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denied and closed. They were going to have to reapply if they wanted to come back. Do that a couple times and that will really straighten things out.

Audience member: can I ask if this has already been accepted as complete?

Foot: it's been presented twice but it has never been accepted as complete so we haven't begun deliberations on it and from what I understand, if the talk I've heard and Paul and Patricia has heard, the next time we see it it's going to be drastically different from what we have seen in the past. So on to the next case, **#05-15** Proposal by Michael Fecteau, DCC Development Corp, Patrick Spearman, Spearman International and Seabrook International for a **LOT LINE**

ADJUSTMENT on Woodworkers Way, **Map 6, Lots 17, 17-2 and 17-3.**

Wayne Morrill, Jones & Beech Engineers: I am here tonight on behalf of DCC Development and Spearman International. What we have is a lot line adjustment between three lots. As you know Dinsmore Communications was a cable company that their business has slowed down a bit, so they are selling off some of their land to Seabrook International, which is a thriving business on Woodworker's Way that's looking to expand. Back some time ago, Spearman Int'l, which is Seabrook Int'l, purchased Map 6 Lot 17 in the rear. They would have owned those two lots but what we felt that instead of just combining those lots why not keep a lot that has legal frontage on Woodworker's Way, which is over 125 feet long, and also has frontage on Ledge Road if Ledge Road is ever extended. I think it's just a paper road once you get past when it turns into Sam's Way. What we've done, and you'll see this coming up in the next Planning Board meeting, is we've submitted plans to expand Seabrook Int'l's building. They'll be using the parking lot of Dinsmore Communications, the section that is fenced off, for the new part of their business. Right now they have a lot of cars out there and sometimes it spills over and they are trying to get more parking for their business. We feel it's one of the businesses that is thriving in Seabrook and they want to stay here and expand and they want to stay where they are. They have good traffic flow to 95 out Bachelder Road and it's a business that's done really well in Seabrook and we're pleased to show you this tonight. On Map 6-17 that abuts 95, it was originally 7.13 acres and we've reduced it to 5.33 acres. That was in the pink (pointing to the plan on the easel), the original, this area B is being sold to the blue property and this area in the pink which was owned by Seabrook Int'l now will go to this lot so that it has adequate frontage on a town approved road. Then lot 17-2 was originally 3.56 acres, which is in yellow, and it is reduced to 1.73 acres, which you see is not dashed. The blue area goes to the blue lot. And originally lot 17-3 was 1.98 and will now be 5.61 acres.

Preston: I understand that little V down at the bottom, but why are the other lots so odd shaped? Is that for frontage onto Ledge Road?

Morrill: this lot here is the actual fence so there's an island right in the middle and so that's where they wanted to cut it. This area right here bisects a wetland so it gives this lot an adequate open space. I don't know if you remember back when this was approved, there was a future 5000 square foot addition that was going to go on to this building. So looking to the future, this lot wanted to make sure they had the adequate 25% open space; this line right here is bisected going right down the middle of that driveway that you see going into Seabrook Int'l and that's why we have the 30 foot wide ingress and egress which is 15 feet on both sides which allows 30 feet so nobody could ever block that. It's a shared driveway. Even though this driveway goes another 30 feet over this way, we wanted to make sure nobody ever closed it off. Same thing on this side. This is another nice access road. This is all going to be on Seabrook Int'l's land, but this allows Dinsmore's land still to be accessed by that road. So we're keeping an open traffic flow going. This drainage easement right here, there's a large wetland and a pond. This drainage easement is for



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this lot if there was ever a problem, the culvert broke down or got clogged up, they would have the right to come over here and either fix it or maintain that culvert so that this wetland would not increase in size and destroy the integrity of this land.

Preston: how about this lot? It couldn't have been any straighter?

Morrill: what you'll see when we bring in the site plan. This is where the detention pond goes for this lot. The building addition is going out somewhere like this (drawing on plan) and this is the pond, this is wetland, this is wetland. The pond goes right in the middle of the two. We wanted to get the frontage and made sure the pond was on their lot and this could be an independent lot someday in the future.

Preston: it has enough upland?

Morrill: it has enough upland—this is all uplands right here—a small business could go in here. Basically we left that aside in case they needed another parking lot, they could put one on that site. We wanted to make sure they had an option in the future. The last easement on this land is the 30-foot wide utility easement, which is the utility pole where all the utilities go into Dinsmore. We wanted to make sure he didn't have to rip up everything and start all over. The amount of network in that building is amazing. They didn't just want to cut that off. The building that you see in the back parking lot will go to Seabrook Int'l and will be used for storage.

Preston: what does Seabrook International do?

Joe Oldfield Seabrook International President: surgical instruments

Morrill: that's sort of a brief description. Some of the things we did change on the plan, so that the Board knows, for Tom's comments so that we could address all those. He wanted to add the number 3 to the zoning district. The original plan we had side and rear setback as fifty feet and it's actually fifteen feet so that's been adjusted on the plan. Another thing not on the original plan is that we labeled this 25 x 55 drainage easement so it was clear for the lawyers. This access easement was labeled as 30 foot wide; the label was missing on that. The plan was originally called, Seabrook International, and for recording purposes we wanted to make sure it was Spearman International so that it's recorded correctly. Another one of Tom's comments is that lot 17, if they lost this 210 feet, that they would not have adequate frontage, they wanted to keep at least 120 feet of frontage on a section of Ledge Road. We have 125 feet of frontage here and 400 feet of frontage on Ledge Road. I don't think the labels were on here, so Tom wouldn't have seen that we still have frontage on that. Drainage and utility easements I just reviewed with the Board. That's all in the language of the easements that's being recorded as documents with this. It points out that all the easements are on Seabrook Int'l's land now, for benefit of Dinsmore Communications' land. I don't understand Tom's fourth comment, something about Dow's lane lot line adjustment case labeling the lots, but what I did was color it up so that it's clear to see what we're trying to do for each lot. The proposed property line between 17-2 and 17-3 includes no boundary monuments. All the monuments have been added to the plan. Iron rods to be set. Paul's comments address site plan issues, which I'm sure we'll be getting into when the site plan comes to the Board in the next few weeks. So that was submitted at the end of the month, so we should be coming up.

Secretary: You're scheduled for technical review on May 23rd and Public Hearing on June 7th.

Morrill: if there are any questions, I'll try and answer them.

Garand: I only have one question. Does Dinsmore have a sign right now on Ledge Road?

Morrill: he does have a sign up in here somewhere.



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Garand: that would be considered an off-site sign, which is not allowed at this point. Also, I believe he has a Ledge Road address too. So he would not be able to carry that address any longer. Remove the sign or use it for

Audience Member (believed to be Dinsmore): we planned that they were going to use it. It's a concrete block monument with a white sign attached to it, so we'll just take the white sign off so they can put whatever they want there.

Garand: just so you know that.

Foote: from the tech review additional comments were easements for drainage, sewer, ingress and egress, need to be addressed properly on the plan, will they be shared. I notice it mentions easements and you did say easements would be recorded but sometimes it does help if on the plans it actually says easement for the benefit of both parties, or for instance the one you said for the utility easement, while it's located here, the utility easement is actually for the benefit of Map 6, Lot 17-2. When someone goes to pull up a plan, they might not have access to the easements, the town hall might not receive copies of the recorded easements, it could save an awful lot of time and research if there's a question about fifteen or twenty years down the line if it says right on the plan who the easement is to the benefit to.

Morrill: the benefit of each party?

Foote: so like where the driveway is a shared easement. And I think that's what Tom was mentioning about the lot line adjustment in identifying this. If in the notes it says easement A, B, C. and in the notes say easement A is an ingress, egress to the benefit of both lots; drainage is to the benefit of lot 6 17-2 in they event they might need to do cleanout of culvert.

Morrill: you want it that detailed on the plan? It seems like you have a legal document detailing the rights are of each person.

Foote: but that legal document is not always that easy to find. There have been a lot of easements supposed to be written in the past and attached to deeds and yet, when you pull the files either with the planning board or assessor's office and there's not copy of it. It could save time in the future doing research.

