

TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2013 Meetings

May 28, 2013

1 The meeting was called to order at 7:05 p.m. by Planning Board Chairman Stu Lewin.
2 Present was regular member Mark Suennen, alternate member David Litwinovich and Ex-
3 Officio Christine Quirk. Also present were Planning Coordinator Nic Strong, Planning Board
4 Assistant Shannon Silver and Recording Clerk Valerie Diaz.

5
6 Present in the audience for part of the meeting were Jay Marden, Dick Perusse, Road
7 Agent, Dave Elliott, Kevin Leonard, P.E., Dave Elliott, Craig Heafield, Keith Savage, Castle
8 Donovan, Arthur Siciliano, LLS, Kris Stewart, Lisa Stewart and Nancy Gaillard.

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10 The Chairman sat David Litwinovich as a full-voting member in Peter Hogan's and Don
11 Duhaime's absences.

12
13 **Continued discussion, re: Zoning Ordinance/Subdivision/Non-Residential Site Plan Review**
14 **Regulations questions**

15
16 Present in the audience were Jay Marden and Dick Perusse, Road Agent.

17 The Chairman asked which question the Board needed to discuss. The Coordinator stated
18 that the first matter discussed was relative to density and lot sizing. She explained that Mark
19 Suennen had been the only Board member to speak on the matter and as such the discussion
20 should be revisited in order to gain input from other Board members.

21 The Coordinator went on to say that the Chairman had asked that she send a memo to the
22 ZBA and Building Inspector with regard to setbacks, however, a response had not been received.
23 She also indicated that Mark Suennen had completed a lot of work on the issue of steep slopes
24 and that matter could be discussed as well.

25 The Chairman asked if a consensus had been reached during the density and lot sizing
26 discussion. The Coordinator indicated that the Board had not reached a consensus on the matter.
27 David Litwinovich believed that Don Duhaime was unhappy with a few of the recent
28 developments. He explained that Don Duhaime had expressed his concern for the placement of
29 "houses on top of houses". The Coordinator clarified that Don Duhaime took issue with density
30 in cul-de-sac developments, however, she was unsure if he had the same issue with all
31 subdivisions. The Chairman agreed. He indicated that Don Duhaime could be asked for his
32 opinion on this matter at the next meeting. David Litwinovich believed that Don Duhaime
33 wanted to discuss increasing the minimum lot size. Christine Quirk stated that the matter of
34 increasing the minimum lot size had been discussed in the past and turned down. David
35 Litwinovich indicated that he liked the idea of larger lot sizes, however, he was nervous about
36 the ramifications of larger lot sizes. He commented that the lots on the section of Beard Road
37 where he resided were all about 6 acres. He continued that he worried that by expanding lot
38 sizes, larger houses would be built and, therefore, it could limit the ability for younger
39 homeowners to purchase homes. Mark Suennen agreed with David Litwinovich. The Chairman
40 stated that the discussion would be tabled until the next meeting in order to gain input from Don
41 Duhaime.

42 The Chairman asked for thoughts from the Board members with regard to the Steep
43 Slopes Ordinance. Mark Suennen stated that he had read through the Steep Slopes Ordinance

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1 **ZONING/SUBDIVISION/SITE PLAN QUESTIONS, cont.**

2
3 and felt that it was working for the Town. He stated that it was his understanding that it did not
4 matter how sloped a piece of land was because a lot could be built on as long as the regulations
5 contained within the Steep Slopes Conservation District were met, i.e., driveway slopes no
6 greater than 10% and relatively dry upland area. He stated that theoretically any dry land in New
7 Boston was developable. He added that the Steep Slopes Ordinance had not been a problem.
8 Mark Suennen believed that the Board would come to rely on the Steep Slopes Ordinance more
9 because less flat, dry land would be available for development. The Chairman agreed with Mark
10 Suennen's statement. He questioned if Mark Suennen's position that the Steep Slopes Ordinance
11 did not need to be changed might change in the future given the fact that less flat, dry land would
12 be available for development. Mark Suennen answered that the Board did not need to be worried
13 yet and that the Board should pay attention to projects that were coming in at any given time. He
14 pointed out that the Twin Bridge project was not subject to the Steep Slopes Ordinance because
15 even though there were very large slopes on the property the developer was creating flat land for
16 the subdivision by removing material and regrading the site. The Chairman believed that the
17 example given by Mark Suennen was a bit of an anomaly as a mound existed in the middle of the
18 property and the developed could afford to flatten it and push it out.

19 David Litwinovich asked if the Steep Slopes Ordinance had been in effect when the
20 homes on Byam Road were constructed. The Chairman answered no. Mark Suennen
21 commented that the Steep Slopes Ordinance arose from the construction of the homes on Byam
22 Road and similar developments of that time period.

23 David Litwinovich stated that he liked the idea of developers working around the steep
24 slopes on a lot rather than plowing and regrading a lot. Mark Suennen asked if David
25 Litwinovich wanted to see developers work with the contours of the existing land rather than
26 dramatically alter the existing land. David Litwinovich answered yes. Mark Suennen explained
27 that a developer had the option to work with the contours of the land or dramatically alter the
28 land.

29 Christine Quirk believed that the current Steep Slopes Ordinance was working for the
30 Town. Christine Quirk agreed with Mark Suennen that the Board needed pay attention to
31 projects that were coming in.

32 The Chairman asked if the Coordinator was aware of any large developments under
33 consideration. The Coordinator answered no.

34 The Chairman asked how many approved lots existed in Town that had not been sold.
35 The Coordinator answered that there were about 200 approved lots in Town that had not been
36 built on or sold.

