



Town of Seabrook Planning Board Minutes

Tuesday, August 17, 2010
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Sue Foote, Vice Chair; John Kelley; Jason Janvrin; Keith Sanborn, Robert Moore, Ex-Officio; Paul Garand, Code Enforcement Officer, Alternate; Elizabeth Thibodeau, Alternate; Michael Lowry, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Members Absent: Robert Fowler; Paul Himmer, Alternate;

This meeting was held in the Seabrook Library.

Hawkins opened the meeting at 6:35 PM

MINUTES OF July 20, 2010

MOTION:	Moore	to accept the Minutes of July 20, 2010 with the date referencing the minutes of July 6, 2010 corrected.
SECOND:	Lowry	Approved: Hawkins, Moore, Janvrin, Sanborn, Thibodeau, Abstained: Foote, Kelley

SECURITY REDUCTIONS, EXTENSIONS

CORRESPONDENCE

Hawkins referenced public notices to the Town of Seabrook from the Town of Hampton Falls concerning hearings of their Planning Board on August 24, 2010 and the Zoning Board of Adjustment on August 26, 2010 in re 1

Lafayette Road, previously the home of Dexter Shoes. This is believed to be the location chosen by the Seacoast Poker group after withdrawing their application from the Seabrook Planning Board. Hawkins noted that the traffic issues would be the same, although in Seabrook, parking was a primary issue. He will attend at least one of the hearings; septic and traffic would be the issues of interest to Seabrook. Janvrin may also attend. He thought that at the Seacoast Poker hearing (in Seabrook) they should have said that the dog track brought in another operator. Kelley did not want any addition to the Seabrook sewer system. Hawkins commented that Seabrook is at half the sewer capacity. Thibodeau recalled the comments made by the public at the Seabrook Hearing.

Hawkins noted the confidential communication from the Planning Board Attorney provided in the Board packet indicating an extension of thirty days.

Hawkins noted that a letter from the Department of Public Works Manager would be heard during the hearing for Case #2010-22.

SECURITY REDUCTIONS OR EXTENSIONS

There being none.

PUBLIC HEARINGS

Hawkins opened the Public Hearings at 6:37PM

ONGOING CASES

Case #2010-18, a proposal by Raman Patel to establish a 1,713 square foot convenience store at 609 Lafayette Road, Tax Map 8, Lot 3, continued from July 6, 2010, July 20, 2010;



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Hawkins noted Henry Boyd's request to continue Case #2010-18. Hawkins continued Case # 2010-18 to September 21, 2010 at 6:30PM in the Seabrook Library.

Case #2010-22, a proposal by Florida Power & Light and NextEra Energy Seabrook to construct a 376' by 82' indoor firing range off of Rocks Road, adjacent to the Seabrook Transfer Station, Tax Map 8, Lot 58, and Map 7, Lot 110, continued from July 20, 2010.

Attending: Steven Coes, Project Manager, Michael Hambrook, Security, Jim Tucker, NextEra Seabrook Station; John Starkey, Manager, Seabrook Department of Public Works; Jim Kerivan, Altus Engineering; Appearing for the Applicant: Mark Beaudry, Meridian Associates; Thomas Chinetti, Dacon Corp; Hawkins noted the considerable material to go through and asked the Applicant to go through as much as necessary.

Coes explained that Seabrook Station seeks to build an indoor firing range for training of the power station security force, and will also allow Seabrook Police and the Seacoast Emergency Response Team to use the facility and get away from the town wells. He said they had talked with the Conservation Commission and the Technical Review Committee. The engineers were in attendance and would go through the plans. Coes recalled that at a prior meeting not, attended by Foote, they reported that they had been in touch with the NH Department of Environmental Services and that Frank Richardson had been on-site. He referenced the email in the board packet from Dr Richardson indicating that based on the plans there was no wetlands impact. Foote stated that she individually could not be considered to be the ConComm, which meets the 2nd and 4th Monday of the month.

Coes said that on August 9 they met with the Technical Review Committee with various department heads. The Police did not attend but the Police Chief had attended the Informal Conversation with the Planning Board prior to the submission of this application. Also, Seabrook Station has an employee who is responsible for coordinating with the Fire Chief and assuring that the building respects the code and the requirements for fire protection; they are more prescriptive than the code requires the engineers met with the Sewer and Water Superintendent prior to the TRC and incorporated their design directions. He noted that the Sewer Department was concerned that some of the residue from the firing range might find its way to the sewer system. Coes said there are no floor drains in the firing range itself; the area is cleaned with HEPA vacuums and emptied into the certified hazardous waste system at the power plant.

Coes said one ongoing question was whether they can get an alternate access road to the town Transfer Station and get the traffic off of Rocks Road. Negotiations had occurred with the intention of connecting to existing areas of pavement on their property emerging on the North Access Road. Seabrook Station had agreed to provide \$100,000 toward the building of the access road. Coes said, unfortunately, PS&H holds an easement over a portion of Seabrook Station land and at some point intends to build a sub-station right over the intended roadway area. They had gone "hat-in-hand" to PS&H for an easement to which, although they are working with Seabrook Station, they would not agree.