Morrill: why don't we do this? Down in the right hand corner of the legend where we're calling out the different kinds of easements, we'll put in parentheses who benefits from the easement. There won't be a lot of labels all over the plan, but it'll be right in the legend. I think that would be the easiest way to do it.

Foote: you brought up a sewer easement for Map 6, lot 17-2, I think Warner might have mentioned that the sewer line goes in across, I'm not sure where the sewer lines are, but there might need to be an easement depending on where they are

Morrill: this is what Warner is talking about currently on 17-3 the blue lot, there's a sewer easement across the Dinsmore's lot to tie in to the ledge Road sewer. He's buying that piece of land so there's no need for an easement.

Garand: where does the sewer for map 6 17-2 go? Does that go into Ledge Road also?

Dinsmore??: there's a manhole right about here (pointing to middle of lot on plan)

Garand: that's what he was referring to that there should be an easement

Dinsmore: I don't know where it is on the street, but it does come to right here and it will come across their property so that'll have to have an easement.

Morrill: he wasn't talking about the current, but the proposed.

Foote: show all utilities on plan

Morrill: on a lot line adjustment plan?



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Garand: he was just wondering if the water came across through Ledge or Bachelder and so forth, so in case they did cross there they would need an easement also.

Dinsmore: Water comes from Woodworkers

Foote: Paul already brought up the change in address. It's now going to have to be Bachelder Road address for Lot 17-2. And a comment on repairs to Ledge Road, upgrade if increased use.

Morrill: I think that's what we'll get into with site plan review.

Foote: more appropriate with a site plan. First we have to vote to accept as complete.

Motion: **Garand** **To accept case #05-15 as a complete plan.**

Second: **Lowry** **Unanimous**

Foote: polled the board. No comments or questions except

Evans: I think it might have been useful to delineate the locations of the wetlands on the plan so that we could understand how the lot lines were chosen. That's an editorial comment, otherwise it looks fine.

Foote: I believe when they come for site plan review, on the new lot lines they're creating, the wetlands will be designated.

Morrill: I believe we're scheduled to be in front of the Conservation Commission

Foote: originally it was for May 23rd but I just got an email asking to put it off to June 6th, but our meeting's June 13th. I don't know why they wanted to extend it out.

Morrill: because Adele won't be here and Adele gives the best presentation and can explain it the best so I'd rather have the chief here

Evans: the reason I brought that up Madam Chair, is on that website to which we were referred, aside from its idealistic and utopian way of looking at things, they suggested that lot lines be drawn after green space had been architected, then the building architect and then the lot lines drawn according to the best use of the land in that fashion. So keep that in mind, Wayne.

Morrill: that's how we did all the McDonald's and CVS's and everything. We had to do some legal things here to take care of properties first so that we can move forward.

Foote: Any other questions or comments? Any abutters present that would like to speak to the plan? Then we're ready for action.

Preston: there are no waivers required on any of this?

Motion: **Preston** **To approve plan #05-15 with conditions that legend include notation of benefit of easement; add easement for sewer on Ledge Road to Lot 17-2.**

Second: **Garand** **Unanimous**

Lowry: how are you making out with the dam bureau?

Morrill: continuing saga. GSI wrote a letter to the dam bureau indicating that the density of the natural banking material is sufficient for a dam. That language got sent up. They actually took our plan and stamped it as a structural engineer. And it's in front of the dam bureau right now to be approved as is. I told them I'm not stamping it because I'm not taking the liability. If they want to be the structural engineer, they've done borings across the whole cross section of the dam, it's their baby, I can't

Foote: so they're saying we may not need to drive the sheathing now?

Morrill: right. They're saying that we might not have to do anything.

Foote: now that things have thawed out and they can compact them



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Morrill: I know. It's always that way.

Preston: are they having a problem with that contractor up there?

Morrill: you've seen it?

Preston: I heard they ripped up the driveway in front of the yellow building, put all the utilities in, covered it up and then the other guy came back the next day and dug it all up.

Morrill: yeah. They decided they'd let Warner know about 4 o'clock one afternoon that they were going to do their water line tap in front of DeMoulas and they were tapping the water line at 8 o'clock at night. It foams up. And then state DOT comes down and tried to shut down the job but realized they couldn't do that because they needed to cap the water line and get out of there. So the next day they had a big huge powwow and the contractor basically got told you do that again and we'll pull the DOT permit. So from that point on so all the officers are at the point now there have been so many problems if anybody walks across the road or if a vehicles goes across the road with no police detail, that person gets brought to the station. It's gotten pretty bad.

Foote: I almost got creamed by one of those big front-end loaders full of concrete. The officer had just motioned me to go and I see this thing go whoosh.

Preston: they guys said they are unbelievable.

Morrill: my inspector actually had to file a police report because he almost got run over within ten minutes twice. So we pulled him off the site. He was pretty well shaken so we had to have another conference with them. Every day it's a conference to try and keep the job going and then they tried to bury stumps underneath the parking lot, we told them to rip up all those. We're going to take test holes across the entire parking lot. We don't know if we find stumps, then we may end up rejecting the whole parking lot. It's just constant.

Preston: they're trying to cut a few corners, eh?

Morrill: they took a low bid and sometimes when you take low bid it's going to come back at you somewhere.

Preston: you were the low bidder too? LAUGHTER!!!!

Foote: Next we have bond reduction requests on **Turtle Creek Terrace and Nicolas Way/Becky's Way**. Last meeting we had correspondence and request for Bob Carbone out on Ledge Road

Preston: he can't have much left can he?

Garand: I visited the site today and a truck ran over some of the granite curb coming in on the west side of the entryway.

Foote: wait, we're not doing him yet. We're starting at the front and going down. Does everyone want copies of Patricia's calculations or just me reading them down is sufficient?

Preston: do you have to read all through every one? Just the one's we're dealing with.

Foote: reduction for Nicholas Way and Becky's Way. Of course the calculations that came in and requested were from Millennium estimates and we go by Mike Fowler's estimates. It appears we have already reduced the bond in August 2004, for \$45,200 so we are retaining \$136,500 on Nicholas and Becky's Way right now. Patricia has calculated all the percentages that John Starkey has recommended plus we're holding back the minimum required for maintenance rollover, John Starkey's hold and \$5000 for digitals. So we will be retaining \$58,690. and return \$77,810.

Preston: You've looked at that, Paul?

Garand: I've gone through the numbers some.

Preston: that's using Mike Fowler's calculations?



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Foote: yes. If you want to look down the front, this is Mike Fowler's amount, this is the amount they requested, this is the amount the department heads say to hold and this is the difference and it all corresponds in the totals down here.

Preston: are they pretty close?

Foote: no. Millennium wanted to bring it down to where we're only holding about \$25,000. but they weren't calculating the maintenance bond. They didn't realize we hold a certain percentage and just roll it in.

Preston: department heads isn't that far off though. Do you need a motion?

Motion: Preston **To return \$77,810 on case #02-18 Nicholas Way and Becky's Way.**

Second: Garand **Unanimous**

Garand: what does that leave on balance?

Foote: that leaves on balance \$58,690. Next we have a request for bond reduction from Turtle Creek, which they requested last October. Again we did the same sort of calculations.

Preston: that was recommended to hold it through the winter to go through a winter and now we're going into fall. Let's see how the leaves do on the road.

Foote: I think we're a good 30-45 days negligent in returning. And those numbers work out to return \$75,687 and retain \$38,938. For the same reasons: rollover into maintenance, the digitals and the department head's recommendations for work remaining.

Preston: and you guys will figure out the distribution for the two-thirds for Lowe and one-third for Ruesch.

