ONGOING CASES:**

### **Case #13-15 Waterstone Retail Development update on phase 2**

Waterstone was here two weeks ago and just finished final asphalt topcoat, striping for the intersection of Route 1 and Route 107, working closely with Marlin Controls and the DOT to coordinate signal lights which was completed. This includes Railroad Ave, Route 107, and New Zealand all coordinating and talking to each other. One item left to change all electronic clocks with GPS system and the devices are in. If a power failure happens it will automatically put everything back in synch. Waterstone has been working on Phase 2 extensively with NH DOT and we are told that a driveway permit will be approved tomorrow. Even as late as Monday major changes to the west sides of Route 1 are happening. Janvrin asked for clarification on right in right out for staples and Chevy Chase. Douglas Richardson stated that the Perkins intersection will be opened in sequenced very quickly with the right in and right out constructions. Janvrin's understanding is that all of this work for movement of water and sewer is being coordinated with the Seabrook Sewer and Water Department and that is correct. The gas Line being moved and an entire storm drain line was relocated in our right of way has been a challenge. Khan wonders how much of a problem will the construction cause for our residents. Douglas Richardson stated no more than the Route 107 and Route 1 intersection construction caused keeping in mind that is one of the busier intersection in Town.

### **Case #2015-17 Rigz 621 Lafayette Road Traffic Memorandum**

Wayne Merrill from Jones and Beach was presenting the updates. We agreed that no code fit this type of use so an actual traffic count based on current Town guidelines. The traffic memorandum has been submitted. The formula that was used shows that the 6000 square foot building would result in a \$106,800.00 fee. If the company based the formula on primary trips it would have come to \$50,400.00 we feel that this would be a fair and reasonable fee given that the

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original plan in 2009 showed the 6,000 square foot proposed building. The Board recommended to remove the building from the plan as it would not be built during the 1 year approval time. Furthermore they let the Town hold the original \$5000.00 from the 2009 case so it could be used toward the actual proposed 6,000 square foot building in the future. Janvrin stated that if that money was requested back it would have been returned with interest.

Friberg added that total trips are known as Primary or bypass. When a building is built on a parcel a certain percentage of people are coming just to go to that specific location known as bypass trips and not additional traffic. The primary trips are what we call impulse traffic which is new traffic as far as a count would go and would be traffic already on Route 1 but still turning in and out of the driveway.

The formula gave us a figure of \$1,200.00 per trip divided by total number of trips in and out. If we had used bypass trips the cost would have clearly been much higher around \$1,800.00 per trip. Hawkins stated from a calculation standpoint the correct figure is the \$106,800.00. Hawkins stated if we figured the way you're asking it would make the total figure \$141,000.00 which is much higher.

Wayne Morrill stated he agreed totally with the way the exaction fees were taking out which is \$106,800.00 figure. Friberg stated it is total trips and we agree that the \$106,800.00 is the fee due. Morgan stated that the exaction ordinance was 2005 and amended twice in 2008. The Board had said the exaction would be zero unless there was a change in the figures by the TRC. Janvrin stated the TRC has said that the fee should be \$106,800.00 and he feels it would set a bad precedence if we were to change the amount. Wayne Morrill was asking to consider where this plan was and where we are today. Kelly believes now is when the building is going to be built and now is when the fees should come in. Hawkins the way to reduce it is to make the payment in the form of a donation instead of an exaction fee. The donation will not be returned but it will save the applicant \$10,000.00. Hawkins recommends paying in the form of a donation of \$96,120.00 which is 90% of original figure. Hawkins stated that the applicant has to write a letter how they would like the payment applied. Chase stated so

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anyone can go out and do a count and he questions why we are not taking the \$140,000.00. Hawkins stated it has to be done by the ordinance. Traffic Engineer is hired by the applicant and is an independent business.