The roadway placement was redesigned to be unpaved, going through virgin forest, and over gravel, however the initial cost estimate was \$200,000. Since then they have been working with John Starkey and the DPW engineer and have brought the cost down to \$150,000. They put the dilemma to Florida Power & Light which has agreed to the \$150,000 figure.

Another problem which Starkey raised is what would be done with Rocks Road; the plan shows a curb cut to be able to come in from Seabrook Station's South Access Road to the [firing range] parking lot. One question was identifying the portion of Rocks Road that the town currently owns. They talked with Starkey about his concern as to what area the DPW would be responsible for. After discussions, they



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agreed to build a new access road with rights-of-way across certain areas. The next step would be a land-swap in which Seabrook Station would transfer a portion of property to the Town, and the Town would transfer a portion of Rocks Road to Seabrook Station. This would require a town meeting vote.

Coes asked for response from Moore & Starkey [submits copies of PS&H and town easement agreements].

Moore said the piece of the old town road is a nuisance when people go down it for dumping. Actually it is a tunnel with PS&H owning both sides of it; it isn't of interest to the town. If the swap would give driveway entrance over an improved road and with the triangle piece enable the road to go straight across, it sounds good. He asked if Starkey had anything they should be aware of. Starkey related a telephone call he received earlier in the day from the office of the Town Attorney, in which he was informed that the Town Manager was in favor of the land-swap, and that the Town and NextEra's counsels had come up with wording that Starkey was authorized to submit to the Planning Board.

Starkey said that basically everything that Coes had said was in fact correct. Starkey said that one of the things that would happen if the old section of Rocks Road was discontinued in the land-swap, would be action by Town Meeting - the wording shows how to do that. Of course, if the townspeople say no, it would change things. For example, it would be incumbent on him, as the Public Works Manager, to recommend to the Planning Board that this [old] section of town road be upgraded to a modern standard. On the other hand, if Town Meeting says the land-swap can be done then Seabrook Station gets that area and the town gets the triangle. If this happened, Seabrook Station would not have to upgrade that section of roadway which would become private property, and there would be no liability on the town for that section. Basically, if it were NextEra's "cow-path" nobody could sue the Town.

Starkey thought that if the Town Meeting did not approve the land-swap, he would be forced to go back to the position he expressed at the TRC - ie that the town would have to bring the road to a modern standard. [He provided the email with the attorneys' language.] Hawkins asked if another option could be to abandon that road and let it go back to a natural vegetative state. Starkey said even if NextEra owns that old Rocks Road portion, they would still be needed to that driveway. Coes noted that water and sewer pipes still go down the roadway so it would have to be kept accessible. Hawkins commented that from the town's standpoint it's a road to nowhere, and he asked why the town would maintain or upgrade it - no traffic would be allowed past where the access road cuts across it. Starkey said if Seabrook police officers or Seabrook Station security were to travel over that section of the road and perhaps the plowing or application of abrasives wasn't done, if there was an accident whomever was injured would, hypothetically, immediately sue NextEra. However, when they found out that they just slid off a road that hadn't been maintained for about 35 years when it was owned by the Town, they would sue the Town. If the road is not brought up to a modern standard, the question would be who was responsible for winter maintenance if it was sub-standard on a town road, and nothing like the standard townspeople enjoy on every other road.



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Hawkins asked if the cement barriers going to stay somewhere on that road. Coes said they would. He thought Starkey's point was that if for some reason the townspeople went against that [warrant] article, he would have to go back to NextEra and show the way the road would have to go. Starkey agreed. Hawkins said that from a liability standpoint, the Town would still be liable for a road it is not using. Coes said at this point there is a gate on that road that has not been traversed for more than a year. Coes said that the road would always be blocked. Moore asked what would be gained by bringing the road up to date; there are no properties that aren't there already. Starkey said if the land-swap went through, there wouldn't be liability on the Town because NextEra would own it - like with a parking lot. But if a land-swap doesn't go through at Town Meeting, he thought it still had to be brought up to the standard that everyone else has to do. Moore said then they would have to apply for a building permit.

Kelley asked Starkey if it would not be a town meeting issue if it were a cross-easement - the liability would be on whomever had the easement. Starkey said he did not know the answer, but, from what he understands the talk among the counsels is town meeting. He thought it takes an action by Town Rocks Road n Meeting to discontinue a road. Coes said they were doing this based on the March 2010 town warrant in re the access roadway.

Hawkins also addressed a 1975 warrant article which referenced discontinuance of Rocks Road which only applied to 1200 feet. Garand said it also referenced future maintenance and access to Rocks Road. The road was supposed to be maintained. Janvrin said that literally went right next to the reactor. Hawkins asked if Garand meant that that is a reason for keeping that road. Garand said the extension would be whatever the attorneys say, but it should be an extension of the 1954 warrant so there are no contradictions. Janvrin thought this had always been the town's right-of-way to its property. If the road is discontinued, this area would be land-locked. Foote noted that there is not access by boat as it is in the exclusion area. Moore said there could be permission to get there. Henry Boyd said discontinuance of a highway that has been abandoned is accepted after 1969. Moore said the Selectmen's authority to approve the use of land only lasts for one year after which it goes to town meeting. Derek Heap said there were a lot of elderly people living on Rocks Road who walk the road to get away from daily issues; a lot of people enjoy it. They take a stroll or walk their dogs. He thought it is actually a nice thing to have. Kids also use it. It is not real wet land.