Motion: Preston **To return \$75,687 on case # 04-11 Turtle Creek Terrace**

Second: Lowry **Unanimous**

Foote: we also have a request from Bob Carbone about reducing the bond for Ledge Road. Something to do with he wants to fund it himself as opposed to having the bank because he's being held up on transferring. Paul has been out and inspected it; he has several things listed: granite curb west side entrance is broken and needs to be repaired; finish coat pavement not installed; grass washed out and landscaping needs touch up repairs; silt fencing in place needs money left to remove it in the account; dumpster pad has been relocated to rear east side of property, the PB has not approved this change. The Board should be polled to see if they feel this change is a minor or major change. The new location is further away from the residential development and to the west and away from the front parking lot and entrances. After reviewing the site I feel the new location is not only safer, but would also keep the noise levels down for the residential development to the west. Bond amount seems reasonable as long as it covers the required work. He wants to reduce it down to \$15000 plus the 10% performance bond required. I'm not sure what his original amount was.

Secretary: current amount held is \$75,000.

Preston: what was the original amount?

Foote: I know we haven't reduced anything on him.

Preston: the original was \$75,000?

Garand: 10% is \$7500

Foote: \$7500, plus \$5000

Preston: \$22,500 plus \$5,000. \$27,500



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Secretary: that we want to keep.

Garand: what was the original price for the granite curbing estimates?

Foote: don't know, don't have that here.

Preston: that's very small there.

Secretary: refund \$47,500.

Preston: do you think we should talk about the dumpster first? Just poll? I think that's a..

Foote: let's work on doing the bond

Garand: before we reduce the bond, let's clarify that. Basically we've been talking back and forth with the developer. The main entrance to all the condo units are on the south side of the structure and the dumpster is at the far end of that south side of the building on the west which you have to access across all the parking lot in front of the front doors. The tenants were not happy with that location. So they proposed moving it to the east, which is straight shot to the main driveway going down. This is a better location for the residential, but not only safer for everyone on the site.

Preston: is it fenced?

Garand: it is fenced. It is on a concrete pad sloping back in away from the wetlands so when they put the final grade of asphalt on, it should be a nice location.

Evans: at that end of Ledge Road the residential is actually to the east—the Cimarron Apartments are there

Garand: that's the large section that's about 16 acres in between the two of them

Evans: sufficient buffer do you think?

Preston: plus the hours are stipulated on the plan

Foote: I think with Cimarron the noise you might hear from a dumpster would be minor compared to the noises within the complex itself

Preston: within the hallways

Evans: they have their own as well

Preston: I don't have a problem with it.

Foote: so we have to decide whether it's a major or minor. I have talked with Paul about it. Bob actually called me at home. Bob misunderstood or misheard what I was saying. I told him that I personally didn't have an objection to it but that it would have to be approved by the board. I have a feeling that he presumed that as chairman I could speak for the board and he didn't hear the "but it has to be approved by the board".

Garand: Let's make a poll. I for one say that I think it's a minor change.

Preston: minor

Sanborn, Himmer, Lowry: minor change

Evans: I'm going to disagree with that. I think that for all of the reasons Paul has stated that the move is certainly something that the board will approve of given everyone's opinion; however, I think that to say that anybody can come along and change the location of their dumpster pad and it may not always be a minor, or as small an impact as this particular change is. Therefore, I am going to dissent and say that this is a major change.

Foote: I believe that it's a minor change

Garand: that's why we take each case by case and look at the size of the dumpster and the location and use and so forth

Foote: and he will have to submit new site plans indicating the new location of the dumpster and it can be part of his as-built plans when they're completed.



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Evans: well, that's another aspect of this that I find quite disagreeable is that this was done without any consultation of the planning board and this is not the only case in town where the developers can take action on their own and then beg our forgiveness after. That aspect doesn't please me either.

Foote: I agree with you that that is happening in a variety of ways around town. Unfortunately, Paul's shoulders have to be about 75 feet wide to be able to carry the burden of all the infractions going on around. At least we did have communication, with Mr. Carbone, granted its after the fact, but he is at least doing the right thing and requesting our approval so worst case scenario is

Preston: It's going to have to be shown on his as-builts anyway, right?

Foote: so it's 6 in favor of it being a minor and one dissension saying it's a major.

Garand: earlier Sue, I had talked with you also on the approval sheets, the notice of decision. We should also add on the bottom of that any changes to this approved plan require revisiting or permission from the Planning Board. Or something to that effect so that it covers any aspect of that.

Evans: any change should come before the Planning Board. In my opinion, a minor change is something like a spelling error or something that clarifies the situation that doesn't actually redraw lines on the plan

Foote: any change should come to the Planning Board. The question as to whether it's a minor or a major change; if it's minor, it's something we feel we can deal with ourselves. If it's a major change, we have to public notice it, notify all the abutters, we have to have another public hearing.

Garand: that's where a major and minor stands. A location of a dumpster around a building wouldn't be something all the abutters would need to be called on, if it's all wood land around it.

Lowry: because it's really not impacting the abutters, it's more a matter for the residents.

Garand: and if the item wasn't covered in the original approval

Evans: who are the abutters?

Garand: on that right there it would be MT on one side of it who was one of the original sub dividers and Cimarron Realty Trust for the portion of land in between them. I don't believe they were even here for the first hearing.

Foote: no, they weren't. And there's a wide expanse of woodlands between. So we will reduce Bob Carbone to \$47,500.

Motion: Preston To refund \$47,500. from site security bond on case #03-34 to Robert Carbone.

Second: Lowry Unanimous

Garand: What will that make the balance on that?

Secretary: \$27,500. balance.

Motion: Garand To approve the minor change of moving the dumpster to the northeast corner of 95 Ledge Road to the rear of the lot. This change is to be depicted on the as-built drawings.

Second: Preston All in favor except Evans who feels it is a major change with a minor impact on the neighborhood.

Preston: I think it was clarified by Paul --with the minor change and a major change. We make the distinction. The major change would be when you have to get engineers involved. If they said they wanted to move the hydrants and for us to look at that it's major and the engineers should look at that and resubmit the plan.



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Garand: the dumpster is not a structural fix, permit anyway. It just requires a cement slab and fencing around it. But on the site, it's still going to have minimal impact for sight and noise. I think that the safety aspect is better where it is.

Evans: I agree that merits of the change are strong and if it was presented to me, I would approve; however, we've gotten into trouble in recent memory by calling what turns out to be a major change minor. And I don't think it's too much to ask to protect the Town's interest, that a public hearing be held and formalities gone through.

Preston: I'm unfamiliar where there was another project. LAUGHTER!

Evans (jocularly): Madam Chair would you call this meeting to order.

Garand: pepperoni or cheese?

Foote: reviewing through another request for bond reduction at Gove Road, we have a memo from the Town Manager and we discussed this at the last meeting and there was no action taken on it at that time. I think at the very least we should get into our minutes some sort of motion as to whether we're going to address it now or

Motion: **Garand** To maintain the bond on case #04-07 exactly where it is until the grade is brought up and the vibrating rollers are brought in and everything is compacted and they have their base coat of asphalt and the whole road is approved by John Starkey

Second: **Evans** Unanimous

Foote: Letter regarding London Lane from John Colliander. "Enclosed is the original extension letter of credit for London Lane. He is now extending it to December 31, 2005. He assumes that this coupled with the information provided earlier satisfies the Planning Board's immediate concerns. Dupere Corporation is continuing to work on matters addressing the Board's earlier correspondence and they are working with Jones & Beech to develop and submit an as-built plan."

Evans: doesn't sound like they're finishing anything.

Foote: that's one of the things I believe has been communicated to them several times is that they have major change; it's a major problem when either the sewer line is two feet too high or the surface of the road is two feet too low. Coming in with an after the fact as-built doesn't cut it. Especially if we find out that the sewer line is two feet too high, all of those other five lots from that other little mini-subdivision that's separated off the side of the cul-de-sac, that's going to necessitate all five of them to have to have sewer pump stations. Sewer pump stations that close to our well aquifer protection zone, in my viewpoint, is not a good deal when you could have natural gravity flow drainage that isn't dependent on a potential pump messing up in the middle of the night and have sewage flow out into our aquifer.

