

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2011 Meetings**

August 9, 2011

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1 The meeting was called to order at 6:30 p.m. by Chairman Stu Lewin. Present were
2 regular members Mark Suennen and Peter Hogan, Alternate Member David Litwinovich, and
3 Ex-officio Christine Quirk. Also present were Planning Coordinator Nic Strong, Planning
4 Assistant Shannon Silver and Recording Clerk Valerie Diaz.

5
6 Present in the audience for all or part of the meeting was Jillian Harris, SNHPC, Susan
7 Carr, Energy Commission, Bill Morrissey, Energy Commission, Cathy Morrissey, Energy
8 Commission, Dwight Lovejoy, Selectman, Vinnie Iacozzi, Jerri Stanford, David Mann, Craig
9 Heafield, Ed Colburn, Jay Marden, Sue Tingley, Skip Gomes, Susie Frost, Heidi Palmer, Rick
10 Kolher, Brian Stevens, Dana Lorden, Morgan Hollis, Esq., Shiv Shrestha, Sean McGann, and
11 Margaret McGann.

12
13 **Public Hearing to discuss goals and objectives for the energy chapter of the Master Plan.**

14
15 Present in the audience were Jillian Harris, SNHPC, Susan Carr, Energy Committee, Bill
16 Morrissey, Energy Committee, Cathy Morrissey, Energy Commission, Dwight Lovejoy,
17 Selectman.

18 The Chairman read the public hearing notice. He noted that he had been absent for the
19 previous public hearing with Jillian Harris, SNHPC, and asked if she would lead the discussion.

20 Jillian Harris, SNHPC, indicated that she had created a paper PowerPoint presentation
21 that had been given to the Board members. She stated that she had been before the Board in June
22 to discuss the process of adding an energy chapter to the Master Plan and that at this evening's
23 meeting she would like to develop goals and objectives for the energy chapter.

24 Jillian Harris, SNHPC, referred to the handout entitled "Importance of Energy Planning".
25 She stated that there were economic, health and safety impacts relative to energy. She continued
26 that scientists had confirmed that the overall surface temperatures of the earth had increased by
27 an average one degree Fahrenheit over the last century. She stated that there had also been
28 strong scientific consensus that the observed warming could be attributed to human activities,
29 predominantly, increased fossil fuel consumption and changes in land use. She advised that an
30 overwhelming majority of scientists believed that concentrations of greenhouse gases were
31 increasing at an unprecedented rate and that changes in the earth's climate were underway and
32 would continue. Jillian Harris, SNHPC, stated that scientists predicted that the climate change
33 would result in rising sea levels, increased extreme storm events, disruption of freshwater and
34 food supplies, and impacts to the vitality and health of forests and other natural areas.

35 Jillian Harris, SNHPC, advised that NH's quality of life was directly related to its lakes,
36 rivers, oceans, shoreline, mountains, hardwood forests, scenic towns and other natural areas. She
37 added that NH's economy relied heavily on tourism and noted that millions visited the state each
38 year to enjoy its natural resources. She reported that an increase to the average temperature of
39 NH would impact the characteristics of its forests and water resources, alter the plant and animal
40 species, and could have a detrimental effect on public health. She listed the following industries
41 that would be directly impacted by global climate change:

- 42 • Tourism
- 43 • Forestry & Forest products

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1 **MASTER PLAN ENERGY CHAPTER GOALS AND OBJECTIVES, cont.**

- 2
3 • Maple syrup
4 • Skiing
5 • Fishing

6 Jillian Harris, SNHPC, stated that warmer temperatures could also increase incidences of
7 heat related illnesses and vector-borne diseases, i.e., encephalitis and Lyme disease. She
8 continued that as a result of the health impacts the public could be faced with increased health
9 costs as well as additional municipal costs due to infrastructure damage from erosion and storms.