Hawkins asked what the intention for fencing would be after the construction is done. Coes said the entire area is fenced. If the swap is approved the gate would be moved up. Hawkins wanted to know what happens if the swap is not approved. Coes said it would be the current access with the Jersey barriers, and they would look for Starkey to tell them what had to be done. Hawkins asked now they would address pedestrians walking down that road if the swap doesn't go through and that section were still owned by the town - presumably the driveway would be coming onto Rocks Road. He asked where the fences and the barriers would be. Coes said when the road goes through both areas would be fenced - it would be responsive to the security concern for the power plant facility. Hawkins understood there would be gate going into the firing range parking lot and it would continue



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to be open with the fences all around it; the barriers would be close to where the new road is going to be cut. So there would still be an opportunity to walk there - almost as it would be currently.

Heap referenced the barriers and said that NextEra owns so much empty property [the fencing] could go all around [the range] without abutting Rocks Road. He thought they could easily access anything on their property from their own land. He said that NextEra is telling the town what it wants, and asked where the town's dump road access would be. Hawkins said the road that would be shown on the drawings is what the town wants. Heap thought the town would be cut off. Hawkins said the discussion was that if there is a town warrant with the lane-swap, then it would be cut off by Jersey barriers and a fence. If there is not a land-swap, the barriers would be near the new road but there would have to be a fence with a gate that would not allow people in to the shooting range from the town road. The road that is there would be open just as it is currently if there is no land-swap. If there is a swap, the gate mover down a bit near the entrance to the shooting range parking lot. There would still be that opportunity to walk along the road in either case, although in one scenario it would be about 200 feet shorter.

Heap expressed concern that the "triangle" was in the wetlands and wouldn't be much use to the town. Hawkins said that Starkey was of the opinion that that scenario would work. Moore explained that the issue was that the shooting range would access the town roadbed. The reason for all of this negotiation is the problem on Rocks Road in getting out to Route 1. This is the one shot in relieving that problem, and what is being proposed seemed logical to him. The last time he had walked the old town road was about six years ago; it was necessary to go over trees, briars and entanglements - it was overgrown. Maybe one person could make their way through, but he couldn't see a group of people going down it. Heap said there were raspberries and blueberries. Moore wanted to focus on the objectives under discussion, because sooner or later there will be a disaster at the head of Rocks Road. He appreciated Heap's concern but said that the sooner this can be done, the better off everyone would be. Heap said he was looking out for the people. Hawkins said the deliberation would move ahead and if Heap's other item(s) were not addressed they could come back to them. Heap said that was not a problem.

Hawkins asked if there were other questions or concerns about the proposal. Janvrin asked about the TRC discussion in re gaining access to Rocks Road at the very end, and asked if there were a reason why gaining access a cross-road through the South Access Road had been abandoned. [The private property areas were pointed out on the drawings]. Janvrin noted the plan is based on a vote in 1974. Coes said it was very clear. Hawkins said there was a deed that was in the Board packet that transfers 1200 feet from the railroad tracks to the power plant, as well as the town warrant action. He pointed out that since the TRC meeting, Starkey had done a lot more research. They explored the south access over a year ago and found that the town could not use some of the roads that are reserved for security personnel. Prior to that it was found that access the transfer station from the south is a Pandora's box and more expensive proposition with an even bigger wetlands to address. Also there is a severe change in elevation in re getting to the transfer station from South Access Road, and a construction problem because of an area at the Transfer Station



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that is closed would have to be reopened. People would come in the back door and the scales area would be affected.

Janvrin said he was not suggesting going to the Transfer Station from South Access Road, rather access to Rocks Road via a cross-road from the South Access Road. Foote asked what the purpose would be. Janvrin said to access the Transfer Station other than at the end of Rocks Road. Heap said an area had been clear-cut. Starkey asked Janvrin to point out his reference area on the drawing. Foote commented that Dows Lane runs the back side of the DDR property. Hawkins did not think the Planning Board's job was to address all access options to the Transfer Station; that was a town issue. The beauty of the presentation is it gets away from safety issues in re coming out of Rocks Road onto Route 1 by having an alternative way out with a light, and noted that the town had been begging the State for a light at Route 1 and Rocks Road and constantly been told it isn't warranted. This is an alternative for people to get out of Rocks Road without risking their lives to cross Route 1 to go South. In previous meetings the Board asked the applicant to show how the location of the access roadway and how it would fit into this plan. Sanborn commented one vehicle can't get out of Rocks Road even now.