37 The Coordinator stated that the issue with keeping an eye on projects coming in was that
38 one project would eventually become "the horse that gets out of the barn". She explained that an
39 application was grandfathered to the regulations in place at the time of submission. She
40 continued that until the issue arose the Board would most likely not know there was an issue.
41 Mark Suennen agreed and stated that the Board did not need to fix something that was not yet
42 broken and that the Board would need to see something that was broken to figure out how to fix
43 it. He asked if the Coordinator had any thoughts on something that could come up that would be

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1 **ZONING/SUBDIVISION/SITE PLAN QUESTIONS, cont.**
2

3 considered broken. The Coordinator answered no and stated that the broader issue was if it was
4 okay that all of the land in New Boston was developable. She added that if the Board wanted to
5 manage development in a different way they needed to look into the Steep Slopes Ordinance as it
6 was almost the most permissive part of the Zoning Ordinance. The Chairman asked if Mark
7 Suennen's position had changed based on the Coordinator's previous statement. Mark Suennen
8 answered that his opinion had not changed, however, he believed the Board should watch for it.
9 He stated that he was always going to be cautious about adding to regulations that took away
10 property owner's rights to do what they wanted with their property. He indicated that currently
11 the cost of development prevented people from developing in difficult places. He continued that
12 it may not always be true and the Board needed to watch out for that. He stated that at some
13 point the value of the land would be higher than the cost to develop it. He pointed out that a
14 concern to watch for was the value of land increasing and development of expensive homes that
15 could result in limitations for younger couples to move to Town and/or the risk that elderly
16 residents may not be able to stay in their homes.

17 The Chairman asked if the Coordinator believed if there was a 30 or 40 acre lot in Town
18 that would stretch the limits of the Steep Slope Ordinance. The Coordinator explained that the
19 only maps she had showing topo for the whole town were the USGS topographical maps and
20 they did not provide her with the information the Chairman was seeking. Mark Suennen
21 suggested that the Board use the 100 acre Thibeault owned lot in Town as an example. He stated
22 that there were sections of the Thibeault lot that stretched the Steep Slopes Ordinance because it
23 was formerly a gravel pit that had been slope cut.

24 The Chairman asked if there were any further questions and/or comments with regard to
25 the Steep Slope Ordinance. Mark Suennen recommended the Steep Slope Ordinance be left as it
26 currently was written.

27 Mark Suennen suggested that the Board wait to hear from the ZBA and Building
28 Inspector prior to discussing setbacks.

29 The Chairman indicated that the next discussion topic was if open space subdivisions
30 should be encouraged more or if open space should be made part of conventional subdivisions.
31 Mark Suennen believed that open space for the value of open space was not as good as open
32 space that was contiguous and connected and created larger sections of valuable open space. He
33 explained that smaller pockets of open space were not as good as large swaths of open space. He
34 stated that he disagreed with making open space a requirement of a conventional subdivision.
35 Mark Suennen continued that the Board should strongly encourage open space subdivisions for
36 those subdivisions that were adjacent to open space. The Chairman questioned how it could be
37 "boot strapped" so that if a subdivision was proposed on land adjacent to existing open space it
38 could be made to provide open space to link to it. Mark Suennen believed that New Boston was
39 developed and spread out enough that any new development would not be on virgin territory. He
40 added that there were very few large lots that could be developed that were not already adjacent
41 to an existing subdivision or open space.

42 Mark Suennen stated that some open land was more valuable than other open land. The
43 Chairman questioned if turning a swamp into open space was valuable. It was Mark Suennen's

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1 **ZONING/SUBDIVISION/SITE PLAN QUESTIONS, cont.**

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3 understanding that the Conservation Commission was less interested in protecting swamps that
4 could not be developed anyway and were more interested in protecting dry land that potentially
5 could be developed. He added that the Conservation Commission was also interested in
6 protecting areas of land that were adjacent to environmentally sensitive locations.

7 The Chairman asked if the Board should ask the Conservation Commission for their
8 thoughts on the existing ordinance. Mark Suennen commented that asking for their thoughts on
9 the ordinance was too general and suggested that specific questions be asked, i.e., Are there areas
10 of Town that are more conducive to open space subdivision development than others? The
11 Chairman requested that the Coordinator send the question. Mark Suennen asked that the
12 Conservation Commission be aware that the Board was asking for advice and not direction.

13 David Litwinovich commented that he liked the idea of open space. He added that he
14 was not in favor of creating regulations for the sake of creating regulations but he thought it was
15 good to work the concept into the ordinance to get open space in the areas in which it would be
16 appropriate. The Chairman pointed out that open space allowed for smaller lot sizes. David
17 Litwinovich wanted to finesse the ordinance to give developers certain things in exchange for
18 open space. Christine Quirk stated that the Board already acted in that way. Mark Suennen
19 added that the regulation for open space offered incentives such as higher density and smaller lot
20 size. He suggested that the Conservation Commission be asked if there were better incentives
21 that would encourage more open space development and what areas in Town they wanted to
22 protect.

23 The Chairman asked if the Coordinator was aware of when the Conservation Commission
24 held their meetings. The Coordinator indicated that she needed to look up the information.
25 The Chairman asked the Coordinator to send out a list of Zoning Ordinance/Subdivision/Non-
26 Residential Site Plan Review Regulations discussion questions prior to the next meeting and to
27 keep a running list of what had been discussed and the outcomes thereof.

28
29 **Discussion with Twin Bridge Land Management, re: plan for completing Wright Drive**
30 **subdivision.**

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32 Present in the audience were Jay Marden, Dick Perusse, Road Agent, Dave Elliott, Kevin
33 Leonard, P.E., Dan Donovan, Sr., Dan Donovan, Jr., and Craig Heafield.

34 The Chairman asked if Dave Elliott was present representing Twin Bridge Land
35 Management. Dave Elliott answered that he was from D & S Excavating and was somewhat
36 representing Twin Bridge Land Management due to the concerns with work he was completing.

37 The Chairman indicated that at the previous meeting concerns with the subdivision were
38 discussed. He indicated that the requirements for obtaining a CO had been explained and the
39 issue was resolved. Dave Elliott agreed and noted that all safety features had been installed.

40 The Chairman stated that the remaining concerns were relative to the approval from the
41 Board and AoT Permit that stated no more than 5 acres could be exposed and not stabilized at
42 any given time. He stated that another concern was the developer's plan for completing the
43 subdivision.

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1 **TWIN BRIDGE LAND MANAGEMENT, LLC, cont.**

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3 The Chairman advised that he had driven by the property prior to this evening's meeting
4 and believed that the area that was exposed and not stabilized exceeded the 5 acre maximum. He
5 wanted Dave Elliott to indicate whether or not he agreed that more than 5 acres was exposed and
6 not stabilized and additionally what the plan was to get to 5 acres. Dave Elliott agreed that more
7 than 5 acres was exposed and not stabilized. He stated that the plan was designed to not exceed
8 5 acres, however, it was difficult to execute under 5 acres. He explained that temporary
9 stabilization had been implemented to address winter conditions. He stated that they were
10 working as diligently as they could to close in on the 5 acre requirement and he believed that it
11 was achievable within the next two weeks.