Garand: not only sewage but also chemicals from industrial sites

Foote: and I think it's been communicated to Mr. Colliander and I know it's been communicated to Wayne Morrill that coming in with an as-built is not going to cut it if you're going to make changes you either A: build to the plan which means ripping that asphalt off and shooting grades on the pipe again, or B: you come in for a major change and notify all the abutters, go the whole route because that's going to make a major impact on the people that have already purchased lots out there. And it's also going to have a major impact on three or four site plans that we're sitting on holding in limbo. So that's it for bond reduction requests. GRA Real Estate Holdings, you remember they were in here at our last meeting wanting to an expansion of the site, they had a bond that was



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supposed to be taken out for two years, Bank North supposedly only does bonds for one year, so their bond will expire June 11, 2005. We have already written him a letter notifying him of this case and informing him that he was either going to have to extend the bond for another year, or wrap up and finish his project by the end of it or we were going to shut him down, revoke his plan, or grab his bond or all of the above. At the last meeting when he wanted to do site expansion, we all said that you have to build to the first plan before you can expand into the second plan. Now it appears that his bond is about to run out between our next two meetings.

Preston: how much is the bond?

Secretary: \$45,000.

Garand: if he doesn't extend it before the next meeting, what is the call in time on the bond?

Secretary: we gave him until April 1st to let us know

Foote: and he hasn't responded so the board needs to call the bond or do something. We wrote him on March 17th.

Evans: I move we call the bond.

Preston: the bond hasn't expired yet, right?

Foote: but a lot of bonds you have to notify the bank 30 days prior to

Garand: I have his phone numbers in my office. How about I call him tomorrow and if he doesn't make good on the bond by the end of the week, we will

Foote: we will be calling it on Friday

Garand: how about we give the chairman permission to call the bond if he doesn't make good on the bond by this Friday

Foote: how about we give him until Thursday?

Preston: one day?

Foote: Wednesday, Thursday, I'll be in Friday morning

Secretary: all he has to do is make a call to the bank; it's a simple thing and he just calls and says extend my bond a year, done. It's not like he has to do anything major.

Evans: I think I'd like to amend my motion to incorporate Paul's useful suggestions.

Preston: and I'll second your amendment.

Motion: Evans

To give GRA Realty Trust, Case #03-46, until Thursday, May 19, 2005 at the end of the workday to renew his bond. If it is not renewed by Thursday, Friday the Chairman discusses it with the Treasurer and initiates action to call the bond.

Second: Preston

Unanimous

Lastly as far as bonds and projects, Paul, John Starkey and I met with Charlie Bagley in reviewing Austin Way, several weeks ago now, and at the time we reminded Mr. Bagley that he already was on a one-year extension to finish his project and it appears the work that is still outstanding he wasn't going to wrap up by June 11, 2005. So I recommended to him that he write a letter to us requesting another extension. Because it's much better to have him finish the project then to have the Town try to finish the project. We received the letter from Ganz Law Office writing on behalf of Charles Bagley requesting a two-month extension for the bond on Austin's Way. I recommend that we do continue him for two months, which means it would expire September 1st.

Motion: Foote

To grant an extension on the site security bond for Austin's Way, case #99-11, until September 1, 2005.



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Second: Garand Unanimous

Garand: he has installed a swale on the site at this time. When he was doing an as-built to make sure the swales are installed correctly and once they're double-checked they will put the final coat of pavement on everything.

Foote: before we get to correspondence and other business do we want to bring back case #05-10 G&D Realty trust? I notice they are in the audience now. So back to the public hearings and case #05-10 Proposal by G&D Realty Trust (Gary Boyle, Trustee) for a five-lot subdivision at 124 Walton Road, Tax Map 10, Lot 95.

Boyle: I think Henry has submitted a plan to revise that and just condex that property into two lots.

Secretary: Henry has submitted a revised plan.

Boyle: he didn't even tell me he wasn't coming. I know you people are familiar with the project and I would appreciate any assistance because I've never done this before. I'll do the best I can.

I think this was what the board was talking about doing and I have talked to Warner about the sewerage and water and as far as it's a split right down the middle. I don't know the procedure as just how that works.

Foote: one sheet? You're basically making it a two-lot subdivision? And you'll be coming back in the future to condo them or?

Boyle: yes.

Foote: but right now we're just looking at turning one lot into two.

Boyle: yes.

Foote: it hasn't been through technical review, but I think it's a simple enough plan

Garand: usually on subdivisions, the tech review doesn't get too deep into them as long as it meets the frontage requirements for zone 2R for allowable upland. Basically it's a straightforward subdivision of one lot into two.

Boyle: I'd like to ask now as far as something like this, if the Board approves that, when would I be eligible to submit for a building permit for something like this.

Preston: thirty days after approval

Foote: we hold the mylar for thirty days because that's a state regulation in case any abutter or person in the neighborhood wants to appeal our decision.

Boyle: I'm not sure Sue but wouldn't that 30 days fall under the moratorium that supposedly is coming up or would I be?

Foote: that's sort of like eggs and bacon, they're two different departments

Boyle: is there any way the board could waiver something like that?

Foote: no, it's a state regulation and we can't waive state regulations.

Boyle: okay. It looks like I'm right down to the last day if they do go ahead with the moratorium

Garand: exactly. Because the time of the 30 days starts from the day of signing I believe. So basically, you would fall exactly the day before.

Foote: but that doesn't mean that you can't start working on your building applications so that they can be submitted.

Boyle: I more or less have them all prepared. I guess what you're saying for the thirty days.

Evans: it's for the protection of the town. It puts the town in a tough situation if somebody takes this to court, our decision to court, and you've already commenced on your subdivision and



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you could have transferred the lots and it becomes a real nightmare to get everything unrecorded.

Boyle: the only reason I was suggesting something like that is because the last time as far as the subdivision I think we were under the understanding, at least I was, that everything was prepared right and that it would be accepted. Nobody ever said one word as far as anything negative about it. So to come in now at the last minute after

Preston: who said nothing negative about the prior plan with five lots?

Boyle: yeah

Preston: I had a lot of negative to say

Foote: I think we all did.

Boyle: I think when it was presented. But before that nobody, I mean acted like, we had been here in an informal hearing and they acted like everything was all right. I hate to put words in somebody's mouth, but even Sue got up and said it was the first time that the Town of Seabrook had allowed five driveways off a three-lot subdivision. Now, I'm not familiar with all this and that's what got me confused. I thought we were going in for a three-lot subdivision and not a five-lot subdivision. Then all of a sudden when I come home they told me that it was prepared like a five-lot subdivision.

Foote: because you were creating five lots out of one.

Boyle: there were five lots on there, but I had actually had this property sold and if he had come in just for a three-lot subdivision with the property behind under a different ownership? I had somebody who wanted to buy these two lots and an option on the back. So wouldn't that have been adequate at that time?

Preston: you wouldn't have been able to create those lots at the time

Foote: because they wouldn't have had frontage

Preston: they would be land locked.

Boyle: but wouldn't this have been the frontage here?

Preston: the road coming in?

Evans: the road was built to a minor subdivision specification; not the full fifty foot subdivision specification

Boyle: right, if it was three lots that would have been adequate.

Preston: this would have been one, one here and one here (pointing to plan)

Foote: if you had created three lots, with the road going through them to access the back lot, then it would have been a minor subdivision. But you were creating five lots and sneaking a minor subdivision in the backside.

Evans: so in other words, you could have had one, two, three (pointing to plan), but you went to one two three four five.

Boyle: I had a building permit on this lot. So I thought. Actually we're requesting a three-lot subdivision, one, two, three. No?

Foote: No, because this wasn't a lot. You had one large lot with an existing building

Boyle: but this one here I had a building permit on

Preston: which you're allowed to put two buildings on with that acreage; because you have over two acres and you can put two residences without any problem on over two acres

Boyle: if I knew all that confusion, Henry never said one word to me



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Foote: the intent of the minor subdivision is to reduce the requirements on a road that only serves three lots and cannot be further subdivided. It's very specific in our subdivision regulations. A minor subdivision is three lots or less.

Boyle: this one would have only served three lots.

Foote: no. You were one large lot and you were creating five. You weren't creating three lots.

Boyle: I thought that you just said that a minor subdivision would be considered a road that would service three lots. This road would have only serviced three lots.