Boyd recalled that the power plant had actually given the town some money to spend in conjunction with the Hannah Foods driveway; Millennium had done survey work at the South Access Road at the time. One design objective was to address the safety concerns. He did not think there were extensive wetlands or a considerable slope at a crossing. Foote said she would not consider Dow's Lane. Boyd said it does run behind the DDR property noting the extravagant culvert and wetlands that would have to be crossed, and the steep grade that he felt should not be attempted. Coes said he would answer other questions, if any. Janvrin asked for the reason the firing station isn't being accessed from the power plant property. Coes said it would be accessed from their property, but they want security controls. Coes noted that back then there were dirt roads. Hawkins said the voters will have to decide whether they think it is a good solution - he thought it seemed to be.

Aboul Khan said it had been hard to get out of Rocks Road for years; he would be very surprised if residents would not vote for this solution. This kind of solution doesn't come along often it took hard work by the Board of Selectmen and the Planning Board. It is good solution for the Town of Seabrook and brings \$150,000 to build the road - a good plan up to this point. Hawkins asked for other questions about this part of the plan. Morgan understood that Starkey would ask NextEra to bring the roadway up to modern standards if the proposal failed at Town Meeting, and asked if in addition there could be some kind of action to take care of the liability -- for example if someone skidded off the road into a tree when someone else is doing the snow plowing. Starkey said currently the roadway is nothing more than a path. If the Jersey barriers were moved, the town could get access for a water or sewer break. This could be done with the barriers or a sliding gate as there is at the fish co-op. He hoped the townspeople would vote for this plan; it seems needless to be boxed in; he deferred to the security people as to how to go about this. If the decision were up to him, it would be a sliding gate, but it would work either way.



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Foote said if by chance the public doesn't see the wisdom in the land swap and how it would benefit the Town, what is to prevent the Board of Selectmen from declaring the old road abandoned and a Class VI roadway; that would solve any maintenance problems ie alternative #3. Hawkins said to change the way the road is rated might require Town Meeting action. Foote thought it did not require a Town Meeting for the Board of Selectmen to change the classification of a road. There has to be public hearings but it did not have to go to citizen vote. Morgan thought Foote's suggestion was a good and a lawyer should be consulted. Hawkins said the Town would still own the land and have the liability. Foote said it would eliminate the responsibility of the DPW. Moore thought abutters on a Class VI road still have access. Foote thought there was just one abutter.

Hawkins asked if Starkey had any open items that he did not like. Starkey said as far as the road was concerned, he was 100 percent in support. Janvrin referenced the 1974 warrant, and asked if, as the owner of the road, NextEra would still be required to maintain the road. Janvrin's concern was to maintain access to the public dock. Foote's reading was they had to provide access to the dock, but not necessarily from Rocks Road. With the proper permission and cards, the dock could be accessed from the South Access Road and through the security gate. However, once there a boat cannot be launched because it is an exclusion zone. Hawkins said on the drawings, the Planning Board would probably like to see what would happen both with and without the Town Meeting affirmative vote re a land-swap.

Hawkins asked if at this point all the PS&H issues re easement are gone. Coes said they are not – and pointed out the footprint of the sub-station and how the power lines emerging from it would be placed which is still under discussion. Hawkins asked if the process was getting easier. Coes said to the extent there was no direct impact, it was. Hawkins asked if there were a time frame. Coes said he'd been told there was agreement on text for a final draft and thought this would come together in about two weeks. Also the \$100,000 was ok, and management would commit to another \$50,000; discussion was still needed on who will do the work ie either Seabrook Station or the DPW could do the work Garand suggested there could be a conditional approval.

Hawkins asked if they had seen the Planning Board engineer's [Michael Fowler] letter. Beaudry said he had not seen a copy, but did have an opportunity to read it after the Technical Review meeting. Kravitz pointed out that letter was in the folder given to Coes. Hawkins explained the Board would be looking to see if they had addressed his issues to Fowler's satisfaction, and asked Beaudry to address the issues brought up by Fowler, the Sewer Superintendent and the Water Superintendent.

Beaudry said he worked for Meridian Associates, the civil engineers for the project. He said the comments of the Sewer Superintendent had already been addressed at the Technical Review Committee meeting and would be on the plan revision to be delivered to the Board. One item was that with less than four feet of cover, pipes have to be insulated. They will do that, have more than three feet of cover, and the slope of the 6-inch pipe will show as ½ percent, which they would be happy to have as a condition of approval. The trench details have been modified to the Sewer Superintendent's specifications, and they have also modified the manhole detail.

Beaudry said the sizes of the water service are as specified by the Fire Department. Changes have been made to the location of the water connections which originally had tied into the 8-inch line at the Transfer



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Station. The Water Department suggested they tie into to the 6-inch line at Rocks Road for sprinkler service and a 1 ½ inch line for domestic service, and they have added an additional valve to isolate sections of the water. Garand asked if the shut-off valve would end up on private property, and what that would mean for town access. Beaudry said the Water Superintendent wanted access to the gate valve which could be done through the Jersey barriers – an easement could be retained for access. Foote asked who else but NextEra does that water and sewer line service beyond the Transfer Station, and if this serviced only Seabrook Station; the dock doesn't need water or sewer. She asked why the shut-off valves couldn't be relocated at the end of town property, because the rest of it only services Seabrook Station property – turn it over to them. If it breaks, they have to fix it. Beaudry commented that would be the case if the shut-offs stayed where they were. Foote said from the Transfer Station to the east services Seabrook Station. Janvrin asked about fire service and if the town would have to remove a hydrant. Coes thought the Water Superintendent wanted a shut-off to work on Rocks Road.