10 Jillian Harris, SNHPC, referred the Board to the handout entitled “Gross Greenhouse Gas
11 Emissions”. She noted that the handout contained a pie chart that listed the percentages of
12 greenhouse gas emissions.

13 The Chairman pointed out that the information contained on the pie chart was from 2004
14 and asked if more current data was available or if there was reason to believe the data would
15 have changed. Jillian Harris, SNHPC, answered that the information contained on the pie chart
16 was the most recent information available. She noted that previously data had been collected in
17 2000 and the data was similar to the 2004 data. The Chairman asked if the numbers represented
18 on the pie chart were a result of an average taken across the state. Jillian Harris, SNHPC,
19 answered yes. She asked if there were any further questions; there were no further questions.

20 Jillian Harris, SNHPC, referred the Board to the handout entitled “Statutes” which listed
21 the statutes that should be referred to when thinking about goals for the energy chapter.

22 Jillian Harris, SNHPC, referred the Board to the handout entitled “NH Climate Action
23 Plan”. She explained that the 2009 NH Climate Action Plan was developed by the State
24 authorized Climate Change Policy Task Force. She noted that the Task Force was composed of
25 representatives of all sectors of the NH community. She stated that the Plan aimed at achieving
26 the greatest feasible reductions in greenhouse gas emissions while also providing the greatest
27 possible long-term economic benefit to the citizens of NH.

28 Cathy Morrissey, Energy Commission, asked if she could be provided with the handout
29 previously provided to the Board. Jillian Harris, SNHPC, provided the audience members with
30 the handout.

31 Jillian Harris, SNHPC, advised that the Climate Change Policy Task Force recommended
32 67 specific actions to achieve the following goals:

- 33 • Reduce greenhouse gas emissions from buildings, electric generation, and
34 transportation;
35 • Protect natural resources to maintain the amount of carbon sequestered;
36 • Support regional and national initiatives to reduce greenhouse gases;
37 • Develop an integrated education, outreach and workforce training program; and,
38 • Adapt to existing and potential climate change impacts.

39 Jillian Harris, SNHPC, referred the Board to the handout entitled “The Mission of the
40 New Boston Energy Commission” and asked Energy Commission Chair, Susan Carr, to discuss
41 the mission of the Commission. Susan Carr, Energy Commission, advised that the Commission
42 had been formed in 2009, following a vote by the Town in 2007. She continued that the
43 Commission had a Warrant Article placed on the ballot relative to a tax rebate regarding solar

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1 **MASTER PLAN ENERGY CHAPTER GOALS AND OBJECTIVES, cont.**

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3 and wind power that the voters had passed. She commented that there was community support
4 and involvement with the Commission. She advised that the Commission had attended several
5 conferences and workshops that focused on how other towns addressed their energy usage
6 through energy plans. She noted that the Commission had worked with the New Boston Town
7 Offices to analyze buildings and generate reports.

8 Jillian Harris, SNHPC, listed the following goals of the Energy Commission:

- 9
- 10 • To reduce New Boston carbon emissions 80% by 2050;
 - 11 • To advise and implement actions in accordance with the mission;
 - 12 • To increase community awareness and participation in energy and environmental issues;
 - 13 • To increase renewables;
 - 14 • To decrease energy expenditures, fossil fuels consumption and associated pollution;
 - 15 and,
 - 16 • To have New Boston move forward looking through the lens of sustainable practices.

17 Jillian Harris, SNHPC, referred the Board to the handout entitled “Energy Goals” and
18 listed the following examples of energy chapter goals:

- 19 • Reduce overall energy use, conservation and emissions throughout the community;
- 20 • Produce an Annual Energy Use Reduction Progress Report; and,
- 21 • Increase community participation on the local energy commission.