Foote: but you were creating five lots out of the existing lot

Boyle: oh, I know that.

Foote: by creating five lots out of the existing lot you are not a minor subdivision. If you created three lots out of the existing lot then you could be a minor subdivision.

Boyle: well, anyway, I wish I had known because I never would have gone ahead with that and it's costs. That's one of the arguments I had with Henry because he never indicated to me at any time that wouldn't be approved. So I guess we're here and I'm ready to condescend it if I can and go ahead and see what we can do.

Foote: so we're here looking at this plan tonight.

Motion: Evans To accept plan #05-10 as a complete application.

Second: Garand Unanimous

Foote: are there any abutters or people of interest in the audience that would like to question, comment to the plan?

Boyle: hope my wife doesn't

Owen Latham, Seabrook citizen: Listening to the presentation that DES made to the Selectmen, their concern wasn't to discontinue construction it was just that they were disallowing the water hook-up to that building. So I took from that that you could go ahead and build your building, but you might never be able to put water to it.

Preston: you can always do a well.

Foote: you could do a private well.

Latham: but I'm talking about strictly a town hook-up; but you have to take the yellow brick roads to get to them, but it may be a hell of a lot longer to do what you have to do to get through all the regulations than it would be to wait. It's significant to me that their interest wasn't the stopping of the building; it was the stopping of the use of the water. So consequently he could go ahead and build his building it seems to me; he just couldn't hook it up to water

Garand: I can't approve a building application until the water and sewer is approved by the Selectmen.

Latham: then that's a town technicality but as far as the State's concerned, they didn't care.

Foote: from my understanding of the discussion and from reading several pieces of correspondence, the moratorium isn't necessarily a hard and fast this is it there will be no more. It's the Town has to prove through documentation to the State that there has been reduction in use and the State will allow proportional building from reduction in use.

Latham: in other words, what they have to do is exactly what they mandated we put in sewers or establish a conservation program and to report to them regularly what we were going to do about it and we just haven't done it.

Foote: that's right.



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Evans: I think we need to be careful to state ZBA reasons why they shouldn't change it rather than the plenty of Planning Board reasons I can think of that we wouldn't have this going. I think we should address our concerns toward the use of the land

Garand: we do not want commercial in the industrial part; especially that deep

Preston: I think their granting special exceptions and variances on all these industrial pieces of property we ought to preserve the limited industrial property we have in Town.

Garand: exactly.

Preston: I think that every time they do it they're taking tax dollars

Footte: there are plenty of commercial lots available around Town that have listings on them for sale. If this company truly wants to locate in Seabrook, they can find a zoned commercial lot and establish their business. They don't have to go into our industrial zone and then beg for a variance to do commercial work.

Preston: what's the tax burden ration on residential, commercial and industrial?

Footte: there's an excellent book that you can find on the Web, it's called *Does Open Space Pay?* by Phil Auger. I can't remember the exact numbers, but it's been proven

Preston: let's say residential costs you a dollar

Footte: for every dollar a town gets in taxes for residential it costs the town anywhere from \$1.35 and a \$1.75 in services

Garand: I think it's a little more now and in this town it's even more

Footte: because in this town we provide that many more services. Commercial, it generally costs the town five to ten cents for every dollar that they get in. Industrial is where the Town starts making money. Because they don't need to provide the amount of services for industrial. For every dollar the town gets in they have to spend between sixty and eighty cents. So we're actually making forty to twenty cents on taxes there. What pays the most is open space because the taxes are being paid on it but it requires virtually no services. About the only is if there's a fire.

Preston: the only thing is open space doesn't have the value of a beautiful industrial building.

Footte: it's not the same value, but still, the property had the value.

Lowry: plus industrial brings in higher paying jobs than commercial

Evans: I don't think, I wish I remembered the case, but I don't think the ZBA isn't supposed to take into account that one use pays more than another when it makes its decisions. Its decisions are based on is this piece of land burdened in such a way that to not allow this particular use creates some sort of hardship and I 'm not sure exactly where the line falls, but it's possible that this piece of property is already on a piece that already had a zoning variance. Maybe it falls outside that and onto the 107 side of the line, but I know further up London Lane that was all zoned residential. And already has a variance on it to allow industrial use.

Preston: that's a good trick. You get a variance, a couple years later you re-variance.

Garand: basically what they're doing is we're building the town on variances and we have the town mapped out for potential use that is going to benefit the public. And then, each person that goes in there to develop the land goes forward and needs a variance to use it on this use or that. Industrial land shouldn't need a variance to use it. Basically it's not an allowed use. And we should just send a letter stating that the Industrial land should be protected and we don't need commercial use in the industrial and the planning board as a whole voted against commercial use in this industrial zone.



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Preston: My personal feeling is unless it's a very tiny piece, it's case by case, but any of our major industrial zones or pieces of property should be preserved to benefit the town.

Foote: also, the intent of the industrial zone was that while we realized that they would be a certain amount of traffic going in there, it doesn't have the amount of traffic that a commercial enterprise would have and that's why we situated it where it is virtually between 95 and rural residential. We don't want to encourage that traffic.

Garand: The workers are there before the kids go to school. People are leaving after the kids are already home and they have shifts that separate them. It's not a continuous traffic pattern. And the road is not there for sidewalks, for servicing commercial use. There's no street light at that intersection down there. Are they going to have to put a street light down at the bottom of London Lane because of the impact on the traffic? Are they going to put a streetlight at Ledge Road and Bachelder road? Where does it stop? We need to control the industrial that we have left and I think we simply need to send a letter stating that we're opposed to this and the future transfer of industrial into commercial.

Foote: there are other alternatives for commercial lots in the Town of Seabrook if this company truly wants to situate in Seabrook.

Preston: I'm sure it's a matter of money.

Evans: so can you think of any reason why that piece of land can't be used as industrial?

Foote: none at all

Evans: I think that's the case right there.

Garand: who wants to pen a letter? Patricia?

Foote: it can be used as industrial better than it can be used as commercial.

Garand: I make a motion that Patricia pen a nice little letter and we'll look at it and have Sue sign it.

Evans: I second that motion.

Foote: do you want to review that letter before it's sent to the ZBA?

Garand: I'll review it if you like.

Secretary: we can't, they meet the 25th.

Lowry: if you want I can bring it with me

Garand: and I'll be there also and we could also just give it to JoAnn and she can tuck it in the package because I think she's mailing them out tomorrow.

Foote: well you don't expect the letter to be done by tomorrow?

Lowry: just give me the letter and I'll take it to the meeting with me.

Preston: that way also you could read it and it's right in the record.

Foote: I think we've come to conclusion on that. Other business. There are several items I'd like to bring up. One of them Patricia just held up to everyone. Patricia and I have discussed the potential for changing Office Hours so that they suit our functions and the applicant's functions better.

Garand: how are they for suiting Patricia though?

Foote: much better

Secretary: yeah, I work a little bit every day. I have some mornings, some afternoons. That way people aren't dropping off plans, stuffing them in the mailbox up here or leaving them with you guys.

Evans: Tuesday looks like a long day.

Foote: that's one of the things I discussed with Patricia. The Tuesdays we have our meetings



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Secretary: what do I have down for hours?

Evans: Tuesday until 12:30 AM. I can't approve that!

Preston: whatever makes it easier for you guys

Foote: it will actually have the office open one more day a week and I can tell you from the days that I have filled in, the activity is in the morning. There are no applicants that come by in the afternoon. The ones that drop in the office in the afternoon are just there to chitchat and you don't accomplish much work.

Garand: another thing I'd like to bring up while we're still on the hours are you still on the part-time wage scale? Starting employee wages? I think that what she's doing and the office is organized, the files and the stuff, I think it's time to review a salary increase.

Preston: that's what I was going to bring up.

Foote: something that the board may not realize is that the Planning Board secretary is independent from all the town things. So it's up to us to dedicate what wages she receives.

Preston: what is it something like \$10.40 an hour right now? Ridiculous. She can work at McDonald's for \$10.an hour.