12 The Chairman stated that in reading the minutes from previous meetings he had come
13 across a lot of discussion with regard to the lot development taking place at the same time as the
14 road construction and grading. He noted that the flat areas of the lots did not have to be
15 stabilized with loam and seed but the slopes did. Dave Elliott explained that it was not
16 achievable with staying under 5 acres of unstabilized area and as such the amount of disturbance
17 had been kept to the absolute minimum to build the road. He added that until they were down to
18 5 acres no more cutting and filling could take place. He indicated that the subdivision had been
19 broken into 4 phases theoretically but Phase III and Phase IV had to happen at the same time; a
20 cut in Phase III and a fill in Phase IV. He stated that they had tried to keep the disturbed area to
21 the absolute minimum and install the road, drainage and infrastructure. He stated that they were
22 seeding and mulching those areas now. He continued that once the area had been tightened up to
23 the 5 acres, more focus could be given to the cut and fill sections of the house lots. He believed
24 that everything had been done to the road right-of-way.

25 The Chairman asked if Dave Elliott planned to complete the cuts and fills to the lots.
26 Dave Elliott answered yes. He pointed out that currently the left side of the roadway had a small
27 embankment which would take care of itself as the cut would move into the fill. The right side
28 of the road, however, was all export, other than material needed for lot development. Dave
29 Elliott noted that three lots were under construction; the first house on the right was complete, as
30 was the first house on the left. He noted that material had been taken from the cut to develop the
31 lots, but only approximately 5,000 yards had been removed from the approximate 60K yards that
32 had to be removed.

33 The Chairman noted that the Road Agent said he had taken 5K yards of material from the
34 subdivision. He asked if anyone else had removed material. Dave Elliott stated that an average
35 of 10 truckloads of material left the site each week. He commented that there was no way to put
36 a time frame on when all the material would be removed. The Chairman asked for the number of
37 cubic yards held by a 10-wheel truck. Dave Elliott answered that a 10-wheel truck held 15
38 yards, a tri-axle truck held 18 – 20 yards and a dump trailer held 20 – 25 yards. He noted that the
39 removal of the material was driven by need.

40 The Chairman referred to the left hand side of the road, going up the hill and stated that
41 the working assumption was that whatever was pushed down would fill the hole. He referred to
42 the much larger cut to the right side and stated that there was no identified need within the site
43 and as such most of the material would be removed from the site. Dave Elliott confirmed the

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1 **TWIN BRIDGE LAND MANAGEMENT, LLC, cont.**

2
3 Chairman's statement and added that the material to be removed was included in the approved
4 60K yards to be removed from the site.

5 The Chairman summarized that the plan was to only have 5 acres of exposed, non-
6 stabilized land and work at completing the house lots. He asked when Dave Elliott planned on
7 completing the work. Dave Elliott stated that completion of the work was very unlikely to
8 happen within a 5 month period. He indicated that 60K yards was a lot of material to be
9 removed. He stated that 8 years ago D & S would handle 100K yards per year but that was not
10 the case in the current economy. He added that the material being removed was not high quality
11 and therefore, he could not move it quickly.

12 The Chairman asked if the road would stay at binder until the cut was completed. Dave
13 Elliott answered yes and added that there were 3" of base on the road which was above the
14 standard requirement. The Chairman noted that the road would have to be cleaned up prior to
15 the top coat being placed down. Dave Elliott stated that the road was designed to have 12" of
16 base gravel and 6" of crushed gravel. He further stated that the road was built on 2' of base type
17 material which meant the conditions were better on this road than most roads.

18 The Chairman asked if the grading and stabilization would be completed once the 60K
19 yards was removed. Dave Elliott answered yes.

20 The Chairman asked if there were any questions and/or comments from the Board. Mark
21 Suennen asked if the completion of the project would be delayed due to the low quality of the
22 material being removed. Dave Elliott confirmed that the low quality of the material was the
23 reason for the delay of the completion of the project. He explained high quality, concrete type
24 sand, could be sold quickly. He continued that half of the material being removed from the site
25 was not concrete type sand and was fill sand and was suitable for developing road beds. Mark
26 Suennen agreed that currently there was not a big demand for sand.

27 David Litwinovich asked if Dave Elliott believed it would take about 2 weeks to get the
28 disturbed area under 5 acres. Dave Elliott answered yes. David Litwinovich asked if the
29 requirement to only have 5 acres of disturbed area could be maintained for the duration of the
30 project. Dave Elliott answered yes. The Chairman asked how the requirement would be
31 maintained. Dave Elliott stated that he was not aware of any erosion concerns. He continued
32 that he was going to take extra measures in a few areas to stabilize the site. He explained that he
33 had been involved in the gravel pit business for 42 years and had moved a few million yards of
34 material out of New Boston. He indicated that he had never had any breaches or major
35 problems.

36 The Chairman asked Kevin Leonard, P.E., to address concerns that he had with the
37 subdivision. Kevin Leonard, P.E., asked for the specific areas on the plan that Dave Elliott
38 believed he could get less than 5 acres of disturbance. He further asked what actions would be
39 taken to get the area of disturbance to be less than 5 acres. He commented that there were a lot
40 of open slopes and he wanted a better of understanding of Dave Elliott's plan. Dave Elliott
41 indicated that he would be spreading top soil as well mulching and seeding areas that were not
42 finished graded, i.e., the left side of the road. He noted that the stock piles of loam would be
43 removed and the area of disturbance would be closed up to the excavation area. Kevin Leonard,

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1 **TWIN BRIDGE LAND MANAGEMENT, LLC, cont.**

2
3 P.E., stated that any action taken at the subdivision was an improvement, however, an area was
4 not stabilized until there was vegetative growth. He continued that all the work could be
5 completed within the next 2 weeks but it would not be stabilized unless there was established
6 vegetation. He pointed out that there were alternative ways to stabilize the areas that might be
7 more conducive to the site. Mark Suennen asked for Kevin Leonard, P.E.'s, opinion with regard
8 to the percentage of the area from the existing houses to the road was stabilized. Kevin Leonard,
9 P.E., stated that the front area had been "pretty buttoned up" in the frozen conditions. He
10 explained that DES's standard for stabilization was about 85% growth and the area in question
11 was almost to that 85% mark. Mark Suennen expressed concern over the lack of stabilization
12 with regard to the area of Station 22. Kevin Leonard, P.E., advised that Station 22 had been jute
13 matted. Dave Elliott explained that matting qualified as stabilization and did not require growth.
14 He added the project had started in November and they had been in compliance until May 15,
15 2013, as seasonal stabilization had been achieved to its greatest extent. He went on to say that
16 the spring had been unique in that it had been dry and there had been cold temperatures. He
17 explained that grass could not grow under 50 degrees and there had not been 50 degree
18 temperatures until after the letter from Kevin Leonard, P.E., had been sent. He indicated that an
19 envelope had been created as small as it could possibly be in Phase III and Phase IV, however, it
20 exceeded 5 acres.