22 Jillian Harris, SNHPC, listed the following additional ideas that she had developed that
23 could be incorporated into the goals section of the energy chapter:

- 24 • Long term energy goals that relate to efficiency conservation, independence and cost
25 savings;
- 26 • Reduce municipal and/or community energy use by ____% with first year and develop
27 targets for subsequent years;
- 28 • Greenhouse gas emissions goals - align municipal goals with state goals per the NH
29 Climate Action Plan;
- 30 • Promote public and private (non-residential/residential) participation in programs to
31 reduce energy costs;
- 32 • Plan for efficient growth and development patterns (Smart Growth, Sustainability); and
33 Encourage business owners and residents to develop energy efficiency improvement
34 plans.

35 Jillian Harris, SNHPC, invited comments and/or suggestions with regard to goals that
36 should be included in the energy chapter.

37 The Chairman asked for the State’s greenhouse gas emission goals. Jillian Harris,
38 SNHPC, asked if the Chairman was referring to the NH Climate Action Plan goals. The
39 Chairman answered yes. Jillian Harris, SNHPC, stated that the NH Climate Action Plan goals
40 coincided with the New Boston Energy Commission’s previously listed goals. Mark Suennen
41 asked if the goal to reduce New Boston’s carbon emissions 80% by 2050 began in 1990. Jillian
42 Harris, SNHPC, answered yes. The Chairman commented that the Town was currently a third of
a way to the goal with regard to years and asked how far they were to reaching the 80%

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3 reduction. Jillian Harris, SNHPC, answered that the percentage would need to be assessed and
4 added that such an assessment could be completed. The Chairman asked if the State would have
5 any information with regard to this matter. Jillian Harris, SNHPC, answered that she had not
6 come across the information and would need to look into the matter. The Chairman commented
7 that he would not be surprised in the emissions had gone up since 1990, thereby, placing the
8 Town and/or State further from the 2050 goal.

9 Mark Suennen stated that in June, Jillian Harris, SNHPC, had reported that three
10 buildings in Town needed to be assessed for energy use; he asked which buildings needed to be
11 assessed. Jillian Harris, SNHPC, answered that the buildings Mark Suennen was referring to
12 were the Police Department, Transfer Station and Highway Department garage. She noted that
13 all three buildings had been assessed and she was awaiting the results. The Chairman asked for
14 clarification of what had been completed. Jillian Harris, SNHPC, explained that a representative
15 from Peregrine Energy Group toured the buildings and would provide a report with
16 recommendations for improving energy efficiency.

17 The Chairman asked Jillian Harris, SNHPC, what she was looking to gain from these
18 meetings. Jillian Harris, SNHPC, answered that an energy chapter would be developed to be
19 incorporated into the Master Plan. She explained that goals and objectives needed to be
20 established and subsequently a draft of the energy chapter would be created and would include
21 background information, building assessment data, recommendations and an action plan for
22 implementing the recommendations.

23 Peter Hogan asked if the proposed energy chapter specifically dealt with energy use
24 consumed by the Town. Jillian Harris, SNHPC, answered yes and added that the goals could
25 also include a broader focus to include smart growth and transportation, for example.

26 Jillian Harris, SNHPC, asked the Board for their thoughts on the goals proposed by the
27 Energy Commission and whether they wanted to add them to the energy chapter.

28 Bill Morrissey, Energy Commission, asked if the Whipple Free Library had been
29 included in the energy audits. Jillian Harris, SNHPC, answered that the Whipple Free Library
30 had not been assessed; however, she said that it could be added to the goals section of the energy
31 chapter. Bill Morrissey, Energy Commission, asked that a library energy use assessment be
32 added for future goals for the purposes of obtaining grant money. Peter Hogan commented that
33 an energy assessment should have been completed as a requirement to build the library. Jillian
34 Harris, SNHPC, stated that she was unsure if an energy use assessment had been a requirement
35 to build the library but noted that it was a new building and as such it was not included in the
36 SNHPC assessments. Susan Carr, Energy Commission, added that energy efficiency had been a
37 focus of architect Roger Dignard. Bill Morrissey, Energy Commission, stated that energy use
38 needed to be determined. Jillian Harris, SNHPC, stated that usage had been factored into the
39 assessments. Bill Morrissey, Energy Commission, commented that it had been "pretty cold" in
40 the library this summer.

