



Town of Seabrook Planning Board Minutes **Draft**

October 4, 2005

Members Present: Sue Foote, Chair; Paul Garand, CEO; Tom Morgan, Planner; Mike Lowry, Peter Evans, Paul Himmer, Keith Sanborn, Patricia Welch, Secretary.

Meeting opened at 6:00 PM by Chair Foote. First item on agenda is minutes of September 20, 2005.

Motion: Lowry To accept minutes of September 20, 2005

Second: Himmer Unanimous with Sanborn abstaining because he was not at the meeting.

Foote: states she is taking things a little bit out of order. We have several letters from the Board of Selectmen. One of them is in regards to Channel 22 from Fred Welch, Town Manager. (Foote reads):

The Board of Selectmen has directed that I write the Planning Board regarding the use of Channel 22 by the Planning Board. Selectmen consider it vitally important that the Planning Board televise its meetings for the information of the citizens of Seabrook and to that end the Board of Selectmen respectfully requests that the Board begin the broadcasting of its meetings at the earliest possible opportunity. The Selectmen appreciate your help and cooperation regarding this most important matter.

I know we've discussed Channel 22 in the past and my personal problem with being on Channel 22 right now is the placement of these mikes. As you know when we lay out our plans sometimes the entire table is covered with plans and I know from other meetings that have had to open full-size plans with the mikes hanging out, even straight up, the rattling of paper and the plans hitting the mike isn't so loud to the people here in this room but when it gets broadcast it sounds like there are thunder claps going off right next to your ear. That is my only concern with being broadcast. If there is some other form of mike system, a boom mike, I personally have no objection to being on Channel 22.

Lowry: well, that and basically no one can actually see the plans on TV so they are going to be pretty well blind to what we're talking about so I think it's more of a disadvantage to the public not being able to see the plans.

Foote: I've talked to Carrie Brown who does the filming of 22 and she said if we can have one specific plan that stays stationary, preferably right here (pointing to center seat area of table) so that whoever sits here their plan would have to be square to there (pointing to camera on wall above table) and she can actually zoom in on that plan down to where one word would take up the whole screen, so she can, the only possible snafu there would be whoever sits in the focusing plan, if they lean forward, you're going to get their shoulders and the back of their head as opposed to, because they would be in the line of sight of the camera. Any other comments?

Lowry: I think those are the two major concerns.

Foote: I agree with you as far as being able to see the plan. To me it's not as important as the mike issue but I think people listening at home without actually seeing the plan, because a lot of times we don't take the time to specifically say the house on lot number two, yada, yada, yada. We just say well if this was moved. And it could confuse the issue.

Foote polls the board. Keith, any pro or con? Neutral? Paul (Himmer)?

Himmer: I agree with you that it probably would lengthen the meetings. We'd have to be a lot more specific and point out a lot more things to be on TV and broadcast it. It will make it much more difficult for us and anyone involved in getting their permits.

Foote: if the plans can be shown through the camera and we have good direction with the person who's using the camera as to what needs to be shown, I think that could alleviate some of the problems. I



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think the number one issue is the mikes. With the mikes sitting here, there is no way we can lay out plans without running into a mike problem. My other concern is our directional mike that does our taping is something that would have to be checked, but with these mikes right close to it, because that mike is battery powered, we could run into a feedback situation also, that we would never hear in this room. It would be the people at home going, oh my gawd.

Himmer: if the technical part can be worked out, maybe an additional table for plans or an easel? Possibility of using the smaller sets of plans for the members.

Foote: some of the engineering firms have the ability to provide the smaller plans, others don't. That's sort of the same thing we run into as far as needing the digital plans. We can't expect an engineering firm that doesn't have the software to provide it to us in digital. Tom, do you have any?

Morgan: I am always in favor of giving the public better access to whatever government is doing.

Foote: I would like to see it on TV, but I have a big concern about the mikes. We have one of the selectmen in residence tonight; can you add or comment to our concerns?

Cora Stockbridge: as an individual selectman, no I wouldn't. What is in Fred's letter is on behalf of the full Board. We'll probably talk about it tomorrow. So you can watch us on Channel 22 when we do it.

Foote: I might be there. So I guess our comments back to the Board of Selectmen would be if we could resolve the mike and large plan issue, we have no objections to being on 22.

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

Himmer: right.

Foote: do you think we ought to make an official motion on that?

Morgan: it would be a good idea so you can tell the Selectmen tomorrow that the Board took formal action.

Foote: okay.

Motion: **Foote** **The Planning Board has no objection to being broadcast on Channel 22, provided we can resolve the mike placement issue and the plans being shown on TV properly issue and it doesn't make the meetings any longer. If we can solve those items, we will broadcast our meetings.**

Second: **Himmer** **Unanimous**

Foote: our second letter from the Board of Selectmen, well actually from Fred Welch, Town Manager is regarding the Border Winds & Randall Drive. (Foote read letter):

The Board of Selectmen has requested that I write regarding the current status of the Beechwoods Subdivision a/k/a Border Winds and Randall Drive. The Planning Board after many years and meetings and much discussion regarding this subdivision called a public hearing in August 2005 and issued an order for the completion of this subdivision. The Selectmen are concerned that the developer has not provided to the Planning Board any schedule for the completion of the required work. We are fast approaching the winter season when all construction will be halted due to the vicissitudes and inclemency of the approaching season.

Foote: What are vicissitudes?

Morgan: you know, if you were on TV this could be an awkward moment.

Foote: yes, very awkward. I hope I pronounced it properly. We'll have to tell the Town Manager to dumb it down. (Foote continues to read letter):

The Board of Selectmen would respectfully request that the Planning Board write the developer and request a written schedule reflecting the dates on which particular portions



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of the work will be completed and requesting that the work be accomplished this construction season so that it can be inspected, certified and the two-year maintenance cycle can begin to run hopefully closing this particular project a year earlier than a 2006 construction schedule will allow. On behalf of the Board of Selectmen, thank you for your patience, understanding, and cooperation in this important matter.

Footte: From listening to the previous broadcast of the Selectmen's meeting, I know they were discussing it and there were comments that there has been verbal confirmation that the developer is willing to follow our revised decisions. I personally have not have heard anything from him, we have not received anything in writing from him. I do agree that we most definitely should write him a letter and possibly phrase the letter such that our decision from the August 2005 meeting provided him an opportunity to repair the outstanding issues without having to resort to the initially approved plan, which would be far more costly and detrimental to the neighborhood and that we need him to

Garand: can I ask if Henry's still working on that project?

Boyd: I don't see that they did that at all. I think that it made him do everything that was on the existing plans and he also had to, you got the benefit of him doing the things for the Town that could help the Town. He still has to put the curbing in per the original plans.

Footte: he doesn't have to dig up the electric and put it in the air

Boyd: because he paid more to put it underground

Footte: he doesn't have to move

Boyd: Sue, respectfully, he paid four times the money to put it underground.