21 Kevin Leonard, P.E., reminded the Board that erosion was not only created by
22 stormwater but could also be created by wind. He stated that wind erosion had not been a
23 problem at the site, however, he was not crazy about having open slopes.

24 Kevin Leonard, P.E., explained that the AoT and Shoreland Protection Permits required
25 that slopes or loam stock piles sitting for 2 – 3 weeks untouched, needed to be temporarily
26 stabilized. Dave Elliott noted that the need for temporary stabilization had not occurred yet at
27 the site. He added that there had been weekly activity for 90% of the stock piles. Dave Elliott
28 stated that he had read through all the information sent by the Coordinator and it was his
29 understanding that inspections were no longer required after there were no road concerns. He
30 continued that he had not anticipated that Northpoint Engineering would be involved in the
31 exporting or lot filling portion of the project. The Chairman asked how compliance could be
32 ensured without Northpoint Engineering's inspections. Dave Elliott answered that compliance
33 could be ensured through his proposed plan to reduce the disturbance area to 5 acres by
34 temporarily stabilizing unfinished areas with top soil. The Chairman clarified that placing the
35 top soil down was the plan but he was asking how compliance with the plan would be ensured.
36 He indicated that Northpoint Engineering's inspections addressed compliance with the plan.
37 Dave Elliott stated that he was unsure what was meant by compliance. The Chairman explained
38 that the subdivision approval allowed for no more than 5 open acres at a given time and the
39 Town needed to know if they were complying with the requirement. Dave Elliott commented
40 that it was very doable to quantify the 5 acres. The Chairman asked if Dave Elliott was planning
41 on submitting a marked up plan every week that showed the uncovered areas. Dave Elliott
42 suggested that he place orange construction fence around those areas. The Chairman indicated
43 that the suggestion would be tabled and researched.

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1 **TWIN BRIDGE LAND MANAGEMENT, LLC, cont.**

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3 Dave Elliott indicated that he had been in charge of more sand and gravel operations in
4 New Boston than anyone else. He continued that the 4H grounds in Town as well as several
5 other areas were not held to the 5 acre as required by this subdivision. He stated that he was
6 accustomed to working with continuous disturbed areas of 10 acres or more. The Chairman
7 pointed out that the subdivision plan was approved for only 5 acres.

8 Kevin Leonard, P.E., referred to the drainage at the site and indicated that they were
9 working on installing infiltration basins. Dave Elliott advised that all of the infiltration basins
10 were being installed. He went on to say that the infiltration basins had created a unique situation
11 as no one had a lot of experience with them. He explained that the final product could not be
12 installed until everything was stabilized around it. He stated that they had been working for 3
13 weeks to determine what kind of material could be put into the basins that would not have to be
14 removed. He explained that the testing process was entirely different that what had been used in
15 the past on these types of ponds. He added that as soon as they received an approval on the type
16 of material that could be used they would be installed. He noted that he had completed a test the
17 previous Wednesday and still had not received the results. He went on to say that they would
18 install 1 or 2 ponds with the special material and when that was approved they would install
19 more. He stated that all of the ponds were sand and gravel and that they were accepting water.
20 He reiterated that he was following the guidelines that required bases not be finished until the
21 area around the pond was stabilized. The Chairman asked if the plan was to install all of the
22 infiltration basins. Dave Elliott answered yes.

23 Kevin Leonard, P.E., stated that Dave Elliott had framed the issue with the infiltration
24 basins "a little funny". He stated that Dave Elliott had received approved material but he was
25 just being cautious. Dave Elliott stated that he had not received a result on the last test. He
26 explained that there was a range of 3 – 5 and they had received 3.1. He explained that he was
27 not going to install 9 infiltration basins when the results were on the fringe of disapproval.
28 Kevin Leonard, P.E., agreed that a lab test had produced a result that was on the fringe and a
29 field test had been conducted. Dave Elliott advised that the testing firm recommended that the
30 test be conducted again.

31 Kevin Leonard, P.E., stated that the temporary drainage was not an issue and it was being
32 installed so that the road would function properly. He asked Dave Elliott how he planned to
33 manage truck traffic on the road during material removal operations. Dave Elliott answered that
34 the truck traffic was no longer an issue as they planned to use the driveways to get on and off the
35 road rather than entering and exiting anywhere along the road length.

36 Kevin Leonard, P.E., referred to the bonding of the project and noted that the bond
37 covered roadway slopes and those slopes had basically been completed. He noted that the 3:1
38 slopes had been excavated into for the driveways. He noted that a request for a reduction of the
39 bond would be made at the next Planning Board meeting. He stated that this reduction would
40 release monies held for earth excavation associated with road construction. Mark Suennen noted
41 that the binder could also be released which Kevin Leonard, PE, confirmed to be the case. Kevin
42 Leonard, PE, pointed out to the Board that there would be no money in the bond for the
43 remaining slopes, but there was a line item for loam and seed which reflected the slopes outside

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TWIN BRIDGE LAND MANAGEMENT, LLC, cont.

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3 the right-of-way. Dave Elliott stated that there was an excavation of 60K yards on the right side
4 of the road and he believed Kevin Leonard, P.E., would like it loamed and seeded. He indicated
5 that the area had been graded per the plan and he continued to remove material from the area in
6 order to accomplish the removal of 60K yards. He described it as an active face. He stated that
7 they could slope the area again if it was required. Dave Elliott stated that they would grade,
8 loam and seed the left side of the road in order to comply with the 5 acre requirement. The
9 Chairman asked if there would be material going into the head of the cul-de-sac. David Elliott
10 answered that nothing would be touched in that area until other work was completed. The
11 Chairman asked if the area would eventually be filled in. Dave Elliott answered that the far end
12 of the cul-de-sac was a cut area. He added that left side of the cul-de-sac required fill and was so
13 large that it would be loamed and seeded. The Chairman asked if there was material that would
14 have to be dumped off the end in order to fill it in. Dave Elliott answered yes.