Foote thought that it did not make sense for the town to maintain the long section of water and sewer on Rocks Road beyond the Jersey barriers when it benefits no one but Seabrook Station, and asked why the shut-off couldn't be where the Jersey barriers are with Seabrook Station responsible from there on. Beaudry said from a sewer perspective, the access manhole for Rocks Road is beyond the Jersey barriers as requested, and flows by gravity. The services could be relocated –they had been in an easement off Rocks Road but they were requested to change the location. Foote asked if they were aware of the potential for that section of the road to be abandoned when they asked for the relocation – aware of the trade-off. Beaudry said probably not. Foote thought it did not make sense for the town to maintain something that potentially might become private property. Beaudry said they would not have a problem switching back.

Hawkins thought it would be appropriate to go back to the Water Superintendent and show him the proposal in the direction that it is heading, and ask him if it would be better to relocate the water shut-off. He would be reluctant not to follow the instruction of the department head, but he was operating without up-to-date information at the TRC. It would be appropriate to show him the new plan and then ask if he would want the water shut-off in a different location to isolate the entire water system for the power plant; he may change his mind. Janvrin said this would be a Plan B option [with the land swap]. Hawkins agreed, but said it may not be the best option for Plan A. Foote observed that if Seabrook Station owns both sides of Rocks Road, then anything that might be built off that section of Rocks Road would be for Seabrook Station. therefore, why not have all the connection shut-offs back to the [virtually] where the Transfer Station is, and from there to the east would be Seabrook Station responsibility – why should the town have the responsibility to maintain something that goes nowhere and no property on either side could be developed by anyone but Seabrook Station. She felt this to be the case even if the town doesn't convey the road. Beaudry did not disagree and said that this could be worked out and be a condition of approval.

Beaudry said from a drainage standpoint he respectfully disagreed with the consultant that said the salt-water design is not compliant with the regulations. The flow to Rocks Road and the North Access Road is not being increased. There is a [small] increase in flow-rate given a 100-year storm. He cited the regulation

“...the rate that storm water flows from an applicant's property on to an abutter's property after development shall not exceed the pre-development rate...”

Beaudry said they are not increasing flow to Rocks Road, South Access road or to any abutter. The only place that some increase is realized is on to Seabrook Station property. At Morgan's request, Beaudry pointed out the flow area ending up in the wetlands. He said the wetlands system drains through a culvert under the railroad tracks and another culvert under the South Access Road and then goes into a stream system that works its way down to the marshes. He noted that the Seabrook Station property is about 900



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acres; the development site is about 4 acres. A 100 year storm would find its way through drainage that stays entirely on Seabrook Station property to the marshes. Hawkins said they would have to review the comment with the Planning Board engineer and resolve his question as to this issue. The Board would not put this forward with an unresolved comment from its engineer. The engineer has to be on board with the explanation that Beaudry gave. Foote agreed in the need for an explanation that said the offsite flow to other than Seabrook Station would be nil because it would drain to the Seabrook Station property. She thought that Fowler was correct that it could set a very ugly precedent in the future for other developments, and that he was looking at the flow from a very small firing range and not the entire lot.

Beaudry noted that the Stormwater Management Report explained basically what Foote had said. He asked if he could speak directly with Fowler. Hawkins said he could, and said that the Board would want Fowler to address this comment in a letter to the Board indicating that [Beaudry] and he had resolved the issue and how it would be addressed. Morgan asked for Beaudry to show the drainage path which he did not see in the drainage report. Beaudry pointed out the drainage path and said that both the Transfer Station and the South Access Road both drain onto Seabrook Station property. He noted that at the TRC meeting Starkey expressed concern about the poor condition of old culvert to the property that needs to be cleaned. This upgrade requirement is now on the plan.

Starkey expressed appreciation for the cooperation. Along the dump access road the water that sheds off the driveway into the Transfer Station and catch basins exits the Transfer Station, goes underneath the chain-link fence, through to an open drainage swale which is in bad shape. It may need to be removed and reset, but it needs to be cleaned. When the Transfer Station was built the water flowed and relieved itself eventually going further east. Now there is standing water because the rest of the drainage system, over time, has been silted-in; also another drain that accesses the Transfer Station parking lot. Starkey said these two exit pipes need to be addressed. Additionally, the Transfer Station is now a federally permitted facility – by the Environmental Protection Agency, not just permitted by the State of New Hampshire. This means that he has to take water samples, and one does not pass the test. He thought part of the problem is that samples are taken from stagnant water. Another pipe is further to the east on the wrong side of the fence. It's just a matter of time before the EPA, with its GPS capacity, asks why no samples come from that pipe. It may be 25 – 30 years; there are about 110 exit pipes. Sooner or later he will need to check that pipe, and needs help from Seabrook Station to get at that exit pipe.