Footte: but that money has been spent. It would cost more to rip it up and put it in the air and he doesn't have to move the sidewalks to the other side.

Boyd: they could abandon it in the ground is what they could do.

Morgan: Henry, do you know what your client's schedule is at this point?

Boyd: my client had written a letter that never got to the Board of Selectmen, but he had agreed to do everything that was on the plan and in my opinion is more than he ever had to do before, water over the dam, all the things he did for the Town, the Town is interested in having, so they've got what they want plus they've got more. He's agreed to put the curbing in, we don't think that it's the right way to do it because it's an engineering nightmare to do it, it will create problems for the edge of the roadway. It's not to be done now. But he's going to do it. He has pursued getting prices from two different curbing companies to do it. What he was interested in was having the Town of Seabrook plow the road this season because of some things that he's had to deal with and he would pay the money up front to have them do that. He believes that it would be done better for the residents up there. I also as a resident of the Town think that those residents that are paying taxes deserve to have the Town plow the road.

Footte: but you understand that if the Town puts a Town plow in there, it means we accept the road and are responsible for the maintenance of the road.

Boyd: that's not true

Footte: State statute

Boyd: we'll the Town trucks are in there picking up trash. The Town trucks are in there. He is willing to compromise saying

Footte: we don't need to debate this issue tonight.

Boyd: no we don't. You're asking me what's going on and I'm telling you. He now has to put, he's not going to be able to find a curb contractor to put this in this year.

Morgan: so he's looking at the springtime?

Boyd: he is. And I have been informed off the record that they are going to force him to go through another winter season even if he puts it in during the spring. So he'll have to pay for plowing



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Foote: I don't know any of this communication. This Board and individuals of this Board know nothing about any of these communications.

Boyd: I haven't been authorized to come formally with a letter, but I'm honest enough to tell you what is going on and he would want me to do that

Morgan: it is your understanding that he intends to make these improvements in the spring of '06?

Boyd: yes and I had a letter in my hands stating as much. Communications broke down when I got the fact that it was not going to happen, the Town would not plow the roads.

Morgan: did he prepare a proposed completion date for the improvements.

Boyd: he said he would be back from Argentina in April and the first week of May he would be when the frost is out of the ground and he would complete as soon as possible. But he was hoping that if he would set a bond aside, or a piece of property aside, that the Town could take and plow the road. But if the Town would plow the road the residents would certainly get better service.

Foote: well, that's an additional item, as it appears that from our records that the current security runs out in December

Boyd: and he's agreed to put that up and to post that again

Foote: and we're definitely going to have to have that renewed and have a site security agreement signed.

Boyd: he's willing to do all of that Sue, but he's going to leave in the beginning of November, I don't know when.

Peter Evans arrived at 6:15PM

Foote: so we need to write him a letter.

Boyd: he's been embroiled in a lot of personal things that have kept him from doing some things; he's got property in Argentina and businesses there. There are two sides to every story.

Foote: I understand. It's just that it appears there is a lot of communication with everyone but this Board. This Board knows nothing.

Boyd: I had a letter that his attorney wrote that I was to carry to the Town essentially and I just got some very negative feedback about it and essentially I was told what you told me that the Town cannot place trucks in there. Since then I have tried to get Lloyd Perkins to see if he would plow the road because I knew that Lloyd was responsible to do a good job. But he's concerned about the abutters up there not being happy about anything. If they're going to complain when anything gets down about snow this way and snow that way, so I don't know whether I'm going to have success even finding a private outfit to do it. That's why Dave said he would gladly pay the Town to do it because he knows it would be done right. So if we could make some headway on that issue I'd think he would sign anything you want him to.

Foote: well, there has been no correspondence to this Board. Without any communication or correspondence to this Board, this Board can't even know what the issue is to be able to try to discuss it.

Boyd: isn't the problem though that they have to get permission from the Board of Selectmen to get the Town to plow that road?

Foote: I believe so.

Boyd: I'll submit a letter Wednesday for their next hearing to (aside to Selectwoman Cora Stockbridge) you're meeting next Wednesday?

Stockbridge: tomorrow at 10 o'clock

Boyd: I don't think that's going to work because the letter I had won't do it

Foote: they're every Wednesday now, at ten



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Boyd: so next Wednesday I will submit the letter.

Morgan: Henry, will any of the work be done in this calendar year?

Boyd: I doubt it. It's getting very, very difficult. If you were to ask for a survey now I'd tell you I couldn't start it for six or eight weeks. I mean the contracting business is that way as well and the paving plant closes December 14th or something. So all of the work needs to be prepared. He could probably get somebody in there, but I'm going to tell you that my very first comment that I had about that job is all of the sidewalks need to be ripped out and you need to have someone who knows what they're doing to do that, it can't be just some mom and pop pull a trailer behind the pickup truck. It needs to be an outfit that can mobilize and do some work.

Foote: we'll write a letter and hopefully it will get things moving.

Boyd: well, could I ask if we're looking to move forward here could you have something prepared in advance for the Selectmen to review whether you stand in favor of what I've said or not and maybe you can't take that position what your thoughts are but I know that the residents that are paying taxes out there through the nose would be better served by having the Town do it and he'll pay for it.

Foote: I don't believe that it is something the Planning Board has any say over. We can't mobilize Town services.

Boyd: I understand that. What I'm asking is what is your disposition for that thought that I've brought.

Foote: I think it's ruled by State statute.

Boyd: should the garbage truck be in there?

Garand: that's a health issue

Boyd: snow plowing is a health and safety issue as well.

Foote: this was all discussed at that meeting in August.

Boyd: in a snowstorm and an ambulance can't get through but maybe it's not a safety issue, you know better than I do.

Foote: can we move on? We have a request for extension on case 04-49 Tucker Subdivision, Almena Way. There is a letter. This is what came up last meeting and we didn't know who was requesting for an extension because all they talked about was the street address.

Morgan: oh, that lawyer wrote that letter

Foote: it turns out that it is the Tucker Subdivision; they are selling it to

Secretary: they have sold it to Mr. Lyons who is in the audience

Foote: and they have sold it to Mr. Lyons who is in the audience and they are now asking for an additional six months.

Morgan: what is about to expire?

Boyd: the approval of one year is in January. They are going to begin the construction next week. They just want to let the Board know that it won't be complete but the road base will be in, the utilities will be in, they just want to make sure that come January.

Foote: but it's not one year it's two years. They have two years for completion.

Morgan: two years is site plans. I don't think subdivisions expire. The state statute, yes but do we have something in our regulations too?

Foote: I think it has to be substantially complete within two years. That's one of the things we need to work on is the definition of substantially complete.

Morgan: that would protect them from further changes to the ordinance.



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Boyd: this is in your site security agreement, what you're talking about, so he just wants to make sure, right there in paragraph B. And it's not for full completion, it's for substantial completion and they just want to show you they are planning on doing a good job.