15 The Chairman stated that the Planning Department would look into the question of
16 inspections outside the perimeter of the road. He further stated that within the next 2 weeks the
17 disturbance area would be less than 5 acres.

18 The Coordinator asked Dick Perusse, Road Agent, if there were things the Board should
19 consider over the next 2 or 3 years with regard to material being removed from the site and being
20 hauled over the road that had a binder course of pavement. Dick Perusse, Road Agent, noted that
21 the binder was thicker than was typically seen. He stated that he preferred to have the excavation
22 completed quicker than was anticipated but he understood that it was unlikely that it would
23 happen. He believed that before the road was overlaid it was important to take a good hard look
24 at the binder for damage. Mark Suennen believed that this issue should be considered when
25 making the bond reduction calculation as future inspections would be needed. Dave Elliott
26 pointed out that the calculation was already part of the bond as top coat could not be installed
27 until the base was approved. Mark Suennen stated that the Board would not accept 100%
28 reduction in the bond for the binder knowing that it would sit for 2 or 3 years and most likely
29 require follow-up inspection as well as repairs. Dick Perusse, Road Agent, stated that another
30 good thing was Dave Elliott's statement that D&S would be using the driveway aprons as access
31 points to the road for the excavation operation and not just entering the road at random spots. He
32 said it was better that damage happen to the aprons than the road.

33 The Chairman asked how Dave Elliott would prove to the Board that the disturbance area
34 was less than 5 acres by June 25, 2013. Dave Elliott answered that Kevin Leonard, P.E., could
35 provide a report. Kevin Leonard, PE, agreed. the Chairman noted that the Board could drive by
36 in three weeks to take a look at the site.

37 Dave Elliott advised that payment for work completed at the site was provided from bond
38 reductions and as such he would be requesting a reduction at the next meeting. He noted that all
39 the safety issues have all been addressed.

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1 **HEAFIELD, CRAIG E. & CRYSTAL L. (OWNER)**
2 **KEYLAND ENTERPRISES, LLC (APPLICANT)**
3 Public Hearing/NRSPR/Landscaping/Garden Center
4 Location: 722 River Road
5 Tax Map/Lot #6/22
6 Small Scale Planned Commercial “COM” District
7

8 Present in the audience were Craig Heafield, Keith Savage, Jay Marden, Kris Stewart,
9 Lisa Stewart, Nancy Gaillard, Dan Donovan, Sr., Dan Donovan, Jr., and Arthur Siciliano, LLS.

10 The Chairman read the public hearing notice. He stated that application had been
11 determined to be complete and the deadline for Board action was June 27, 2013. He noted that
12 an informational discussion had taken place on January 8, 2013, and a public hearing had
13 occurred on April 23, 2013 and on May 14, 2013. He noted that a site walk had taken place. He
14 further noted that a memo had been received from Russ Boland, Fire Inspector. He thanked the
15 applicant for submitting an easement deed.

16 The Chairman indicated that the Board had received a letter from Harold Wood, Jr., P.E.,
17 dated May 17, 2013, regarding the grassed berm maintenance. It was the Chairman’s
18 understanding the Board was looking for assurance that there was no runoff from the lot from all
19 boundaries and not just the swale/ditch. He asked if the Board was satisfied with letter
20 submitted. Mark Suennen agreed with the Chairman that there could not be any runoff from the
21 lot. He thought the only area that should be verified for no runoff was along the area along the
22 driveway and swale. He pointed out that the area was flat and drained from the road and onto the
23 property and as such he was not particularly concerned.

24 The Chairman stated that copies of the landscaping detail plan had been submitted on
25 May 15, 2013. He noted that there were outstanding fees for abutter letters and those fees could
26 become a condition of the approval.

27 The Chairman noted that there were three outstanding issues. He advised that the height
28 of the proposed garden center was missing from the plan. Craig Heafield explained that he had
29 provided the measurement on the attached building plans but stated that he could add the height
30 to the plan. The Chairman asked that it be added as a note.

31 The Chairman noted that the impervious lot coverage had not been added to the plans,
32 although the size of the lot in relation to the size of the project made this an issue of relatively
33 little concern. Mark Suennen did not have an issue and wanted to make sure a statement was
34 made that drainage would not impact the road. Craig Heafield asked if the lot coverage only
35 encompassed the building footprint. Mark Suennen explained that along with the building
36 footprint the lot coverage also included impervious surfaces. Craig Heafield asked if the
37 impervious surfaces needed to be added to the plan. The Chairman acknowledged that out of the
38 131 acres the proposed garden center was only 1 acre and asked that this be added as a note.

39 The Chairman stated that the appearance/design of the sign was missing from the plan.
40 Keith Savage indicated that he had provided an 8 ½” x 11” sheet with the Grasshopper logo.
41 The Coordinator reminded the Chairman that he had requested that the sign appearance/design
42 be added to the plan and it had not been added. Craig Heafield agreed to add the sign appearance
43 to the plan.

May 28, 2013

1 **HEAFIELD, cont.**

2
3 The Chairman advised that the customer parking and any other signs need to be shown on
4 the plan. He explained that the Board would match the plan to what was actually at the site
5 during the compliance walk. Keith Savage asked if the signage could be added to the as-built
6 and not the plan. Mark Suennen answered that the signage needed to be added to the plan
7 because the plan would be approved before the as-built was submitted.

8 The Chairman pointed out that the lighting drawing did not match the lighting detail.
9 Craig Heafield explained that he had not liked one of the details and that was the reason he
10 submitted the separate lighting drawing. The Chairman stated that the changes needed to be
11 reflected on the plan.