Foote said this almost demands a better look at a runoff if it is already backing up in the drainage swale and in the culvert that goes underneath the road. The building project is only going to increase the amount of flow and runoff demand on a system that is already overburdened. Beaudry said that the outfall points causing the water to back-up are actually downstream of the culverts that are of concern to Starkey. Starkey said that is a problem, but pointed out the culvert where some work had been done in the drainage swale, but it has silted-in. It probably needs to be lowered by about 4-6 inches so it doesn't pool as before. It would be great if this could be done during the construction of the firing range. Beaudry said this is not a big deal. Starkey said it needs attention so that the water flows. Beaudry said if it did not affect a NHDES permit for this project, something could probably be worked out. Foote said that NHDES has revised their regulations; maintenance of stormwater structures – drainage soils no longer require permits.

Hawkins allowed a question from Derek Heap. Heap said when there are heavy rains the water doesn't drain through the pipe and goes over the road. Hawkins commented that that had been Starkey's point. Heap said it did not take much for the road to the dump to be unapproachable. He pointed out where the water doesn't flow; it changes with work on the DDR property. Starkey believed more water is now on the west side of the driveway; it should flow from west to east. Foote said the problem is they demolished the building and have not built what they were supposed to build as part of the development. She agreed with



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Heap that the water is currently flowing in a wrong direction because the stormwater work was not completed and there is now litigation.

Hawkins referenced the Altus comments and asked Starkey if there are things that have not been resolved to his satisfaction. Starkey thought those items had already been discussed. Hawkins asked if Starkey would be satisfied if the Altus #9 item were fixed during the construction as a condition. Starkey said he was. Hawkins asked of further comments from the Board on the above matters; there being none. Hawkins referenced an email from Frank Richardson of NHDES stating that no permit is required, and asked if that raised any comments or questions: Foote agreed with Dr Richardson that there are no wetlands that would be impacted in the immediate area of the construction, but noted that Richardson did caution about stormwater and making the site secure so that there isn't siltation into the wetlands. Hawkins asked for other comments on wetlands; there being none.

Hawkins referenced NextEra's letter concerning traffic indicating that their position is there would be no increase in volume; there are 30 spaces in the parking lot. This means a maximum of 30 cars for security personnel parked there for a couple of hours of training which doesn't come close to the Town's 50 additional card per hour threshold. Hawkins said a waiver of the traffic study was requested, and Hambrook agreed. Janvrin asked about overflow parking. Beaudry said could be that potential but space would be available at another close by Seabrook Station building.

Hawkins referenced Morgan's memo and asked if there were issues that had not already been discussed. Morgan said there were not. Hawkins asked for Morgan's recommendations in re the drawings, noting that no corrector road on the site is shown which Hawkins thought the Board would want shown on at least one of the drawing so there is a record of what's supposed to be placed there. Morgan said that the NextEra representatives said they had made numerous revisions and pointed some of them out on the drawings on the easel, but the changes have not been seen on the plans. Beaudry said it isn't hard to follow the planset which does show the proposed 40-foot driveway across Seabrook Station property. Hawkins said the Board would want to see this so they know that that is the proposed route to the North Access Road.

Hawkins asked for any other questions from the Board for this project, indicating that waivers were requested for the lighting and the traffic study. Hawkins thought that the parking didn't require a waiver, it would be whatever is approved on the plan. He referenced the traffic letter and indicated the Board would have to vote on whether a traffic study was needed or not. He thought it credible that with 30 parking spaces that wouldn't be in and out in 15 minutes, the threshold would not be met no matter where the cars come from. He noted that many will actually be employees at work at the Seabrook Station facility; there would be some in/out traffic from Seabrook Police but that would be about it except for incremental traffic. Kelley thought that was not much of a change. Janvrin said he had asked about overflow parking and that had been answered; it would not flow through Rocks Road. Beaudry agreed. Hawkins understood that this project was not tied to the North Access Road access project, and asked Moore if there were already a letter of Intent to that effect from Seabrook Station. Coes said that the statement from the Town's attorney read earlier in the meeting by Starkey would be the wording that the Board was looking for.

Hawkins read the text of the language earlier submitted by Starkey.

"The Applicant acknowledges that it is currently negotiating with the town for the discontinuance of a portion of Rocks Road adjacent to this site and a land swap with the town of that discontinued roadway for the triangular portion of the site to the Northwest of the proposed Firing Range Building. If that discontinuance and land swap occurs, then the discontinued portion of



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roadway will be the Applicant's private property and no "off site" improvements need to be made to that roadway; however, if that discontinuance and land swap does not occur, then the subject portion of Rocks Road must be improved to appropriate town Standards as determined by the Town's Department of Public Works Director."

Hawkins said that that [statement] addresses the Rocks Road issue, however, he was looking for something that would address the connections to North Access Road. He acknowledged that they are different subjects and that they would depict in one of the graphics that that road would be there. He asked if there were some sort of an agreement based on the negotiations from a year ago. Moore said that nothing had been finalized; it had been bouncing back and forth between the power plant owners and easements from PS&H. Janvrin asked if this was in writing. Coes said nothing had been signed. Thibodeau noted that there had been specific requests relating to the street. Moore said all aspects had been discussed, but nothing finalized. Coes then provided to the Chair copies of the draft easements being discussed, saying they were at the point of being ready to sign.