Foote reads from site security agreement:

"The developer will comply with the plans as submitted to, and reviewed and approved by the Planning Board including but not limited to roadway improvements, drainage control measures, lots, bounds, blah, blah, blah, which shall be constructed in accordance with the plans and standards required by the Board at the time of approval provided however that if active and substantial building has not commenced within one year of the date of approval, in which case any improvements shall be construed in accordance with the plans and standards required by the Town at that time. Deviations or amendments from the plans may only be made with written prior approval of the Planning Board and the Developer."

So they have to begin building within a year.

Evans: in your opinion, Henry, will a substantial portion of that be done before the year?

Boyd: in my opinion, yes a substantial portion will be done within a month, but we're not going to be paving the road and if we do it will only be binder obviously and they just don't want to get caught in the middle. If something happens with their contractor or whatever, they'd just like to be able to have six months grace to provide the Planning Board or the Town with a complete project. Substantial yes, but I don't want to get caught and I'm no lawyer.

Morgan: I see no harm in giving them another six months.

Evans: have there been any changes to the Zoning Regulations that would cause problems for Almena Way?

Morgan: no, but there could be tomorrow

Foote: not that I am aware of. But they would be exempt from those anyhow at least until January, correct?

Morgan: yes. I see no harm in giving them the exemption through July.

Evans: I concur with the Town Planner.

Foote: so we need a motion.

Motion: Evans **To grant an extension of six months to case #04-49 (Tucker subdivision/Almena Way) until July 18, 2006 to have it substantially completed.**

Second: Lowry **Unanimous**

Foote: until when in July? That's what confuses me is because the conditions associated with PB subdivision approval require substantial completion on or before

Morgan: why don't you pick a date Peter

Evans: may I ask when was the plan approved?

Lyons: 18th of January

Evans: so that would be 18th of July 2006

Foote: next we have a request for reduction in site security for 93-95 Ledge Road, which are the Karpenko & Carbone industrial units. Fred Welch has requested that the assorted Department heads review this area. We have a letter from Warner Knowles that says:

Please be advised that all water mains, water services, fire hydrants, sewer main, sewer services, and manholes on the Ledger Road Condos have been inspected and tested satisfactorily. The only problem is with the water shut-offs. They have all been covered with hot top. I estimate to correct this problem to be approximately \$500.00.

Next we have one from John Starkey, Public Works Manager (Foote reads memo):



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Please be advised that pursuant to and in compliance with the Town Manager's above-referenced request, I did this morning, with DPW Foreman Herbert Randall, Sr., an in-the-field inspection of the Karpenko and Carbone property.

You should know that I found numerous problems with the drainage system, which I will enumerate.

First, you should know that today is the first inspection that I have done on this Jones & Beach Engineered project. Do you know if Jones & Beach have been following/tracking this project, or has the Planning Board hired a consultant to watch this project?

Secondly, you should know that I have "NEVER," prior to the Town Manager's request, been asked by the owners, or the Engineer to inspect any work done. In addition, I do not recall having attended a pre-construction meeting on this project.

Consequently I have not witnessed, nor can I verify, the placement of select materials under the roadway, the paving of the roadway, or the installation of stormwater/drainage structures or pipelines. Furthermore, I have not witnessed the installation of granite curb.

Please accept the following as what I have seen today which appears problematic.

1. The granite curb on the west side of the entrance immediately adjacent to Ledge Road has failed and needs to be reset.
2. The inlet pipe proposed to be in the no cut zone cannot be found! All inlet and outlet pipes should have witness stakes with delineators in the future.
3. Catch basin 9-1 shown on Sheet 4 of 9 was found with a metal sheet over it. When this writer removed the metal sheet, the catch basin was full to the grate. The location of this catch basin "as-built" was found in a grass median strip vs. the edge of pavement.
4. The outfall for Catch basin 9-1 was found to be $\frac{1}{2}$ silted in and the riprap outlet protection apron is missing.
5. Catch basin 9-3 shown on Sheet 4 of 9 was found constructed with the frame and grate approximately one foot from the curb line, consequently stormwater runs past.
6. The outlet pipe coming from Catch basin 9-3 and proposed to be in Detention Pond #1 could not be found. Could it be under the water?
7. The riprap outlet protection apron as depicted on Sheet 4 of 9 for the outlet pipe coming from Catch basin 9-3 was also not verifiable as the level of the water in Detention Pond #1 is high.
8. Catch basin 9-2 is full of water up to the grate?
9. The outlet pipe from Catch basin 9-2 and the riprap outlet protection apron as depicted on Sheet 4 of 9 is not visible as most likely under the water in Detention Pond #1.
10. The proposed 8 foot wide emergency spillway with riprap as shown on Sheet 4 of 9 appears to be constructed 4 foot wide.
11. The drainage swale parallel to the parking lot of the northern most building, which is supposed to flow westerly into Detention Pond #2, has numerous pockets of stagnant water.
12. Catch basin 10-1 frame and grate is missing the curb line by about a foot allowing stormwater to travel past and pond on the pavement about 50 feet beyond downgrade to the north.
13. The outlet pipe for Catch basin 10-1 was found mostly buried under riprap.
14. Catch basin 10-3 as depicted on sheet 4 of 9 has the frame and grate missing the curb line by 2 feet.
15. The end of the pipe coming from drain manhole 10-2 as depicted on Sheet 4 of 9 designed to be in Detention Pond #2 cannot be located.
16. The outlet pipe "in" Detention Pond #2 as depicted on Sheet 4 of 9 appears to have been constructed absent the riprap protection apron.

In conclusion, what was the intent, i.e.: was this a private driveway or a future town road?



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Lowry: how much security are we holding?

Morgan: \$75,000.

Evans: hundred or thousand?

Morgan: thousand. Probably be most productive to forward those comments to the applicant

Secretary: no we have \$27,500. We have given back part of the money.

Morgan: I would say the reduction is premature, but the applicant should be advised with what he needs to do.

Lowry: so why wasn't Starkey informed?

Garand: prior to Starkey.

Foote: was it?

Garand: at the approval the end of Mark Eaton was in place at that point

Foote: the inspections were prior to Starkey?

Garand: the inspections, yes. It was a private driveway so it is not a public road. And it was approved prior to Starkey being in place.

Foote: that's right. That's one of the first one being built about the same time Beechwoods was being built.

Garand: exactly. An on-going, slow process of site development.

Foote: so we should forward a copy of this to the Karpenkos and Carbones and see how they want to correct, repair, address, or rebut.

Evans: I think we should ask them for a tentative schedule for closing out these items.

Foote: yes, because they are way past their two years site plan approval.

Garand: when does their security run out on the site also?

Morgan: I thought it was December but my information may be out of date.

Secretary: yes it is December of this year.

Garand: they need to extend the security or the work has to be completed.