12 The Chairman referenced the parking area on the plan and asked if the applicant was
13 certain a truck would be able to maneuver between the parking area and the greenhouse/display
14 area. Craig Heafield stated that there was 27' between the closest parking space and the building
15 and he believed that there was plenty of room for the pick-up trucks that would be driving in the
16 area. The Coordinator explained that if a field change became necessary because the space was
17 not big enough the applicant would be required to come back and change the plan. Keith Savage
18 stated that he could remove one of the proposed parking spaces to make the area wider. Craig
19 Heafield added that this could be shifted over 10'. Mark Suennen clarified that the Board was
20 not asking the applicant to remove any of the proposed parking spaces. Keith Savage stated that
21 he was comfortable with leaving the area as it was shown on the plan. Craig Heafield asked the
22 Board how likely it was to allow for field changes that could be reflected on the as-built. Mark
23 Suennen stated that there was almost no tolerance for change.

24 The Coordinator advised that the well placement did not match between the proposed site
25 plan and proposed landscape design plan. Craig Heafield stated that they would make changes to
26 have all the plans match.

27 The Chairman told the applicant to make sure now that the traffic flow, snow plowing,
28 parking, etc., was how they wanted it so they didn't have to come back to the Board to ask for
29 plan changes.

30 The Chairman asked if the display area was going to stay completely covered with snow.
31 Keith Savage answered yes. Craig Heafield pointed to the plan and told the Board where the
32 snow would be cleared and moved. The Chairman advised that snow storage needed to be
33 shown on the plan.

34 The Chairman stated that the Board was going to make the approval for construction of
35 the proposed septic system a condition precedent and approval for operation a condition
36 subsequent.

37 The Chairman advised that if and when the use at the property changed and was no
38 longer a garden center/landscaping facility the landscape shielding requirement may need to
39 change. Craig Heafield acknowledged the Chairman's statement.

40 The Chairman commented that he felt uncomfortable approving a plan at this evening's
41 meeting with so many open things. He believed that if everything was completed and submitted
42 on time the plan should be approved at the next meeting. Mark Suennen questioned the
43 Chairman's concern over the items that had not been added to the plan and reminded the Board

May 28, 2013

1 **HEAFIELD, cont.**

2
3 that a plan had been previously approved without retaining walls being shown. The Chairman
4 said that because there were a lot of little things that were not on plan he would not be sure of
5 what he was approving. Christine Quirk was okay with moving forward and approving the plan
6 at this evening's meeting because the missing items were all little things and it was all on the
7 record. David Litwinovich agreed.
8

9 Mark Suennen **MOVED** approve the Non-Residential Site Plan Application by Craig
10 Heafield, to operate a Garden Center and Landscaping Business from property at 722
11 River Road, Tax Map/Lot #6/22, subject to:
12

13 **CONDITIONS PRECEDENT:**

- 14 1. Submission of a minimum of four (4) blue/blackline copies of the revised plat,
15 including all checklist corrections and any corrections as noted at this hearing;
- 16 2. Submission of the mylar for recording at the HCRD;
- 17 3. Payment of any outstanding fees related to the subdivision application and/or the
18 recording of documents with the HCRD.
- 19 4. Upon completion of the conditions precedent, the final plans and mylar shall be
20 signed by the Board and forwarded for recording at the HCRD.

21 The deadline date for compliance with the conditions precedent shall be **July 28, 2014**,
22 confirmation of which shall be an administrative act, not requiring further action by the
23 Board. Should compliance not be confirmed by the deadline date and a written request
24 for extension is not submitted by that date, the applicant is hereby put on notice that that
25 the Planning Board may convene a hearing under RSA 676:4-a to revoke the approval.
26 The applicants are further put on notice that this lot line adjustment approval constitutes
27 recognition that the lot configurations are in conformance with local land use regulations.
28 To complete the lot line adjustment, deeds must be transferred.
29

30 **CONDITIONS SUBSEQUENT:**

- 31 1. All site improvements are to be completed as per the approved site plans;
- 32 2. The Town of New Boston Planning Department shall be notified by the applicant
33 that all improvements have been completed, and are ready for final inspection,
34 prior to scheduling a compliance hearing on those improvements, a minimum of
35 three (3) weeks prior to the anticipated date of compliance hearing;
- 36 3. Submission of as-built plans and a statement from an engineer, preferably the
37 design engineer, certifying that the improvements were constructed in accordance
38 with the approved plans;
- 39 4. Submission of approval for operation of septic system from NH DES Subsurface
40 Bureau.
- 41 5. Any outstanding fees related to the site plan application compliance shall be
42 submitted;
- 43 6. A compliance hearing shall be held to determine that the site improvements have

**TOWN OF NEW BOSTON
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1 **HEAFIELD, cont.**

2
3 been satisfactorily completed, prior to releasing the hold on the issuance of any
4 Permit to Operate/Certificate of Occupancy, or both. No occupancy/use of the
5 garden center or landscaping business shall be permitted until the site
6 improvements as noted have been completed, and a site inspection and
7 compliance hearing held.

8 The deadline for complying with the Conditions Subsequent shall be **May 28, 2014**, the
9 confirmation of which shall be determined at a compliance hearing as noted in item #6
10 above.

11 Christine Quirk seconded the motion and it **PASSED** unanimously.

12
13 **FERUS TERRA, LLC (OWNER)**

14 **CASTLE DONOVAN, III (APPLICANT)**

15 **ARTHUR F. SICILIANO LAND SURVEYING, LLC (APPLICANT)**

16 Submission of Application/Public Hearing/NRSPR/to allow the construction and operation of an
17 Assisted Living Residence/Supported Residential Health Care Facility

18 Location: Old Coach Road

19 Tax Map/Lot #10/3-2 & 10/3-3

20
21 Present in the audience were Jay Marden, Dan Donovan, Sr., Dan Donovan, Jr., Arthur
22 Siciliano, LLS, Nancy Gaillard, Kris Stewart and Lisa Stewart.

23 The Chairman read the public hearing notice. He noted that the application had been
24 accepted as complete at the May 14, 2013, meeting and the deadline for Board action was July
25 18, 2013.

26 The Chairman explained that the proposal was the subject of a ZBA hearing for a
27 variance. He continued that the variance was granted on March 12, 2013, to allow for the
28 construction and operation of an Assisted Living Residence, Supported Residential Health Care
29 Facility, with the condition that a Non-Residential Site Plan Review application be submitted to
30 the Planning Board.

31 The Chairman indicated that revised plans had been submitted on May 13, 2013, and,
32 therefore, were not reviewed prior to the first hearing. He added that the plans had not gone
33 through a complete review. He noted that a site walk had taken place on May 22, 2013.