Foote: Be a greeter at Wal-Mart for \$12.00 an hour

Secretary: you're kidding. I'm going to resign.

Preston: I wouldn't take that job at all, but I'd do it for no less than \$15.00 an hour.

Garand: wow, I don't know about that high, we are on a budget freeze.

Preston: give me a break. what are you thinking Paul?

Lowry: I think that's fair for what she does.

Garand: I can't say that. I work for the Town.

Motion: Preston **To raise the secretary's base hourly rate to \$15.00 per hour**

Second: Lowry

Garand: I'm going to abstain.

Foote: I do agree that Patricia is, without a doubt, the best secretary I've ever worked with.

Preston: I don't know if I'd say that

Garand: I have to say she drank my coffee the other day I'm totally against her. I came back for my afternoon coffee and there was a note on it saying "very good".

Preston: if you're putting stuff in perspective, what do we pay Tom Morgan an hour?

Foote: \$65.00

Preston: what do we pay the town engineer an hour?

Foote: \$65.00

Garand: I can honestly say that she has cut down the workload for all of the other staff in the office. Which is saving the Town money overall.

Preston: I don't care if she's doing the job and saving the town money. If she's doing a good job she should get fairly compensated.

Garand: I think she should at least make the same wages as a full-time secretary. She doesn't make the benefits; I think she should make the same wages as a full-time secretary.

Evans: so what is the prevailing wage?

Garand: I'm not sure what the wages of a full-time secretary are

Preston: probably about 16.50 an hour, 17

Foote: and that's not factoring in the benefits



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Preston: which are another \$4 or \$5 an hour

Foote: we just reviewed the secretaries at the rec and the loaded rate for the top employee, which includes all benefits, brings her wage up to \$20-22 an hour—the loaded rate

Garand: we're not going there, that's with benefits and stuff.

Preston: at this time I'd like to get it up to \$15. and see what the other secretaries are making because there is a wage scale for time and service, that type of deal. I know we don't have to go with it, but it would probably be worth it to get on some type of scale, with performance appraisals and

Lowry: I'd rather keep one secretary than keep going through one after another.

Foote: if she leaves, I'm gone

Garand: I just don't like the verbatim because it doesn't look good.

Secretary: why because you talk too much?

Foote: we have a motion and a second on the floor; I believe we've discussed it. Does anyone else have any questions or comments?

Evans: I'd like to find out what the prevailing wage is so that we understand that Patricia is an exceptional secretary and we'd love to do what is necessary to keep her.

Preston: I can almost swear that \$15 is low

Garand: I believe it's \$14.73 or \$14.78 for a full time rate to start secretary in off the road. So she would be the \$15. That's walking in off the street

Preston: with no experience, like transcription

Foote: that's three months out of high school

Evans: I appreciate that, but we're also in a situation where the Town has voted down the budget and

Foote: if you're concerned about the budget, I crunched the numbers as far as what we budgeted for this year, granted it's a default budget; we got thrown back into last year. Last year there was only \$2000. appropriated for the secretary because the secretary collected most of her wages out of the Building and Health Dept.

Preston: also this year we have a lot more fees that are coming back to the Town to offset this.

Foote: for the 2005 budget, I budgeted at what Melanie's rate was

Garand: what was Melanie's rate, just for giggles?

Foote: Melanie started with us at \$13.75 and was at \$14.95 because of the Town's step

Garand: she was working as a secretary at that point and you had to pay her the wage

Foote: so last year I budgeted for Melanie and that's not including FICA and the other benefits. I budgeted at \$15.00 wage for 32 hours a week.

Sanborn: before we do it, can we see the secretary pool? Just see what the secretaries are making on average?

Garand: if you guys want to talk, I think I can go downstairs and actually get the book for that.

Sanborn: before we do anything. It's not going to make a difference between here and the next meeting. If he comes back with the numbers we can do it next meeting.

Foote: the pool book? The secretaries that are part-time and get called in for a job here and there?

Sanborn: on basis

Preston: the problem is you've got pool secretaries that have some rates and the Planning Board, which is



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Sanborn: I don't want to start a wage war in the Town of Seabrook. You're going to set a wage war. I just want to see what they're making on average

Preston: the Planning Board is totally separate, the Board of Selectmen can't tell her what to do, the Town Manager can't and the employees

Foote: maybe if the word gets out that the Planning Board pays decent wages, four or five years from now when Fred retires and Patricia leaves, we'll get some decent applicants. One of the factors as far as what was budgeted in the 2005 budget, also that was for the full 12 months. Patricia didn't start until, end of February?

Evans: how did we start off offering her such a low-ball offer to begin with? We're proposing a 50% raise here. That's...

Foote: because when you first put it out for publication, it was explained to me that generally they offer it at pool secretary rate. It was only after it was posted and we had hired, that I was told, well you know you're the Planning Board, you can set whatever rates you want to set.

Evans: maybe we should get the Town Manager's opinion on this

Lowry: I just see where we've gone through secretaries in the past and I don't think it's fair for the Chairman to be secretary and chairman. So I'd rather have somebody competent that we can count on and go forward and not backwards.

Evans: Paul, that was you—that green light staring you right in the face!

BREAK TAKEN

Garand: if this is personnel it shouldn't be on the minutes anyway, you know that.

Latham: isn't that if you're talking about a specific person?

Garand: we are, we're talking about our secretary

Latham: well you don't have to say so

Garand: we only have one employee

Latham: well, you can do what you want

Garand: well, we can do anything we want, but we don't even get paid, we don't even get a dinner anymore

Foote: that's because you guys can't decide where you want me to buy the gift certificates. So you're going to withdraw your previous motion.

Preston: and Paul found the part-time employment opening, recreation department clerk, salary range \$10.44 to \$13.53 from last year and I know that there's been

Foote: two COL's since then

Garand: for part-time workers

Preston: oh, that's right, so it's over \$14 an hour; it's \$14.50 an hour. . Because it's approximately forty cents for the first raise, then it's compounded so it's probably forty-two cents so you're up to \$14.50

Foote: as the top end?

Preston: as the top end

Foote: for to start and generally at the end of 90 days you have a performance review that if your performance is satisfactory normally includes a raise at that time.

Garand: so if that was the start, I think she has proven herself competent

Preston: I know when they hire under this range, it's depending on experience and you know I withdrew my motion, and maybe have a review in a month or two, so I'll motion \$14.50 an hour

Evans: I don't know. Everything I've heard suggests that we low-balled it to begin with

Foote: oh, yeah



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Preston: I know we did.

Evans: and that \$15.00 an hour doesn't seem out of line from the data that I've been presented. I'd like to find out how the secretary feels about \$15.00 an hour.

Preston: now wait a minute, didn't you just say to me that's a 50% raise? I can't do anything right. Now I'm the cheap ***\$%^

LAUGHTER

Garand: He's undermining us. Peter keeps saying no, no, no and means yes, yes, yes. I think he took psych classes in college.

Lowry: so you're saying, that we low-balled?

Evans: I just wanted to make sure we had all the information

Garand: which means he doesn't know what he's talking about

Lowry: well, seeing we low-balled it, do you want to raise it from \$15.00?

Evans: I'm a B-grade actor?

Foote: so, now that we've reconsidered, with more information, are we going to leave it at \$15?

Garand: I'm staying out of this, where I'm a Town employee I don't want to get involved in this.

Preston: well, you know something, you should take a stand on it being a Town employee

Evans: well, Pat, 50% of nothing isn't much. Are we insulting you by giving you \$15.00 an hour? What do you think?

Secretary: you're not insulting me, no. I wouldn't refuse more, but you're not insulting me.

Lowry: so are we going with motion one?

Foote: I thank every day that she doesn't say 'why am I putting up this for this amount of money'

Garand: we have the evidence to substantiate the money around the \$15 mark. That's what I wanted to make sure of.

Preston: well, you know I don't think we have to justify ourselves to anyone but the board and the general public if they were so interested, they could come up here and

Garand: Owen, what do you think?