41 Susan Carr, Energy Commission, asked how the Master Plan handled the New Boston
42 Central school items and if the School Board was "subservient" to the Planning Board. Mark
43 Suennen answered that the School Board was independent of the Planning Board. He added that

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3 part of the Planning Board's overall mission was land use throughout the Town and the school
4 was included in the Master Plan. Cathy Morrissey noted that transportation was a huge part of
5 the discussion.

6 It was the Chairman's opinion that the last proposed goal for the energy chapter, "to have
7 New Boston move forward looking through the lens of sustainable practices", seemed more like
8 a mission statement rather than a goal. He reasoned that goals were something to be set and
9 measure and he was unsure that the aforementioned goal could be measured.

10 Peter Hogan believed that the Board needed to be careful about what was placed in the
11 Master Plan because he did not want the Town bound by any sort of idealistic carbon footprint;
12 he noted that he did not care too much about that subject. He stated that he did care about
13 spending the minimum amount of energy for heating and/or cooling Town buildings. He went
14 on to say that regardless of the energy source used to heat and/or cool the Town buildings, i.e.,
15 coal, the Town would be better off as long as the energy was used efficiently. He noted that as a
16 taxpayer he was not willing to pay more money for a specific product because its carbon
17 footprint was a certain percentage less than a different product that would be substantially
18 cheaper. He believed that no one in Town would disagree with him on the matter. Susan Carr,
19 Energy Commission, disagreed with Peter Hogan and pointed out that townspeople concerned
20 with health issues relative to air quality did place value on the carbon footprint issue. Peter
21 Hogan asked what energy use the Town used or would use or does use that affected the air
22 quality in a negative way. Susan Carr, Energy Commission, answered that she did not have a
23 specific answer to Peter Hogan's question; however, she noted that ideally the plan would
24 communicate the Town's intention with regard to looking at the issue of consumption in the
25 future. Bill Morrissey, Energy Commission, pointed out that the efficiency of furnaces could be
26 used as a specific example of a use that affected air quality. He explained that furnaces that fell
27 below a certain point generated more emissions. Peter Hogan agreed with Bill Morrissey,
28 Energy Commission, and stated that he would spend more money on an efficient furnace as it
29 would save a lot of money. A brief discussion took place regarding the use of coal as fuel.

30 Susan Carr, Energy Commission, stated that trying to identify specifics without a plan
31 and description of goals was difficult. She continued that the Town had buildings that used
32 energy and taxpayers were paying for that energy. She stated that how the money was spent on
33 energy needed to be determined. She advised that the Commission had researched how other
34 towns that were similar in structure to New Boston utilized their energy plans and saved tens of
35 thousands of dollars. She added that it was the Commission's job to advise that the Town
36 needed to start looking at making a plan and gathering information in a comprehensive way.

37 Bill Morrissey, Energy Commission, offered another specific example of energy used by
38 the Town with regard to the New Boston Central School. He explained that during the summer
39 months air conditioning was only used in the newer part of the school, while the remaining
40 portions of school utilized a large number of fans. He believed that a large cooling system for
41 the entire school would save money rather than running fans in each individual classroom. He
42 went on to say that having a sustainable plan allowed for the Town to act in a responsible and
43 responsive way versus maintaining what currently existed. Peter Hogan stated that he did not

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2
3 have a problem with anything the Commission had presented. He continued that he did have an
4 issue with placing a goal of reducing carbon emissions by a certain percentage as he believed the
5 goal would be a made-up number and would be turned around and put back on the Planning
6 Board through the Master Plan. He explained that the Master Plan was a guide by which the
7 Planning Board drafts the Town's regulations and he was not willing to support that proposed
8 goal. Bill Morrissey, Energy Commission, stated that the Master Plan was established according
9 to the norms of the day.