34 The Chairman stated that he needed to clarify two things that had been said at the
35 previous hearing that were incorrect. He noted that an abutter had mentioned that a 25'
36 landscape buffer had to be established around the site. He clarified that because this was a non-
37 residential use in a residential district the buffer requirement was only 15' around the site.

38 The Chairman stated that the second item that needed clarification from the previous
39 meeting was relative to a misconception of what the application represented and what the ZBA
40 granted as the variance. He explained that during the ZBA proceedings there had not been any
41 discussion with regard to the definition of "family". He continued that the ZBA had granted the
42 variance for the construction and operation of an Assisted Living Residence, Supported
43 Residential Health Care Facility and that was what the Planning Board would be considering.

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1 **FERUS TERRA/DONOVAN, cont.**

2
3 Dan Donovan, Sr., expressed that he was confused because he had gone to the ZBA to
4 request the construction of a residence for more than three, unrelated, handicapped people. He
5 continued that under the new regulations that had been passed in the last couple of years the
6 Town under the Zoning Ordinance had the right to look at the type of residence that was
7 anticipated under that clause. He stated that as long as it was consistent with the Town's general
8 opinion they had a right to review it and that was it. He went on to say that he had submitted a
9 plan as a Special Exception and was told that he needed to come in under a variance. He stated
10 that he was perfectly happy to show everyone what he was doing but he wanted to be a
11 residence. He commented that he was concerned if this had become a commercial situation as he
12 did not know how it would affect him down the road. The Chairman explained that the ZBA had
13 not heard and did not grant the variance in that context. He pointed out that the variance that had
14 been granted allowed Mr. Donovan to what he planned to do and it also allowed him to lots of
15 other things. He went on to say that the variance did not limit Mr. Donovan's use. Dan
16 Donovan, Sr., acknowledged the Chairman's explanation. He stated that he was happy to go
17 through the plan presentation but he noted that he would need to refer the matter to legal counsel.
18 The Chairman commented that it would probably be a good thing to refer the matter to legal
19 counsel. Dan Donovan, Sr., believed he could possibly go back to the ZBA.

20 The Chairman asked if the applicant wished to move forward and present his plan at the
21 hearing. Dan Donovan, Sr., answered that he would appreciate the opportunity to present his
22 plan.

23 Arthur Siciliano, LLS, stated that the revised plan addressed issues that had been
24 discussed during the site walk. He referred to the sight distance at the driveway and explained
25 that there was 200' to the left, however, some trees needed to be removed to the right. He
26 indicated that he had made a note on the plan that addressed the issue.

27 Arthur Siciliano, LLS, noted that he had revised note 3 on the plan to accommodate
28 parking that met the Zoning Ordinance.

29 Arthur Siciliano, LLS, indicated that he had added a 25' landscape buffer around the site.
30 He stated that he would change the 25' buffer to a 15' buffer. He pointed to the areas on the plan
31 where landscaping had been added. He noted that the remaining areas would be lawn and that
32 sloped areas would be seeded. The Chairman asked if there was a key on the plan that identified
33 trees and shrubs. Arthur Siciliano, LLS, answered that he did not have a key and explained that
34 the larger ones were trees and the smaller ones were shrubs. He stated that he would add a key.
35 Dan Donovan, Sr., added that the landscaping would include rhododendrons, azaleas and other
36 plants that would be planted around a house. He stated that he wanted it to look like the guy next
37 door.

38 Arthur Siciliano, LLS, pointed out that he labeled a former Town road on the map that
39 was currently owned by a neighbor.

40 The Chairman pointed out that the hours of operation on the plan listed the business open
41 for 356 days instead of 365. Arthur Siciliano, LLS, noted that he would make the correction.

42 The Chairman stated that the plans needed to be updated prior to being reviewed. He
43 asked the applicant if he wanted to wait until he had spoken with legal counsel. Dan Donovan,

May 28, 2013

1 **FERUS TERRA/DONOVAN, cont.**

2
3 Sr., asked when the next meeting was scheduled. The Chairman answered that the next meeting
4 was scheduled for June 11, 2013. The Coordinator explained that if the meeting was adjourned
5 the applicant would not be responsible for abutter letter fees, however, if the application was
6 resubmitted then the applicant would be responsible for the abutter letter fees. Arthur Siciliano,
7 LLS, asked if the hearing could be adjourned for 30 days. Christine Quirk answered yes. Dan
8 Donovan, Sr., agreed to adjourn for one month.

9
10 Mark Suennen **MOVED** to adjourn the public hearing of Ferus Terra, LLC (Owner),
11 Castle Donovan, (Applicant), Arthur F. Siciliano Land Surveying, LLC (Applicant),
12 Location: Old Coach Road, Tax Map/Lot #10/3-2 & 10/3-3, Residential-Agricultural "R-
13 A", to June 25, 2013, at 8:00 p.m. Christine Quirk seconded the motion and it **PASSED**
14 unanimously.

15
16 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
17 **May 28, 2013.**

- 18
19 4. Letter received May 17, 2013, from Kris N. Stewart, President, Francestown Sand &
20 Gravel, Inc., and Scott Gaillard, to New Boston Planning Board, re: Earth Removal
21 Permit #G2011-011, Tax Map/Lot #1/2-8, Bunker Hill Road, for the Board's action.

22
23 Present in the audience were Kris Stewart, Lisa Stewart and Nancy Gaillard.

24 The Chairman's understanding of the above-referenced matter was that the property
25 owner passed away and Scott Gaillard was interested in purchasing the gravel pit. He asked
26 if Scott Gaillard had anything to do with Francestown Sand & Gravel. Nancy Gaillard answered
27 no. The Chairman asked how Kris Stewart and Lisa Stewart were associate with Francestown
28 Sand & Gravel. Kris Stewart answered that they were the operators of pit for years but were not
29 the owners.

30 Kris Stewart explained that they had applied for an intent to excavate to keep the pit
31 active. He stated that Scott and Nancy Gaillard were very interested in the property and they
32 wanted to know if it was possible to transfer the gravel pit permit to the new pit owners. He
33 noted that the operator had not changed.

34 The Chairman asked if Scott and Nancy Gaillard agreed with the terms and conditions of
35 the original approval. Nancy Gaillard answered yes.