Hawkins proceeded to list the issues and conditions he felt needed to be addressed, indicating that the Board could fill in the blanks:

- (i) security in the amount of \$35,000 as indicated in the Planning Board engineer's letter;
- (ii) depict the location of the Jersey barriers and, if moved, where will they go to;
- (iii) notate the lighting hours of operation on the plan – Beaudry said the facility needs the opportunity to utilize the facility 24/7, even if they don't do that, and the hours are on the plan;
- (iv) Lowry asked about the lighting cut-sheets – Beaudry said these had been submitted, and have not outward glow; there is a little bit of from the light pole at the intersection where the driveway comes onto Rocks Road. Foote noted the spillage does not trespass onto a road. [Beaudry circulated the graphics].
- (v) document the sound study results for code enforcement indicating that the sounds from the firing would not be heard outside of the building; Coes indicated he could provide this;
- (vi) Sanborn wanted to see the cost to recondition the road, even if the swap doesn't happen, Moore asked if this would be an exaction; Foote said even if the road is brought up to standards, eventually it could be a cost for maintenance; Moore said this could require tax revenues;
- (vii) Garand noted in re lighting cut-sheet #8 that only tempered, not convex, glass could be used;

Hawkins asked if the Board wanted to ask the Applicant to return for another hearing to discuss the outstanding items, and quickly summarized them below. He indicated these items should be addressed on the plan:

- (a) security
- (b) connection to North Access Road on the plan;
- (c) location of Jersey barriers in relationship to the fencing based on the assumption there will be a land-swap;
- (d) work with the Water and Sewer Superintendents on the shut-off locations (Foote);
- (e) submission of sound study;
- (f) identify culvert(s) that have to be cleaned on the plan;
- (g) site specific documentation on the plan that sound will not be heard off the property ie to put teeth into code enforcement;
- (h) get agreement with the Planning Board engineer relating to the stormwater issues in his letter and a written statement from him as the resolution of these issues and what will be done about them;



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(i) get agreement from the town engineer and the DPW Manager as to wording on the plans re the future maintenance on the existing drainage swales – Foote; Coes said the Operations and Maintenance Plan covered this as well as construction issues;

Kravitz commented that ordinarily revised plans go out to the same Department heads that received the original ones so they can be assured that their items of concern have been addressed on the plans. Hawkins asked if there was anything more to add to the above listing; there being no further comments. He indicated it would be appropriate to continue Case #2010-22, and added that when the items are addressed he thought the Board would be ready to take quick action. As the next hearing for cases would be September 21, he asked how that date would fit NextEra's schedule. Coes explained that the firing range is a \$3,500,000 project of which \$2,000,000 is to be spent in 2010, and \$1,500,000 in 2011. If they are pushed into winter construction, they would be in peril of losing the funding. Hawkins asked about September 7 which is the Board's next meeting. Beaudry said there wasn't much left to do on the plan. Coes noted that [the department heads] haven't seen the revisions and Beaudry agreed they could have the plans by the middle of next week. Hawkins said there is so little left to do, but there are issues that need to be shown on the plan; he would be more comfortable if the Board had a close to final plan with the conditions on it. They could be on the September 7 agenda as the only case to be heard. Hawkins asked for the Board's view.

Moore asked how much more is outstanding. Foote said in the past for site plans the conditions have stipulated that [Morgan] review the plans and if the conditions the Board asked for have been met then it could be signed. That way it doesn't have to come back to occupy more of the Board's time. She asked if they could satisfy Morgan. Hawkins asked if anyone had a problem doing it that way; no one did. Janvrin asked if the waivers would be done separately. Hawkins said they would

MOTION:	Janvrin	to waive the requirement for a traffic study for Case #2010-22.
SECOND:	Moore	Approved: Unanimous

MOTION:	Moore	to approve Case 2010-22 Case #2010-22 - Florida Power & Light and NextEra Energy Seabrook to construct a 376' by 82' indoor firing range off of Rocks Road, adjacent to the Seabrook Transfer Station, Tax Map 8, Lot 58, and Map 7, Lot 110, conditioned on (i) security of \$35,000, (ii) work with the Planning Board Engineer to resolve the issues relating to his stormwater comments and show them appropriately on the plans; (iii) clean the culvert next to the Transfer Station to assure it is operating correctly, (iv) notate that noise shall not be discernable beyond the property; (v) notate that maintenance will take place in the storm drainage swale and the culvert, (vi) depict on the plan the location intended for the proposed connection to the North Access Road; the Town Planner to notify the Board when the conditions in accordance with the discussion at the Planning Board meeting of August 15, 2010 have been met to his satisfaction.
SECOND:	Foote	Approved: Unanimous



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Case #2010-23.02-11, a proposal by Seabrook Circle Realty Trust, and J. Normand Jutras, Trustee, to amend a 2002 site plan approval for the expansion of a commercial building (Appliance Warehouse) and associated site work at 6 Smith’s Lane, Tax Map 10, Lot 18.