Sanborn: he wants to apply

Latham: it's like everything else. If you go out to buy a piece of equipment, you list the specifications, you set up what you want it to do and you write the specification and then you go out and find the best of equipment you can for the least amount of money that you can get

Garand: well, we've been doing that

Latham: and this my rule for everything in the Town, you buy what you absolutely have to have for minimum bid and then if it doesn't work, you honestly have to recap and say what have we done wrong

Foote: did that twice

Preston: we've done that in the past. We got what we paid for in the past.

Latham: that's what happens. But nobody can then say you are at fault because you've done the best you can do and what you've really done is that you have admitted that you didn't have the right specifications to start with. So that's it. Now I look at Patricia as a specialist in her particular field. You are basically an employer who is looking for a very specific product and if she's it, then you as an employer can pay her what's she worth.

Garand: no we can't we're on a budget crunch



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Evans: I think we've found what we're looking for in this very specific need that we had to fill and I think there's a benefit to maintaining Patricia's interest in the job and one of the ways we can do that is by not tapping on the tape machine and the other one is by

Preston: we could save money if we sped up the meeting

Garand: I think we should limit the discussions to the fifteen minutes and then the five minutes when they come in again

Preston: hold on, are you back off on another track?

Garand: no, I'm saying about the money and so forth, I think we can justify the money that we're going to pay her with the other professional people that we're saving money on. She's actually an asset to the office.

Preston: I don't think we have to justify anything. She's proven herself to us.

Lowry: and we've already gone over our fifteen minutes

Garand: so I'll do a second on the \$15.00

Motion: Preston **To increase the Planning Board Secretary's hourly wage to \$15.00 an hour.**

Second: Garand **Unanimous**

Latham: does the Planning Board get any compensation?

Preston: it used to be, up until this year, that you got a \$50. gift certificate to a restaurant.

Garand: a night out

Foote: it used to be we'd all agree on a specific night and a specific place and we all go out to supper with each other with out spouses or significant others or whatever. If a board cannot all settle on the same night and the same place, then the chairman purchases gift certificates to hopefully they can agree on the same place.

Garand: I think we should have two choices and with the secretary making all this money she can go wherever she has to be sent

Foote: secretary can't do that; chairman has to do it because she has to sign. So if we can't all get together at the same place, then everyone gets a gift certificate. And that's our only compensation. By State law we cannot be paid. Because that could be considered a conflict of interest or whatever. We've gotten past that. I have two others things I want to bring up under other business.

Garand: should I take and put the tape back on again?

Foote: Patricia and I have worked out an additional page for our application. It's going to be page three.

Garand: what do you guys stay awake at night trying to think about paper work?

Foote: no, what we're finding is that our general application doesn't give us enough information as far as who owns the land, who the applicant is, their telephone numbers, their fax and email numbers so we can communicate with them, the fact that they have read the subdivision rules and regulations so that we don't end up with another Mr. Boyle. And it will be like a cover sheet in our filing folder.

Garand: as long as it's useful and it makes the application have clearer data

Foote: it's very useful and it asks them to describe the existing structures and use of the property and the proposed new structures and uses.

Motion: Evans **To adopt the proposed Page 3 of the Application to the Planning Board**



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Second: Lowry Unanimous

Footte: another thing is that in my volumes of spare time, I've been perusing the Internet, reading other Town's rules and regulations on site approval, subdivision approval. Conditional approval is getting us in a lot of trouble because we're not setting a time limit on it. Almost all the other Towns have a time limit on conditional approvals for the conditions to be met and if they are not met within that amount of time, then either the applicant has to come back and ask for an extension on the conditional approval, or their plan is revoked at that date and time.

Preston: we haven't done many of those in a long time, have we?

Footte: we just did one tonight.

Preston: just on the block change

Footte: but that's a conditional approval and what's happening is the engineering firms aren't getting back to us with these changes. We have three or four plans that are sitting there and the applicant doesn't post the bond until they're ready to it. If they don't post the bond, we don't record the plan. We have two plans that have been sitting around for several years, just in limbo on condition, because the bond hasn't been posted.

Garand: would that be a change in the by-laws?

Footte: it would be a change in subdivision regulations and site plan review regulations. Right now we say that after they have final approval, they have two years for substantial building or they're expired. What happens is we have that limbo area of conditional that has no time limit on it and that's how we got Patrick Carey still hanging out there in limbo. We can't revoke him because he hasn't met the conditions.

Garand: why don't we just take instead of doing a time frame, what do you want to do 60 days

Footte: the towns that have them are the shortest is 60 days, the longest is 180 days. I recommend that we go for 90 days where our conditions of approval have wetland or DOT permits, they might not have them within 60 days. But if they don't have them in within 90 days, they can come back to us and ask for an extension.

Garand: and if you were to take and notify the

Footte: we're going to have to have a public hearing on this. So this is just working out the phraseology for the public hearing.

Garand: if you took and you sent a letter to each one that has a condition of approval out there and tell them that from this date forward you have 90 days to bring it in or your plan will be revoked.

Preston: I don't think you have any teeth to it.

Footte: right, because that was prior to this regulation.

Garand: but you're still bringing them into the same standards by what you're putting by law right now by letting them know publicly, that's what I'm saying, you're holding them to the same standards

Preston: I think it's grand fathered in

Footte: I say it's grandfather prior to the regulation

Preston: it's got no teeth to it

Footte: I think we'd be asking for a lot of trouble. But we can make sure that anything we approve once we have this public hearing forward, doesn't sit on our shelf for two years waiting for someone to decide to build the thing and finally come forward with the bond.

Garand: let's make it a public notice and we can put it out there

Evans: we can address the future



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Foote: the Town limit on conditional approvals will be 90 days

Evans: there may be some way we can finagle the old ones too

Foote: we can try to verbally apply pressure on them, but

Evans: we can maybe make the case that it's been abandoned

Preston: but they have two years, right, to start

Foote: once they have FINAL approval. They don't have final approval until their conditions are met, I sign the plans and it's recorded in Rockingham County Deeds. The conditional approval sits up there waiting for them to come forward with a bond, a dredge and fill application...

Garand: so can we use the argument for the hotel/motel, their argument was that it was already approved and they were trying to condo something, now we could go back on them in the same exact way and

Foote: hotel/motel was never approved

Garand: but their court case said that it was

Foote: the court case was on the condos, not on the motel and you can't condo something that's not approved

Garand: in the ruling they said because of the approved motel

Foote: and that's where they were wrong in representing it

Garand: but at the same time, that's what they represented and that's what they implied, so isn't that the same as that's what we took it on, your two years are up, it's gone

Foote: I don't know. That's something we have to discuss with Walter

Garand: that's basically what they represented and what they're doing is coming right back into that

Preston: if that was how he won that case why didn't the Town fight it?

Foote: to my knowledge, no one from the Planning Board was requested to go and represent

Preston: they wanted me to go

Foote: and it was a woman named Laura Spector that didn't even talk about the case to anyone on the Planning Board that I know of.

Preston: well, I got a call from one of the Town attorneys that wanted me to go and said now you're the one that was all against this and it was apparently some statement I made that won Carey his case and I said I don't think you want me to testify for the Town because it's going to hurt your case. And then I said, oh we don't want to talk to you; I think they were looking for you or someone

Foote: so, I'll try to work on the proper phraseology and we will public notice this for our next hearing?

Secretary: you've already got 16 cases to hear, 12 of them brand new

Garand: but they're only going to be 15 minutes apiece.

Foote: then.

Sanborn: we'll get rid of them quick

Foote: I have a feeling that this public hearing on this will only take two or three minutes. All we've got to do is read it and

Preston: it depends on who reads it

Evans: I don't see where, we're not having Mr. Boyd do it, so I think we should put it on the next meeting if there's enough time to notice it.

Secretary: what about that other thing you wanted to notice, getting rid of the minor subdivision



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Garand: I wanted to talk about that more

Foot: that's something we're going to have to discuss more and we're going to use Tom to make sure

Garand: but tonight we told Mr. Boyle that we did not use the five-lot subdivision as a minor subdivision, and we just approved one down at Felch's Lane, which is the same exact situation all over again, and we told them we didn't do that but we do do that

Preston: on Felch's Lane?