10 Mark Suennen asked if the goal of the State was an 80% reduction of emissions
11 beginning in 1990 and it was not clear where we stand after twenty years how could the Planning
12 Board tie themselves to that goal now. Susan Carr, Energy Commission, asked what goal the
13 Board wanted to set. Mark Suennen suggested amending the goal of "reduce municipal and
14 energy use" to say "reduce municipal and energy costs". He stated that he was not ready to
15 commit the Town to spend more money for a marginal improvement for undefined criteria. Bill
16 Morrissey, Energy Commission, suggested adding a caveat to the goal but disagreed that carbon
17 footprint information should not be included and questioned the purpose of having an energy
18 commission. Mark Suennen answered that the mission of the Energy Commission as listed in
19 the handout was to promote energy conservation, study, advise, educate and to support,
20 encourage and celebrate. He noted that it did not say reduce emissions by a certain percentage.
21 Susan Carr, Energy Commission, stated that the Commission had completed research utilizing
22 the State and University of New Hampshire and was advising that New Boston be in harmony
23 with the direction of those groups that are experts in this field. She questioned why the Board
24 would not be comfortable moving forward in the way the Commission presented when the Town
25 operated in the same way addressing other things.

26 Bill Morrissey questioned if Mark Suennen was concerned with being tied to the 1990
27 start date of the goal. Mark Suennen clarified that he was concerned with tying the Board to
28 anything. He stated that placing target goals in the Master Plan and spending whatever amount
29 of money was necessary to reach the target goal was garbage and the Town could not afford to
30 do so. He went on to say that the Energy Commission was tasked with advising and educating
31 and as such he believed gathering information and sharing that information with the citizens
32 should be listed as a goal. Jillian Harris, SNHPC, suggested listing what the target goals were
33 and the things the Town was willing to do achieve the goals within the recommendations. Peter
34 Hogan stated that the Board was not willing to tie themselves to reducing carbon emissions by
35 80% by 2050. Mark Suennen added that the 80% reduction of carbon emissions by 2050 was
36 arbitrary and imaginary until data was presented on the current reduction from 1990. Mark
37 Suennen stated that the goal of the Energy Commission was to study, advise and educate and as
38 such he believed the Commission should provide advice and education to the public that was
39 innovative and aimed to reach the carbon emission reduction goals. He continued that even if
40 the Master Plan did not specifically list the 80% reduction of carbon emission by 2050 the
41 Commission could educate and advise the Town on reaching that goal. Cathy Morrissey, Energy
42 Commission, noted that it was not the intention of the Commission to financially commit the
43 Town to the goal. Mark Suennen explained that by placing the goal in the Master Plan the Town

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2
3 would be financially committed to reaching the goal. Susan Carr, Energy Commission, asked for
4 thoughts on this matter from the other Board members. Christine Quirk commented that she was
5 very concerned with this matter and how the Board members in forty years would have to handle
6 meeting the proposed criteria.

7 Cathy Morrissey, Energy Commission, suggested using a word other than “goal” to
8 describe the 80% reduction of carbon emission target. She went on to suggest that the goal of
9 reducing carbon emissions be identified as the New Boston Energy Commission’s goal in the
10 Master Plan. Peter Hogan noted that he was not comfortable with Cathy Morrissey’s suggestion.
11 He explained that the Board was led by the Master Plan. He continued that the goals listed in the
12 Master Plan were interpreted to be goals that the townspeople wanted implemented, when in
13 reality it was the Commission members who wanted the implementation of the goals and not the
14 townspeople. Susan Carr, Energy Commission, stated that the Commission wanted to lower
15 consumption. Peter Hogan agreed that everyone was in favor of lower consumption; however,
16 he questioned what would be lowered. Susan Carr, Energy Commission, answered that the
17 Commission wanted to lower energy use and costs.