Foote: so we will forward John Starkey's analysis

To forward inspection reports of John Starkey, Public Works Manager and Warner Knowles, Water/Sewer Superintendent informing Karpenko and Carbone of the deficiencies on case #03-34 and requesting a response as to the schedule of repairs and if they believe it will exceed December 1, 2005, then they need to request an extension on their project and provide the Planning Board proof of extending their site security.

Motion: Foote

Second: Evans Unanimous

Foote: now on to Public Hearings. First up is case #05-46 proposal by Timothy & Karen Eaton for a condominium conversion at 156 South Main Street, Tax Map 16, Lot 43-1. (Plans are distributed) This comes to us from a Board of Adjustment variance, which explains why there are three units on one lot. And with that said I'll let Henry do opening or do you want me to do the checklist?
Henry Harrison Boyd, Jr., Millennium Engineering: In the audience tonight is Tim Eaton and Frank Chase. Frank had moved up to Effingham but wanted to come back home to be closer to his grandchildren and his daughter obviously who is married to Timmy's son. And Tim offered to let him live



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down in the back and there was a problem with three units on one lot. Now prior to the Zoning Changes if you had more than 45,000 square feet in a 2R zone, you could have essentially a duplex and a detached unit, which he in fact has now. He has a lot of area as you can see. It's a pretty large lot actually. It's five point two acres so there wasn't really a density problem and the Zoning Board saw fit to grant the third unit. The third unit actually is what it says is a proposed dwelling here, when these plans were completed the home still hadn't been finished, it's a manufactured house that was assembled on site. It is on-site now. It's very nice down there. Frank's done a great job. And that's about it.

Footte: the checklist notes that as far as the condo docs and the application, is the legal frontage on Worthy Ave is not noted or shown for this lot.

Boyd: it is shown. It's down here (pointing to plan).

Footte: but it's not noted. It says that this is at 156 South Main Street and while that may be that's where their driveway is, the lot legally is frontage on Worthy Ave.

Boyd: but his legal address is South Main.

Footte: okay. We have not received mylar at this time. Did we receive the condominium documents?

Secretary: does that say we don't have the documents? We have the condo docs.

Footte: on utility plans provided, comment that the water service for unit number two is not depicted.

Boyd: they share that out here at the street and that's the way that Warner had them put this in. In fact the water line for unit two runs through

Footte: Warner had originally set up a shared service for unit one and unit two?

Boyd: yes. And that's covered in an easement through the condominium declaration and documents.

Footte: okay. So this is a three-unit condo, not a two-unit condo.

Boyd: it's a three-unit condo, absolutely. Now Frank's water service is brand new that they just laid in here and it does have a new service. But the service to unit one and two has one shut off, which as I said, was supervised and authorized by the water department and the line actually serves unit two through the house.

Footte: units converted legal units under Town ordinances? ZBA case 2005-007 granted this variance. No proposed limited common area is allocated in a disproportionate share of the lots wetlands. Comment: unit one seems to have sufficient upland areas. I think it could be that it was

Evans: it's not really clear

Boyd: unit one is pretty large.

Footte: so unit two doesn't have any upland area?

Boyd: unit two is all upland. Unit two is in here, a very small unit (pointing to plan).

Footte: so unit two is an incredibly small area.

Boyd: it's incredibly small, that's correct

Footte: so they're not

Boyd: it's 3200 square feet

Footte: equally sharing the yard

Boyd: and there's not much way to do that either.

Footte: one of the comments is what are they going to do with the beaver? Several items that I noted while reviewing this last week are this states proposed dwelling and it is now an existing dwelling.

Boyd: I said that.

Footte: the other item down here (points to plan), it shows a driveway coming off of Granddaughters Way. That has got to be removed because there cannot be any driveway access off Granddaughters Way.



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Boyd: Cora had brought that up at the Zoning Board meeting. And there was a driveway there and they have since put stones in front of it, as I understand.

Foote: I know it's physically blocked off. But it has to be removed from these plans so it doesn't come back to bite us 15-20 years from now saying well they approved this driveway.

Boyd: I still have got to get your mylar anyhow, so I can change that.

Eaton: where's that driveway?

Boyd: it's right here. The one you blocked off with stones. They want me to remove this showing it coming in. You've already eliminated it anyway.

Foote: we can't record it on paper showing that it's there. Seventy-five years from now when we're all gone someone can come back and say well I have a driveway there, these plans show it. Foote polled Planning Board members.

Himmer: just for Henry to correct proposed to existing

Boyd: and as I said, the only reason it's still like that is because when I submitted the plans to Mary (Ganz, attorney), it was still proposed.

Foote: any thing else?

Garand: no, you took care of the driveway issue already.

Foote: Keith, Mike, Peter?

Evans: just the spelling error of the owner of Lot 16-50

Boyd: no way

Foote: yes, left out a b

Boyd: Stockbridge. I'm sorry.

Stockbridge: wait until you ask me for something (jokingly)

Boyd: I'll correct that immediately.

Morgan: wait until Phil sees this

Boyd: leave Phil out of this

Foote: to Morgan, any comments, or concerns?

Morgan: no.

Foote: any abutters present that have comments, questions, or concerns?

Cora Stockbridge, Worthy Avenue abutter: I did come in and look at these plans and I saw the driveway that you spoke of,

Foote: right there. Granddaughters Way legally stops right there (pointing to spot on plan).

Stockbridge: the rocks I have seen were placed there but I've also seen the driveway has been re-created down here so the access is from Granddaughters Way down this road.

Foote: from what I understand from driving and asking a couple questions, they actually stay on Granddaughters Way until this person's lot (pointing to plan) and they have made a private agreement with this person to be able to cross over. So this is the legal driveway.

Stockbridge: so this portion right here is the buffer?

Foote: correct and there is nothing we can do about two private people making an agreement that you can drive across my property to get to your property.

Stockbridge: that answers the question. This area is unusable? (Pointing to large area on plans)

Foote: Unit one has all of this area and unit two shares the driveway. Unit two is just this very small area. And unit three has a common driveway with unit one and unit three is this area down here.

Stockbridge: pointing to plan and what is this area?

Foote: this is for unit one's use. Have the wetland flags been placed?

Boyd: the permanent markers? Not yet.



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Foote: we do need the permanent wetland markers placed.

Evans: it doesn't look like the wetland markers mark off a closed parameter

Foote: they just sort of stop here

Boyd: it goes out in this direction but we were well away, all of the construction stopped over here. NH Soils has essentially; I think there may be one more flag in this direction that we didn't show. This is all open mowed lawn and in fact Timmy mows all of this.

Stockbridge: that answers my questions.

Foote: we are going to need the permanent wetland markers placed.

Boyd: I'll help Frank with that.

Foote: any other

Stockbridge: excuse me, one comment to Henry. At the Board of Adjustment meeting, I did not speak. You meant Phillip.

Boyd: correction

Stockbridge: keep you in line

Morgan: that's Stockbridge with a b

Boyd: I'm old I have a bad memory lately.