<b>Motion:</b>	<b>Janvrin</b>	<b>To have exaction fee set at \$106,800.00 and the Board will allow the applicant to decide whether to pay as a donation to the Town in the amount of \$96,120.00.</b>
<b>Second:</b>	<b>Kelly</b>	<b>Approved: Khan, Hawkins, Lowry, Chase, Kelly, Khan</b> <b>Against:</b> <b>Abstained:</b>

Janvrin the time is now 8:40pm and the Board will take a recess. Board returned at 8:47pm.

**Case #2015-21 proposal by Shea & Ihrig Bonfire Associates Corporation for a condominium conversion at 555 Hudson Street, Tax Map21, Lot 555 continued from September 1, 2015; [docs 09-29], continued from October 6, 2015**

Janvrin stated that this case is for general discussion and it was discussed at TRC. Janvrin the Board had approved this case conditional and memos were sent to water and sewer for review.

Friberg stated that the recommendations on sewer the pump station is believed to be very old. The applicant could take ownership and maintenance of the pump station, outline recommendations in the Condo documents, or the applicant could install individual pump stations so that there is never an issue of who pays what. Friberg stated their existing water shut off has been paved over. Either way the Water Department would require that it be raised and brought up to grade. The applicant may construct a new water service to unit b or field locate the shut offs on property and give access to Water Department. If applicant chooses not to do either of the suggestions it will have to come back to the Board as a full

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application. Friberg will be sending a memo to the applicant with the recommendations. No vote required.

Hawkins asked if the Board should have all Condo Docs go to TRC? Janvrin asked how long the review takes. Friberg stated about 20 minutes. Khan asked if we need a motion. Hawkins asked Morgan if it should just add to the list to have Tech review for all. Hawkins stated that the Department should get a look at it and it is helpful. Khan asked if we should give the option to be heard by TRC to the Chair. Chase feels that if we have one out of 30 should we really make the other 29 go to TRC? Hawkins feels cases are always sent back due to issues that Department Heads find. Hawkins feels that there is no way the Chair will see every case that comes in and we are trying to speed the process along. Hawkins said message to secretary should be include all Condo Conversions to TRC.

<b>Motion:</b>	Hawkins	<b>To have the Planning Board Secretary include all Condo Conversions to the TRC.</b>
<b>Second:</b>	Khan	<b>Approved: Khan, Hawkins, Lowry, Chase, Kelly, Janvrin</b> <b>Against:</b> <b>Abstained:</b>

### **Land Use Ordinance and Regulations Potential Revisions**

**Please see attached Land Use Ordinance and Regulations for complete changes**

Janvrin opened public hearing at 9:02pm. Janvrin any public comments on Revisions.

### **Section 4 – 8.110 Noise – 8.170**

Motion to adopt and send to Town Meeting. Motion made by Kelly and second by Lowry

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All in favor. ( Kelly, Lowry, Chase, Hawkins, Khan, Janvrin)

**Section 10.020 –10.070 –**

Hold on this one until we get clarification from Kevin.

**Section 6 –**

Tom Defer action tonight as we risk getting into contradictions.

**Section 13**

**13.200**

Motion to adopt and send to Town Meeting. Motion made by Kelly and second by Khan, All in favor (Khan, Kelly, Janvrin, Chase, Hawkins, Lowry)

**13.300**

Motion to adopt and send to Town Meeting. Motion made by Kelly and second by Hawkins, All in favor (Kelly, Hawkins, Janvrin, Khan, Lowry, Chase)

**Section – 16**

**16.400**

Motion to adopt and send to Town Meeting. Motion made by Kelly and second by Khan, All in favor ( Khan, Kelly, Janvrin, Lowry, Chase, Hawkins)

**16-450**

Motion to adopt and send to Town Meeting. Motion made by Kelly and second by Khan, All in favor (Janvrin, Kelly, Chase, Khan, Lowry, Hawkins)

Janvrin said continued discussion on the other Sections on November 3, 2015.

Meeting adjourned at 9:27pm

Respectfully Submitted, Maria Brown, Secretary of the Planning Board

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