18 Bill Morrissey, Energy Commission, suggested that the NH Climate Action Plan goal to
19 reduce greenhouse gas emissions from buildings, electric generation and transportation was a
20 good one. Peter Hogan commented that the federal government did a good job ensuring that
21 products with high carbon emissions were not sold. He went on to say that the Town would be
22 meeting a lot of goals based on the products that could be purchased.

23 Peter Hogan questioned whether the proposed goals from the Energy Commission
24 encompassed the Town’s energy consumption as a municipality or the Town as a whole to
25 include all of its residents’ energy consumption. It was Peter Hogan’s opinion that an attorney
26 reviewing the proposed goals would argue that any new building in Town would have to
27 implement the proposed actions. Bill Morrissey, Energy Commission, noted that would have to
28 be done through an ordinance. Peter Hogan pointed out that the Master Plan was used for the
29 basis of the creation of ordinances. Bill Morrissey, Energy Commission, stated that the Master
30 Plan was to be used as a guide. Peter Hogan stated that the Master Plan empowered people to
31 come up with ordinances because “the Master Plan says this is something you should
32 implement”, and for that reason he was adamant about not approving the 80% reduction of
33 carbon emissions goal. Bill Morrissey, Energy Commission, agreed with Peter Hogan about not
34 approving the specific reduction of carbon emissions by 80%; however, he questioned why the
35 Board would not accept a goal reducing greenhouse gases. Peter Hogan answered that an
36 ordinance would be drafted that was guided by Master Plan and the argument would be made
37 that the Planning Board needed to adopt the ordinance because things that were in the Master
38 Plan needed to be implemented. Bill Morrissey, Energy Commission, agreed that hard and fast
39 numbers were difficult and burdensome to implement; however, he did not agree with Peter
40 Hogan’s position that reducing greenhouse gases for buildings should not be a goal in the energy
41 chapter. Bill Morrissey, Energy Commission, stated that the Master Plan stated that the Town
42 needed to maintain historical and scenic aspects of the Town and he questioned if he would be
43 pursued by an attorney if he did something that was not scenic. Mark Suennen answered yes and

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3 cited instances where trees in Town were not allowed to be cut down because they existed on
4 scenic roadways as defined by local and State Regulations that were derived from Master Plan
5 ideals.

6 Cathy Morrissey, Energy Commission, asked for the Board to suggest proposed goals.
7 Mark Suennen suggested that one goal could be “reduce municipal energy costs”. He added that
8 the Board would be looking to the Commission for their guidance on what would be a feasible
9 amount and time frame to reach that goal. Susan Carr, Energy Commission, pointed out that
10 lower costs could create worrisome conditions in cases where safety is an issue , i.e., utilization
11 of cheaper tires for Highway Department vehicles. Peter Hogan disagreed with the role of the
12 Commission and stated that it was their job to inform the Board of the life cycle of the tire and
13 how much it would cost to roll it down the road for the 30,000 miles that they would be used.
14 Susan Carr, Energy Commission, stated that it was her understanding that the Board was in
15 agreement with regard to lowering energy consumption. Peter Hogan agreed with Susan Carr’s
16 statement and added that they also wanted to lower costs.

17 Jillian Harris, SNHPC, suggested using a general goal of reducing energy consumption
18 and energy costs as an alternative to using certain percentages and amounts. Peter Hogan
19 thought that the Board was in favor of Jillian Harris’ suggestion.

20 David Litwinovich asked if any of the other Energy Commission’s proposed goals
21 painted the Town into a corner. Mark Suennen answered that he did not support the goal “...to
22 implement actions with accordance with the mission”.

23 Jillian Harris, SNHPC, asked if the Board supported the Energy Commission’s proposed
24 goal “to increase community awareness and participation in energy and environmental issues”.
25 Peter Hogan commented that he did not have a problem with the aforementioned proposed goal.
26 Mark Suennen also did not have a problem with the proposed goal and suggested adding the
27 language “to increase through education”. Christine Quirk instead suggested amending the
28 second proposed goal to read as follows, “to advise and educate in accordance with the mission”.