Foote: yes, next.

Joann Carroll, Granddaughters Way: I was wondering how many more houses are going to be built on this or how many can be built?

Foote: none. All that can and will be built are already built. This is just a sort of paper formality that allows sharing of ownership of an individual parcel. It will create no more lot lines. What it does is share ownership of an existing parcel for tax benefits, the individual parcels will receive their own tax bill, and also it makes it affordable

Carroll: what about making the buildings larger? Or adding other buildings like garages, apartments

Garand: accessory buildings and so forth are allowed. There can be any number of bedrooms and bathrooms, but the number of kitchens is limited.

Carroll: okay.

Foote: I don't know what the restrictions on the zoning variance were, whether they would have to come back to the Zoning Board if they want to do an expansion.

Garand: it was only on the number of dwelling units, it wasn't on the accessory buildings or additions.

Foote: okay. But they would have to get a building permit if they were going to do any expansion or accessory building?

Evans: our regulations require that a floor plan be presented. My question is if it is to be expanded would they not have to file revised documents to the Town.

Morgan: not to this Board, they go to the Building Inspector.

Garand: exactly. In the condo docs there are provisions to change or alter with provisions in there as long as they meet those requirements. It's a state condition, not a Town regulation.

Boyd: and it's possible, just for your edification, that the building plan may have to be revised and an as-built of what's there so that if Frank ever sold unit three he'd have to disclose fully in the declaration and that would have to be disclosed as well. That doesn't happen here, it happens at the Registry.

Foote: any other questions or comments?

Evans: did the ZBA take into account the 100-foot upland-zoning box or whatever we call it?

Garand: it was an existing lot not a subdivision.



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Miralda LaMontagne, I'm in the first lot: I was wondering what you're calling a condo is the modular that's down in the rear?

Foote: actually, all three dwelling locations

LaMontagne: there are three buildings there?

Foote: come up and look. Everything that is already there is what is happening. This is an existing house, they have the apartment off the backside of it, and they have put in the modular home down here.

LaMontagne: so that's number three

Foote: this is unit one, two, and three (pointing to units on plan). So there is not going to be anything new, it's just changing the form of ownership. A lot of times in situations like this, they do it so that one of the parties can get a bank mortgage, it's a financial thing.

LaMontagne: I was wondering because they told them at the first meeting we had, that they had to take the kitchen out of that second dwelling and

Foote: that was ZBA, not this Board.

Boyd: that was why we went for the variance to allow the kitchen to stay in the second unit. If he was going to take the kitchen, and I told Timmy this right up front, if you don't get the variance, you have to remove the kitchen from the second unit because Paul had told me it was already a legally existing duplex. So the variance allowed them to have the third unit on the back.

Eaton: I have a question. Why couldn't I have another driveway off Granddaughters Way, what was the reason they made me discontinue that?

Foote: because Granddaughters Way was one of our first minor subdivisions that limited three lots and accesses from that minor subdivision. The stipulation of minor subdivisions and requirements of road building in width and depth and everything, are less than a standard road. So back when the minor subdivision ordinance was first created, it limited no more than three lots or access from that road.

Eaton: so really, Granddaughters Way can only have three driveways

Foote: correct and technically one of the back lots, the Joann S. Carroll. Her lot probably has a one-foot wide strip of land that runs between your property and Granddaughters Way right-of-way.

Eaton: I know that. So you can't have more than three on Granddaughters Way?

Foote: yes. And I know it's a minor technicality as far as removing that driveway that is drawn on the plans, and we probably would never encounter any difficulties in this situation, but it sets precedent for an awful lot of other minor subdivisions that could come back to bite us in a big way.

Eaton: you drove that street then?

Boyd: Timmy, be quiet.

Evans: since it appears as though the Town Water Department has directed that the shut-off for two units be located out in the street, I move that we

Motion: Evans To waive the requirement for a separate shut-off for unit number two on case #05-46

Second: Lowry Unanimous

Motion: Evans To accept case #05-46 as a completed application for consideration by the Planning Board.

Second: Lowry Unanimous

Motion: Evans To accept case #05-46 insofar as it complies with the Town of Seabrook Condominium Regulations and the Chairman to



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sign when the spelling of Stockbridge is corrected, the driveway off Granddaughters Way is removed and the proposed dwelling is changed to an existing dwelling.

Second: Lowry Unanimous

Footnote: as soon as you get the corrected mylar and plans in to us, we'll sign them and record them. Condos don't require a thirty-day wait. Thank you very much.

Footnote: next case #05-13 Proposal by GRA Real Estate Holdings, LLC, for a site plan review to expand site at 27 & 39 Stard Road, Map 4, Lots 9 & 11.

Boyd: by Friday there will be an application going in for site specific. We've had a meeting in Concord with them, they gave us some advice, I've met with Rusty and Arleigh and got their thoughts incorporated into what we're sending and as I said that application will be in by Friday so we don't have anything other than that report to give you right now. No plans because we don't know what Site Specific will have us do as final corrective action.

Footnote: so we need to continue this?

Morgan: how long has DES been taking lately to do site specific

Boyd: usually it's about 60 days. But I would hope to have some comments back before then. It's about sixty days to get approval.

Morgan: so when would you like to come back to the Board?

Boyd: a month will be fine.

Footnote: November first? Now how are we doing on our 65-day time thing, do we need one?

Secretary: if you don't come back on the first of November, you'll need to sign another one. This one goes until the second meeting in November.

Boyd: would you like me to come back the first of November or would you like a little more time to see if they have time to respond? I don't care.

Garand: I'd like to hear it the first of November. I have a Cease & Desist on this site and I've spoken with Attorney Mitchell regarding this issue and we need to keep it current on all Planning Board agendas and so-forth to keep that unanswered.

Boyd: that's fine. That way I can give you more periodic updates.

Garand: as long as there is movement ahead, the Cease & Desist will stand. But they have to have something in the minutes showing they are applying the work.

Footnote: So we'll continue this to November 1, 2005 at 6:00 PM. Next case #05-41 Proposal by Eugene J. Dean III, Stard Road Realty Trust II, to build a 4,500 square foot addition, Tax Map 4, Lots 18, 19-22 & 21.

Secretary: I have an email request from Jones & Beach: "On behalf of my client Eugene J. Dean III, Jones and Beech Engineers respectfully requests to continue case #05-41 to the first meeting in November. If you have any questions or need additional information, please call." They have to do a lot line adjustment and something else.

Garand: one thing I'd also like to note on that plan that had a prior approval on that site, they still have not completed that site.

Secretary: that's the other thing.

Garand: the first site plan was not completed as far as the driveway, the detention area, the building itself. It is occupied and



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Footte: right. He built what he felt he needed to do and left the rest.

Garand: exactly. I'd like to see the first site plan completed before we move on to the next site plan.

Footte: they have to. They have to complete it so we can close it before we can open this one.