Garand: Acorn Lane

Preston: but the house is not being serviced off that road

Garand: no, the house wasn't and the other house that you took part of the portion of the land from was not either. That was a subdivision here, a subdivision there and there are three lots being serviced off the road in the back. It's the same exact situation

Preston: oh, I wasn't at that meeting

Garand: June of 2004 that was passed. The same exact situation. Right now we have everyone going for minor subdivision and they're going for waivers from the board of adjustment. You know, if they can't do minor subdivision, they shouldn't come up with a waiver in the first place, so let's just wipe them out so they can meet all the regulations. The contractors are getting it and they're just running wild with it.

Evans: I think that discussion is going to take a lot longer than two minutes.

Preston: if someone came in and everything's a major, can they ask for a waiver on road width?

Garand: yeah

Preston: so why don't we make the regulations tighter and let them request the waivers. That would have taken care of Boyle,

Evans: Tucker

Garand: Tucker was the very same thing. A minor to entrance and then it expanded to a major in the back.

Secretary: Tucker has never been recorded. He came in and wanted to know about posting a bond

Foot: he's another one out there in limbo over the conditional approval because they haven't posted their bond yet, so I haven't signed the plan yet. We don't sign the plan and record the plan until the bond is posted.

Secretary: which means their two years doesn't start until then

Preston: that's the problem

Evans: do we even need to have, to add it to the by-laws, but just as a matter of course we could put a time limit on our conditional approvals.

Foot: that's what we've done in the past, especially for zoning regulations knowing that it wouldn't come around until the following March that as part of a condition of approval we include the phrase that these conditions will expire within 90 days and the plan will be revoked

Garand: or at the same time with any plan we do approve, even if it's conditional, on the night of the approval, we give it the two years and it's dead at that point in two years even if you don't get the conditional approval or if you do, from the night that we approve it, the two years starts there

Foot: that's part of the thing. Do you have any notices of decision here? You notice on our NOD, there's already a bunch of, so if we add to the NOD these conditions for instance the 90



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day expiration, and probably also add that within two years it must be substantially complete from the night of the approval.

Garand: basically that right there would cover it because then we have it written down on that form and it takes care of the situation of the conditions being met is from the night of the approval, irregardless if the conditions are met or not, two years from the date of the approval the application dies.

Foote: if it's not substantially complete.

Garand: and they can't start it unless the conditions are there anyway so basically it's gone.

Foote: and also we should add to this trying to squeeze it all onto one page, that ANY changes to the approved plan will require returning to the Planning Board for decision and approval.

Garand: And I think you ought to make them sign that approval sheet the same as you do so that they are aware of it. You sign it and they sign it. They know all the conditions, the time length, it's right there. They can't say I didn't know what I was signing. I don't know what I'm doing and just protect the Town and protect the infrastructure.

Preston: just put I have read and understand and have them sign it.

Foote: time limit on conditions of approval, time limit of expiration, any changes return to PB for review and approval and an acknowledgement of understanding. The only problem with the signature of the applicant is that a lot of times it's represented by an engineering firm we never even see the landowner and applicant

Garand: but that person that's here has a written statement of permission

Preston: put applicant representative under it

Secretary: we already have it signed by the applicant or owner that they are allowed to act on their behalf

Evans: RS 676:4 C: Revocation of Recorded Approval when the applicant or successor to applicant has failed to perform any condition of the approval within a reasonable time, specified in the approval or if no such time is specified, within the time period specified in RSA 674:39

Garand: what's 674:39?

Preston: what's 635:1? What's that?

Garand: is that the one he was looking up?

Preston: no, that's burglary! LAUGHTER

Lowry: RSA 822

Garand: oh, that's when the meeting stops.

Evans: The Planning Board may, as part of its ...specify thresholds of work...let's see, it's four years.

Foote: and you can be stricter than State laws, but you can't be more lenient than State laws

Garand: if not specified, it's four years. Any of the old cases past four years we can throw away then.

Foote: if they're not complete

Garand: we could have got rid of Lago, why isn't the attorney

Latham: are you sure about being more strict than the State?

Evans: as long as you're reasonable

Latham: as long as you're not contested

Garand: that's in the RSA's

Evans: as far as the regulations are reasonable



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Garand: then, how come we can't use it now. I think that's a good case if they want to push it in the courts that's something you can push forward.

Latham: why are we having so much trouble with our Charter?

Garand: that doesn't have to do with the Charter

Preston: it's more strict than the constitution

Latham: we're stricter than the RSA's are and then they come along and say

Foote: that's because the administration of the town chooses not to challenge

Latham: that's what I mean

Garand: let's leave the political stuff out of the meeting and we just talk about planning and we can't get into trouble

Latham: how the hell are you going to do that?

Foote: the State's reasoning behind that four year law is because zoning changes

Garand: how come the attorney didn't say that project on Grape Hill was not substantially complete, it had been abandoned, sold and how can you say it had a vested interest?

Foote: but we approved a plan for them in 2000

Garand: this was 1999 the attorney said they had vested rights. So when Grape Hill came forward in 1999 they should have said that was not substantially complete and the project should have been dead null and void. So if that was approved in 1999, this is 2005, nothing more has happened. He's lost his vested rights.

Foote: I would say so. The key word is definition of substantially complete, which I believe is more than 50% of the original application.

Evans: RSA 676 paragraph C that refers to 674:39 the four year exemption section

Foote: the four year exemption means that if we approve a plan today and our zoning changes tomorrow, that plan is in conformance for four years under the old zoning

Garand: well trailer parks were allowed in 1972 or 1970 whenever that park was put into place. Zoning changed. So basically after 1972 if you didn't have substantial completion, he should not have been able to complete.

Evans: in IV it says "failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the Planning Board to the 4-year exemption described in paragraph I. The Planning Board may, for good cause, extend the 112-month period set forth in paragraph I (a).

Preston: I don't we're defined are we, for substantial?

Evans: I think we approve with conditions on that night?

Preston: who made the motion to adjourn?

Garand: I did seven minutes ago.

Preston: are we done?

Foote: except for pending items. Paul, are you going to work on those pre-construction form revisions?

Garand: and I'm also going to call Mr. Green and talk with him about that bond.

Foote: as far as pending items we can remove Shoreline Protection Act and NHPDES spreadsheet review that we never really got to because unbeknownst to me they had to have the report into the EPA by May 1st; so they sent this to us on April 12, expected us to turn around and get it back to them in time for them to be able to get it to the EPA on May 1st. That's not enough time lag for us. The reports have already been developed and delivered to



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the board of Selectmen. I am going to raise a bit of a stink and stamp my feet up and down that if they're expecting the Planning Board and also the Conservation Commission to adhere by these ideas that they come up with, we ought to at least get a report.

Garand: like I said the political stuff should stay out of the Planning Board

Foot: if they're going to commit the Planning Board to doing things, the PB has the right to have the documentation so that we know what we have to do.

Garand: you can say in your opinion that's it.

Meeting Adjourned at 8:25PM on Motion by Garand, second by Lowry. Unanimous.

Respectfully submitted,
Patricia Welch. Secretary

MYLARS RECORDED		
05-09	Proposal by GRA Real Estate Holdings & Luis Elias for a lot line adjustment at 25 Chevy Chase Road (Map 8, Lot 54-8) and 41 Railroad Avenue (Map 8, Lot 81).	D32647
05-12	Proposal by Luis Elias for a two-unit condominium conversion at 41 Railroad Avenue, Map 8, Lot 81.	D32646
02-37	Proposal by David Deschene and Pamela Johnson for a 12-lot subdivision at 439 New Zealand Road, Map 2, Lot 36	D32648
04-07	Corrective Plan for boundary error on Sheet 1 of 2 for Gove Road and New American Homes, Map 7, Lots 50, 50-150, 50-170 7 50-180.	D32645
02-01	Proposal by Virginia Small for a lot line adjustment at 44 Weare Road, Tax Map 4, lot 3, 3-1 and 3-2.	D32658