36 The Chairman asked if Scott and Nancy Gaillard were looking to change the end date of
37 the gravel pit. Nancy Gaillard answered no. Kris Stewart pointed out that in order to move to
38 the next level of their site plan they would need to obtain a site specific.

39 The Chairman asked if there were any issues or complaints against the current operation.
40 Kris Stewart answered that they had never had any complaints. He added that their bond was
41 still in place until 2014.

42 The Chairman stated that he saw no reason not to transfer the current sand and gravel pit
43 permit to the new owners. Mark Suennen asked for the owner's intent with the property. Nancy

May 28, 2013

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Gaillard pointed out that she and her husband were not yet the owners but if they did purchase
4 the property they intended to keep the pit open and operating.

5 Mark Suennen believed that the Board could accept that the gravel pit permit be
6 transferred to the new owners with the caveat that the Code Enforcement Officer visit the pit in
7 one year to make sure that the pit was being maintained.

8 The Chairman asked for the other Board member's position the matter. Christine Quirk
9 stated that she was in favor of the transferring the permit to the new owner.

10
11 Mark Suennen **MOVED** to accept the change in ownership and maintain the existing
12 conditions and regulations for the operation of the gravel pit at Tax Map/Lot #1/2-8,
13 Bunker Hill Road, contingent upon a final sale agreement to Scott and Nancy Gaillard
14 and a positive review by the Code Enforcement Officer within six months of the final
15 sale of the pit. Christine Quirk seconded the motion and it **PASSED** unanimously.

16
17 Nancy Gaillard provided her mailing address for the Planning Department.

18
19 **Discussion with Twin Bridge Land Management, re: plan for completing Wright Drive**
20 **subdivision, Continued.**

21
22 Jay Marden explained that he had had to leave during the previous discussion this
23 evening in order to attend a meeting at the New Boston Community Church. He stated that it
24 was his understanding that no material was to be removed from the subdivision until the road or
25 subdivision was completed. The Coordinator clarified that the applicant was approved to remove
26 material from the subdivision during construction of the last phase. She explained that in order
27 to complete the last phase it was necessary to remove material. She added that the Town was
28 allowed to remove material starting at the beginning.

29 Jay Marden asked what would happen if too much material was removed and there was
30 not enough material left to fill in the big hole. The Chairman answered that they would have to
31 haul the material back to the site. Jay Marden asked who would be monitoring the removal of
32 the material. The Chairman explained that the applicant had to build according to the approved
33 plan.

34
35 **MISCELLANEOUS BUSINESS, cont.**

36
37 1. Discussion, re: once a month meetings for July and August.

38
39 Mark Suennen **MOVED** to schedule single meetings for the months of July and August
40 occurring on the 4th Tuesday of the month. David Litwinovich seconded the motion and
41 it **PASSED** unanimously.

42
43 2. Discussion, re: site plan requirements for Sizemore Truck & Auto, 150 Weare

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Road, Tax Map/Lot #5/29-1.

4
5 The Chairman noted that there had been a question regarding this matter at the last
6 meeting and the Coordinator had researched it. He asked if Christine Quirk's question had been
7 answered. Christine Quirk answered yes and added that she just wanted to make sure that what
8 was fair for one person was fair for all of the people. The Chairman agreed that consistency
9 mattered.

10 The Chairman asked if the Board was willing to move forward with the amendment for
11 the above-reference site plan based on the analysis/research. Mark Suennen was in favor of
12 allowing the applicant to amend his site plan as the applicant was expanding an existing business
13 with an additional building.

14
15 Mark Suennen **MOVED** to require the applicant to submit an amended site plan that
16 included specific dimensions of the proposed additional building, parking areas, snow
17 storage, lighting, signage and other site amenities and would be verified through a
18 compliance hearing. Christine Quirk seconded the motion and it **PASSED** unanimously.

- 19
20 3. Letter copy dated May 22, 2013, from David J. Preece, AICP, Executive Director/CEO,
21 SNHPC, to Peter Flynn, Town Administrator, re: Urban Boundary Smoothing National
22 Highway System (NHS), and Functional Classification Updating and Reviewing, for the
23 Board's review and discussion.

24
25 The Chairman stated that it sounded as if a rural minor collector 8 was more likely to
26 receive money and support than a rural local road 9 and that was a good thing.

- 27
28 5. Construction Services Reports received May 14, 2013, dated April and May 2013, from
29 Northpoint Engineering, LLC, for Twin Bridge Estates, Phase II (Wright Drive), for the
30 Board's information.

31
32 The Chairman asked if anyone noticed anything in the reports that had not been discussed
33 early in the meeting. Mark Suennen indicated that there were some silt fence issues, however,
34 Northpoint Engineering had pointed out the issue and it was being addressed.

- 35
36 6. Construction Services Reports received May 14, 2013, dated April and May 2013, from
37 Northpoint Engineering, LLC, for SIB Trust, Indian Falls & Susan Road, for the Board's
38 information.

39
40 Mark Suennen asked if the above-referenced subdivision was moving forward. The
41 Coordinator answered no. Mark Suennen asked if Mr. Bussiere was attending a Planning Board
42 meeting to discuss his plan. The Coordinator answered that he would most likely attend a
43 meeting, however, she believed that Mr. Bussiere was unsure of how he was going to wrap up

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 the project this year.

4
5 7. Construction Services Report received May 14, 2013, dated April 9, 2013, from
6 Northpoint Engineering, LLC, Forest View II, McCurdy and Lorden Roads, for the
7 Board's information.

8
9 The Chairman acknowledged receipt of the above-referenced matter; no discussion
10 occurred.

11
12 8. Copy of article entitled: Water Bill Is Not a Conspiracy, published in Legislative Bulletin
13 #22, 2013 session, for the Board's information.

14
15 The Chairman acknowledged receipt of the above-referenced matter; no discussion
16 occurred.

17
18 9. Distribution of the May 14, 2013, meeting minutes by email for approval at the next
19 meeting.

20
21 The Chairman acknowledged receipt of the above-referenced matter; no discussion
22 occurred.

23
24 Mark Suennen **MOVED** to adjourn at 9:52 p.m. David Litwinovich seconded the motion
25 and it **PASSED** unanimously.

26
27 Respectfully Submitted,
28 Valerie Diaz, Recording Clerk

Minutes Approved:
06.25.2013