Evans: we can't accept this

Lowry: until you close the first one

Garand: just so you know the other site has not been finished.

Morgan: those were Jones & Beech plans weren't they?

Footte: yes, both. Next, case #04-50 Proposal by Paulo & Lisa Cabral and Cheryl Wills for a 5-lot subdivision at 94 Blacksnake Road, Tax Map 3, Lot 4-1.

Garand: that has been continued by the ZBA

Secretary: until the end of November, so we can't hear it until December 6th.

Boyd: they granted a petition for a re-hearing

Footte: so we will continue this to December 6, 2005. How is that as far as needing an extension?

Secretary: if you don't come on December 6th, you're going to need another one; you're good until December 20th.

Morgan: what was the basis of the latest ZBA decision?

Lowry: the basis of the vote was on diminishing property values in wetland areas. It was 3-2. So it's going to be a rehearing.

Footte: Next we go on to correspondence. Town of Seabrook Planning Board. I wrote a letter to the Board of Selectmen and the Seabrook Budget committee in support of their creating a position of Town Engineer. Paul, did you get?

Garand: I just got the job description from John Starkey this morning and I'll review that and I'll send him my recommendations for that also. Do you want me to read it or give you copies or what?

Secretary: I'll make copies so they can peruse it.

Garand: anything the Board might want to put into it, we can do that. But I think it's a great idea to bring a Town engineer on the staff. Number one we need some help during the week for projects that I'm doing in the Town and even at these meetings we're having a lot of questions where a Town Engineer would be useful to be present at these meetings.

Footte: it was far more productive when Mike Fowler was the Town Engineer, he was on top of what was going on in Town day to day and attending the meetings. There was good continuity.

Garand: I do agree with that.

Footte: one of the reasons we have problems in a two or three year gap of building is because we either haven't had a Town Engineer, prior to us having a Town Engineer the Planning Board would contract and hire off-site independent engineers to keep an eye on a project, then we got a Town Engineer and relied on him and then once he went away, we never really got back in the habit of hiring outside consultants to keep an eye on projects.

Garand: and it's coming back to hurt us because a lot of the sites aren't being built per the conditions set forth.

Footte: if we had a Town Engineer for Carbone, Karpenko, it never been built the way it was built.

Garand: or London Lane with the sewer lines and the road and the elevations and a lot of the sites that are being developed today and we have a lot of projects coming forward and we need some help to make sure we safeguard the Town.

Footte: another item that came up between our last meeting and this one and I would like the Board to have a motion of endorsement is I was contacted by John Starkey and Joe Boccadoro of Earth Tech who presented suggestions for our site plan review and zoning changes and gave a presentation last year.



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They want to go for a NHEP grant and believe that there would be a better chance of grant being awarded if it was a combined Planning Board and DPW application as opposed to just DPW. The basis of it is education and training grant proposal and it's going to focus on stormwater and illicit discharge and actually holding workshops for DPW employees, board members,

Garand: all department heads

Foote: all department heads to be able to identify what's good stormwater treatment and what is not. There will be a presentation to us to help us when we're reviewing plans so we know good from bad stormwater treatment. So because it was between meetings, and because I was contacted like September 26th and they had to have the application in Concord on the 30th.

Garand: so in other words you were hiding from us.

Foote: I took the administrative prerogative that you've voted several times to allow me to do because it's not expending our funds, so I did commit that the Planning Board would co-sponsor this grant application.

Garand: I think it's important now with the Phase II stormwater coming in. And that's another strong reason for the engineer also.

Morgan: so Sue you're looking for a motion?

Foote: just as a formality, the Board ought to motion to support

Morgan: I look to Mr. Boilerplate across the way.

Evans: I have one comment that I would like to make. I think it is a good idea that we have an engineer; I think that having an engineer we should be much more aggressive about requiring applicants to foot their share of the engineering freight as it were. I think it

Foote: we're doing pretty good right now as far as billing out

Evans: I'm referring to applicants making statements to the effect that they don't need anybody to baby-sit them. I think we know better.

Morgan: My only question is was will you be partitioning the Planning Board office into two sections in order to accommodate a town engineer?

Foote: not the Town Engineer's office will be down in the DPW department. The engineer will basically answer to the DPW Manager and the DPW Manager will direct him to work with us. But part of the engineer's responsibility would be attending Planning Board meetings, doing progress inspection of Planning Board approved projects, writing grant applications, maintaining the GIS data layers, working with ARC GIS and assorted other things.

Garand: plan review, technical review

Foote: interfacing with applicant's engineer to resolve problems, insuring we get digital plans of the project. I think they will help the Planning Board a lot.

Morgan: sounds like it'll be a busy person

Evans: does it make sense that this person should be a Town employee or is this the kind of position that we could contract to a firm?

Foote: he'll be a Town employee

Morgan: if it's full-time the town will be better off with an employee

Garand: the Town is at the stage where they actually need it at this point; they've needed it for a while but it's

Foote: becoming desperate

Garand: especially with the Phase II stormwater

Evans: it's your opinion that this is a full-time job?



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Garand: just with the job description we just listed here I think it's more than a full-time job; I think the person is going to be very busy.

Morgan: I think that one of the most important things, Peter that this individual could do that hasn't been done in the past as much as I would have liked is monitoring the site development. For some of the tricky cases we've hired outsiders, but what we say tonight, Starkey stumbled into Karpenko's thing for the first time and that's been going on for years.

Foote: and it's not just the work that the Planning Board has for them, the DPW requirements for the engineer far exceed the Planning Board's requirements for an engineer.

Garand: even the Water and Sewer Departments, just working with all those departments, we have the desalination plant, the new water piping infrastructure, we're looking at several large projects coming in, we have everything from the sidewalks to the drainage along Ledge Road. They could look at all the issues that we're asking about.

Morgan: I think Paul just made the case for hiring three full-time Town Engineers.

Garand: if you look at the overall picture and see the way the Town has grown, you see the need for it.

Evans: I hope the Board will remember this conversation when an applicant balks at the expense associated with having the Town Engineer monitor the progress of the job. It's unfortunate that some developers have made this sort of oversight, overhead necessary but I think we need to be more diligent about applying oversight despite the added cost to the plans.

Morgan: look at the cost when we don't do it.

Evans: exactly, that's my point.

Garand: one issue that was brought up at the Tech Review this week was John Starkey from DPW asked about the detention ponds with the mosquito infiltration and the EEE that has now come into this area. Basically are we looking at laying out each one of these wet detention ponds and what is the cost of human life? When you look at that aspect, then an engineer isn't that expensive when he can lay out all those ponds and their treatment, work with Dragon Mosquito people and actually taking care of it.

Foote: and be on site, because we all know that the plans we review are not etched in stone, once they get in the field, things can change. And having an on-site engineer all the time, if they are there and notice that something is drastically wrong, they can say, hey, wait, hold it, we've got to get back in touch with the Planning Board and you've got to revise the plans, have them approved, rather than just have them stumbling along and having the applicant spend 20-30 thousand dollars constructing something he's going to have to rip up and change later.