Attending: Normand Jutrus

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

Boyd noted the wetlands permit was issued four years ago. They understand the Planning Board wants compliance. Among the outstanding issues were that the warehouse from the South is on Salisbury pavement and the Seabrook Planning Board is not knowledgeable about that, the lack of stormwater mitigation, and the stream course going under Town Hall. Boyd said the Planning Board wanted to see the Salisbury matters settled, ¾ of the pavement was to be removed and the flow would be to a detention pond. and a drawing depicting the Salisbury situation had been submitted. [The Salisbury drawing was circulated to the Board.]

Boyd said the plan submitted with the application showed the existing conditions. The violation was with sealed surface and therefore a zoning violation; the parking was adequate. Boyd said that a comparison to the prior plan would complicate the presentation. The curb installation was “lousy”; the sand and salt runoff went to the wetlands and filled in the pipe under the road. He said that Matrix [[[]]] would hand remove the offending material and set the infrastructure anew.

MOTION:	Foote	to accept as sufficiently administratively complete for deliberation and jurisdiction Case #2010-23.02-11, a proposal by Seabrook Circle Realty Trust, and J. Normand Jutras, Trustee, to amend a 2002 site plan approval for the expansion of a commercial building (Appliance Warehouse) and associated site work at 6 Smith’s Lane, Tax Map 10, Lot 18.
SECOND:	Moore	See below

Garand asked how the deficiency would be addressed. Morgan said he had previously seen the Salisbury drawings and questioned how relevant they were. Foote said that with regard to the runoff Salisbury is the key. Garand noted that the Massachusetts outfall actually goes to Seabrook. Boyd said treating and cleansing was needed. Garand said if the installation had been completed as originally approved, that runoff wouldn’t be there. Foote wanted the Board to be able to have a final resolution. Boyd said he had made a prior submission, but Morgan had determined that abutters needed to be notified. Moore asked for Morgan’s view. Morgan said the current submission needed to be compared to the 2002 plan. Foote said the prior plan should have been at the meeting. Morgan said the Boyd could speak to the original intent.

Hawkins said that the Board had declared its intention not to accept incomplete checklists. This had been discussed at several recent Board meetings, however, it was up to the Board to decide what to do at this meeting.



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MOTION:	Foote	to accept as sufficiently administratively complete for deliberation and jurisdiction Case #2010-23.02-11, a proposal by Seabrook Circle Realty Trust, and J. Normand Jutras, Trustee, to amend a 2002 site plan approval for the expansion of a commercial building (Appliance Warehouse) and associated site work at 6 Smith's Lane, Tax Map 10, Lot 18.
SECOND:	Moore	Failed: In favor: Foote, Moore Opposed: Sanborn, Thibodeau, Janvrin, Lowry, Hawkins

Hawkins asked about the 2002 case, and whether it had been continued through 2010. Boyd said this is not a new case; the current intent was to bring the property into compliance. Hawkins asked if the submission were following the 2002 approval. Garand said a loading area had been added, and noted The required provision of the liberty elm and a dumpster. Boyd said they would return to the Board, and felt that they were caught in a new procedure. Foote said to add the wetlands permit number to the plan. Boyd said this is not a new plan.

Jutrus said that the contractor did not meet the approved plan, and they didn't know about the 25 percent wetlands provision. He had spent three years getting a resolution with Salisbury at a cost of \$20,000. He appreciated the Planning Board's position and wanted to be in compliance.

OTHER BUSINESS

Hawkins said **the CIP Books were provided in anticipation of the September 7, 2010 discussion at the work session.**

Hawkins said **at the September 7, 2010 work session there would be a one-hour presentation by the Master Plan Steering Committee's consultant on the design proposal for the long-term vision for Route 1. Ultimately this would involve land use regulation changes. One Agenda item is the 2011 budget proposal. Additionally, Morgan will present his proposal for reordering the subdivision and site plan regulations. Other regulation items may also be discussed.**

Case # 2005-42 Bagley - Dows Lane Culvert status continued from July 6, 2010, July 20,2010 .
Garand said Bagley is continuing to build the culvert himself.

Garand circulated a photo of a **new guardrail proposed for 99 Ledge Road**, indicating that there wasn't much detail. The owner wants to get to siteplan completion. Lowry asked for the safety rating. Hawkins said meeting the standards for a guardrail would be expected. Garand will check the details in the original plan and said that guardrail details should be included in plans in the future. Foote thought this would be ok if the engineering specs show that it meets the standard. Janvrin thought the standards should be called out in the regulations.



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Rocking ham Planning Commission

Hawkins said he went to an **RPC traffic mitigation meeting that dealt with federal requirements**. At that meeting, he suggested that collecting the data might easily be done, (without expense) if by volunteers in a community who are given GIS handhelds.

Hawkins adjourned the meeting at 9:25 PM

Respectfully submitted

Barbara Kravitz, Secretary
Seabrook Planning Board