Garand: that's enough of that issue, yes we back you up.

Foote: no, we need an official motion for the NHEP Grant Proposal as far as supporting that, which is different from the engineer. The engineer is one thing; the grant proposal is something else.

Evans: I'm confused. I thought we were talking about the engineer.

Morgan: we moved off from the engineer and then back to the engineer.

Motion: Lowry To support the chair in applying for an NHEP Grant

Second: Himmer Unanimous

Foote: there are reduced size copies of the grant application if anybody wants to read what it's all about. I forwarded it to everyone by email.

Himmer: could I have a copy of that I couldn't open that on my email.

Lowry: do we need to make a motion on the Town Engineer? \

Foote: no, I was just letting you know that there could be one coming.



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Foote to woman who enters room: Good evening, this is the Planning Board meeting, it's open to the public. We've already reviewed all our cases so if you are here as an abutter for a specific case.

Woman: I'm running late.

Secretary: what was the case?

Woman: Granddaughters Way

Foote: yes. The condo conversion for Tim Eaton?

Woman: yes.

Foote: we did approve it in that it complies with the condo regulations, the ZBA variance pretty much said they could build the house down there; one thing we did do was insure that they remove on their plans the driveway that showed coming off Granddaughters Way. They have to have a shared driveway off South Main Street.

Woman: thank you.

Foote: we have a letter here from Code Enforcement Office; subject Planning Board Case #99-22, 204 New Zealand Road. Foote reads memo:

Attorney Sutherland of Exeter, NH has contacted the Code Enforcement Office regarding 204 New Zealand Road. Sutherland has a client interested in reopening the crematory and would like to know what the Town of Seabrook's stance.

I have contacted the County Attorney's office regarding this matter and Tim Reed stated that the town's minutes and file for case #99-22 show that the site required state approval prior to construction and operation of this facility.

I've read the minutes and I think that's really stretching what's in the minutes. But, what can you expect from Reed?

Morgan: was there a problem with the crematorium?

Foote: continues to read:

I have reviewed the minutes and Attorney Salomon did in fact bring up RSA 325-A:1, requiring state review and approval prior to any local boards approval

With the history of this site, should the Planning Board revoke the approval granted on October 05, 1999?

Well, that RSA does in its entirety reference state approval, it does not in the minutes, and Attorney Salomon that brought it up never said anything about State approval, he talked about several other issues that are mentioned in that RSA. So this applying that we knew that it required State approval because an attorney mentioned an RSA number.

Garand: my whole issue is not saying what was or was not stated at the meeting, is to safeguard it now. I want to make sure the Town is on the up and up and that we protect the Town's interest at this point. And that's why this memo is requesting that we forward this to Attorney Mitchell, have him look at the file and what's inside the file and see what we should do. Should we revoke the approval or push it back to the state or what is the best thing for the Town.

Morgan; sending it to Walter is an excellent idea

Garand: that's my whole thing is to just make sure the Town is protected. The minutes show that Attorney Salomon brought up the RSA's, the RSA was in the file, and if you look at the whole file and the whole picture, it should not have been approved until the state looked at it and it should not have been granted a building application until the state looked at it and it should not have been granted to operate. So I just want to cover the Town's behind.

Foote: I may be taking this personally because I was sitting on the Board at the time, but it appears that there is a lot of stuff that was in the file that the Board members were not apprised of.

Garand: I was on the board at the same time too Sue and there were issues in there, I didn't see the RSA myself but it was inside the file. That's why I'm just bringing it to the attention of the present



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Board so we can send it to the attorney to look at the file. The fax number on the top says when that was faxed

Footte: from the Ganz law office.

Garand: so it was researched by someone within the Town

Morgan: whom is Sutherland representing?

Garand: they didn't state. They represent the owner of the property who is looking to sell it to another person to reopen the crematory.

Morgan: and Salomon represents whom?

Garand: the purchaser or the seller, he didn't state

Morgan: so there are two different lawyers, one Sutherland and one Salomon?

Footte: Salomon is the attorney on our case. Sutherland is the one asking if they can open it back up now.

Morgan: Salomon represented the applicant in 1999?

Garand: no Salomon represented the Best Western who came in opposing the crematory and that's in the record showing that Craig Salomon came forth and brought up the RSA's and questioned it and I just wanted to bring all the files to light right now.

Motion: Lowry To send the file on case #99-22, to Attorney Mitchell.

Second: Himmer Unanimous

Footte: do we have any other correspondence? No? No, we are not ready to go home, we have other items on our agenda and if you guys don't start paying attention to them, I'm going to move them to the front of the agenda again, like they were before so you've got to slug through them before we get to the cases. I'd like to bring everyone's attention to the email I sent about the *Gulf of Maine Times*, and the culverts.

Evans: blue gills can't hop over those culverts.

Footte: that's right and I think it's something we should all start really looking at as far as invert elevation and stream elevation whenever a culvert is placed as a stream crossing. It's not as critical when it's storm drainage, but when it's a stream crossing, which we will be dealing with very soon on Dow's Lane.

Evans: what's a fragmitie to do?

Footte: other business we have CIP, which I believe some of the Department Heads have started mailing in their responses. It appears that when the notice went out this year, it went out hand in hand as part of the Town Manager's budget request as opposed to a separate letter from the Planning Board.

Secretary: it went out from the Town Manager but it didn't go with the budget that I know of.

Footte: all the department heads received it in their budget package.

Secretary: I'm not a department head so I don't know how they got it. All I know is the original memo that I made up and gave to the Town Manager to send out.

Footte: it was received in their budget packets back in June or July. It was in our Planning Board packet, it was rolled into Fred's memo about the CIP and when you submit your budget also submit your CIP.

Secretary: no, no, no. They got a separate memo on CIP.

Footte: conservation and Planning Board never did. Recreation commission never did

Secretary: probably PB didn't get one because we do it

Footte: but ConCom and Rec never did. It might have gone to the individual department heads, but it didn't go to all the entities that have budgets.



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Secretary: well, I'll have to check with the Town Manager's Secretary and find out. We didn't send the memo, all we did was write the memo and tell them to send it.

Footte: also, in the Town Manager's memo, the budget packet, it said submit CIP at the same time you submit your budget.

Secretary: He just sent the CIP memo in August. I'll check on it.

Footte: I believe Tom has mentioned we have two or three submittals already.

Morgan: three.

Footte: I would like to set on our agenda, next meeting to begin covering the submissions to the CIP and maybe send follow-ups to the other departments and items like the school board because I know this spring the school board had several correspondence back and forth about CIP information.

Evans: what have we submitted?

Morgan: fire, police, and DPW have all submitted

Evans: we haven't submitted anything?

Morgan: historically I ask the Planning Board what you want to add or take away when we look at all the others, so don't worry about that. We haven't heard from, I have talked to Warner and he said just set everything back a year and it'll be the same as before. I have not heard from Housing, they were quite ambitious last year. Nor from Rec. I don't think we've ever heard from the School before.

Footte: those could be departments that never received the memo. It could be somehow there was confusion with the secretary with the distribution and it only went to the department heads as opposed to all, the school, and the library, all of them. I know for sure the conservation and rec commissions never received the memo.

Secretary: they don't submit budgets? If you're saying it went with the budget stuff, they must have got it with their budget request.

Footte: in the budget stuff in July in Fred's memo telling you how to do the budget it also said in his memo I expect your CIP reports with the budget to be submitted September 18th.

Secretary: well, I'll have to resolve this tomorrow, if that's okay, rather than take the Board's time.

Footte: okay. Next we want to discuss changes to Zoning Regulations. Mentioned several times here and through emails that we've got to start thinking about if we want to make changes to zoning how we want to phrase them, what needs to be done. I know Paul and I have talked about several of them. It's time to start putting your thinking caps on because we have to have a minimum of one public hearing, usually two that have to be noticed. If we don't start dealing with it by our November 1st meeting, we're not going to get them accomplished in time to get on the Warrant Article. Last year if you remember December, January, we had that one god-awful night that went almost to 11 o'clock reading things and half of them got put off because we couldn't come to a conclusion and they never ever made it to the warrant because we ran out of time. So we need to work on them earlier this year.

Garand: what meeting do you propose for that Sue? When do you want to start working on that?

Footte: next meeting we'll start talking about them. When we public notice I'd like to group four or five of them together for the cost of publishing a public notice.

Garand: one thing if we start doing the zoning and so forth, we have to tie down the speakers to the fifteen minutes and if it's a dead subject they have to be nipped in the bud right then and there. Like Henry tonight with the Border Winds. Basically that's been resolved.

Footte: if you noticed I tried to move him on twice. You're the one that brought it up. I was on a roll controlling things and you interrupted me and said, Henry do you have anything to say. That's your fault Paul.

Garand: well, it's Henry's client.



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Morgan: in defense of Paul the question the Selectmen asked is when are you guys going to get rolling on this and Henry was the only one in the room that might have any ideas.

Secretary: but the question was to the Planning Board, not Henry

Morgan: but we didn't know the answer

Foote: yes we did. We've had no communication

Morgan: Henry knew. He said he was going to Argentina and he'd do it in the spring.

Garand: my only question is why wasn't it taken care of sooner?

Foote: and why wasn't it brought up to us? It's been since August.

Garand: the plant's going to close down in another month.

Lowry: if we had a town engineer this wouldn't have happened.

Foote: one other item. I received a phone call from Jay Whitlaw of Mitchell & Bates. It appears that Patrick Carey is resurfacing for another gasp of air. Actually, Jay was contacted by Patrick Carey's new attorney and they are going to be filing a writ of failure to follow court decree as far as the condominium of the units he wanted to build the motel down on Route 286. I had extensive conversation with Jay, told her my position and the Board's position that you can't condo convert a plan that was never approved. He has to comply with the DES permit and revise his plans and bring his amended plans in to us so we can approve the motel before we can do a condo convert.

Garand: one thing also I'd like to bring to your attention and also put this in the minutes. There has been activity on the site down there. They have replaced the awning in the front. They've replaced the water main; the fire piping that was broken because it froze in the basement. If he is going to do the motel, then why put the money into fixing the building up? I'd like to know if he's doing this as a scare tactic to move the town, or is he looking rent the building back out?

Foote: hoping it will sell better if it looks pretty?

Garand: he has to make his choice. Either he has to move forward with the project or no. You can't just sit on there. He has a restaurant that's been approved on the site, a motel/hotel that's been approved.

Foote: it's never been approved. It was conditional provided he got the DES permit that made no changes to the plans we approved.

Garand: at the same time he's come forward to do the condo plans, and then,

Foote: the condo plans were premature. They never should have been accepted until they met the conditions of the motel.

Garand: but at this time he has a couple active plans out there that really have never been satisfied and he's still working at the site

Foote: the motel has gone past its two year anyhow, that's gone. Which brings me to another thing. Jay Whitlaw said that she would contact the attorney that is now representing Mr. Carey and inform him of the full history of the case. She suspects the new attorney might not know all the details. But that's not the only case that is outstanding. I believe we are going to have to have another compliancy hearing similar to what we had a year ago June. There are a lot of cases that are still hanging out there, there are a lot of them that we gave six month and one-year extensions on are way past that. They haven't come in, they haven't finished, and they haven't closed their case. One of the ones is right over here. He's never completed, he's never given us the as built, it's not built to plans.

Garand: he's come in and actually asked me for occupancy now and I still haven't given it to him. So we need to work this in and take care of this.



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October 4, 2005

Footte: I know it's going to be tight with CIP and Zoning Regulations, but that's something, even if we have to pull a special meeting like we did the last time and all we do is concentrate on compliancy cases that night.

Evans: it's been a light summer

Footte: you can sit in my chair any day.

Garand: we don't open our emails and say, oh I don't have to go and then oh, crow.

Footte: so that's something hopefully I will find the time to work with Tom and Patricia in putting together what cases need to be brought up for compliancy.

Garand: do you want me for the record to go down and do a full site inspection of Carey's and say what he's done so we have on record what he is doing at this time on this site.

Morgan: wouldn't hurt.

Footte: yes, probably wouldn't hurt

Garand: and take pictures and bring a file down so that we can say this has been done; this has been done because he's been working on it for the last month. When was the attorney in contact with you?

Footte: today, this afternoon.

Garand: so he's been working on the building for the last month, changing the awning and so forth. If he's moving forward in that direction, why is pursuing in this direction? That's my only question.

Footte: one other thing that came to mind but it's gone right now. Oh, heads up. We will be receiving written notification. I've already been talked to as far as verbal communication. It appears that we're the only board that has outside consultants that we don't have job descriptions or contracts with. I can guarantee that by the time we have another meeting we will have a memo/notice/deed that the Board has to develop a job description for our consultants, town planner and engineer.

Garand: so we have to give you a job description Tom? What is your job?

Footte: job description and a contract to sign. It can be a contract employee at will, but it's got to be a contract. It appears that all other outside hires the Town insists they have contracts.

Morgan: I don't have any object to either one but I thought we were operating under the thinking that the Planning Board is autonomous so you guys can pretty much.

Footte: we're autonomous except for when it comes to the state audit and spending the taxpayers' money. So therefore we must have a contract.

Garand: then they make the audit complete. We're separate but we're still funded by the Town under the auditors report.

Footte: so the auditors, Plodzik and Sanderson are saying we have to have a job description and a contract for both the planner and the engineer. Anything else?

Meeting adjourned at 7:35 PM

Respectfully submitted,
Patricia Welch, Secretary.