29 David Litwinovich asked if the proposed goal “to decrease energy expenditures, fossil
30 fuel consumption and associated pollution” forced the Town to prove the decrease on an annual
31 basis. Jillian Harris, SNHPC, pointed out that the goal did not specify a need for a review on an
32 annual basis. Bill Morrissey, Energy Commission, stated that he would like to see numbers
33 associated with the decrease in energy. Cathy Morrissey, Energy Commission, questioned if the
34 price of oil rose to \$300.00 a barrel. Mark Suennen answered that a cost-benefit analysis should
35 be completed to determine whether or not it would be cheaper to spend \$300.00 a gallon for oil
36 or would it be cheaper to replace the furnace using an alternative fuel source. Cathy Morrissey,
37 Energy Commission, pointed out that if the cost of energy was raised the Town may be unable to
38 meet the goal of reducing costs and, therefore, the goal should focus on decreasing usage rather
39 than cost. Peter Hogan asked if the Commission preferred the Town switch to a system that did
40 not release any carbon emission even though it may cost ten times more than the hypothetical oil
41 at \$300.00 per gallon. He added that the Commission was asking the Board to commit to
42 something that they did not know. He asked if what options the Town had if the energy cost did
43 rise. Mark Suennen suggested replacing the Energy Commission’s proposed goal “to decrease

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3 energy expenditures, fossil fuel consumption and associated pollution” with “to consider ways to
4 decrease energy expenditures, fossil fuel consumption and associated pollution”.

5 Bill Morrissey, Energy Commission, disagreed with the Board that the Master Plan could
6 be used as a legally implementable tool and noted that ordinances and/or statutes could be used
7 as legally implementable tools. Peter Hogan commented that the Master Plan was the basis for
8 ordinances and regulations. Bill Morrissey, Energy Commission, agreed with Peter Hogan that
9 the Master Plan could be used for the basis of ordinances and regulations; however, he noted that
10 the ordinance and/or regulation would not have verbatim language from the Master Plan. He
11 continued that the Master Plan was only a guide for the Town and as such he was unsure why the
12 Board felt that the Town would be legally bound to any of the proposed goals. Peter Hogan
13 stated that he had witnessed the Town being bound to items contained within the Master Plan.
14 Bill Morrissey, Energy Commission, asked for Peter Hogan to provide examples of his previous
15 statement. He continued that he had done master plans for large cities and not one court case had
16 ever used a master plan to issue a decision. Peter Hogan stated that the Board frequently heard
17 the comment “we need this ordinance because this is what is in the Master Plan and the people of
18 New Boston voted on this”. Bill Morrissey, Energy Commission, suggested that Peter Hogan
19 discuss this matter with Town Counsel. Peter Hogan stated that ordinances were created in the
20 spirit of the Master Plan. Bill Morrissey, Energy Commission, pointed out that the Master Plan
21 allowed for the creation of the ordinances. He asked Peter Hogan if he wanted to stop citizens
22 from voting on something that the Master Plan suggested. Peter Hogan answered no and stated
23 that he wanted to “nip it right in the bud”. Bill Morrissey, Energy Commission, asked if it was
24 Peter Hogan’s intention to not even discuss this matter. Peter Hogan stated that the Energy
25 Commission was such a small percentage of the voting Town and he was not willing to put it in
26 the Master Plan. Susan Carr, Energy Commission, stated that she had issues with Peter Hogan’s
27 comments. She explained that the Town had passed three Warrant Articles relative to this matter
28 and it was hard for her to hear that they were insignificant.

29 Susan Carr, Energy Commission, asked for the proposed goals that the Planning Board
30 approved of to be restated. Jillian Harris, SNHPC, read the following proposed goals:

- 31
- 32 • Reduce municipal energy costs by reducing energy consumption;
 - 33 • Increase community awareness, advise and educate; and,
 - 34 • Consider ways to decrease energy expenditures and fossil fuels consumption and
35 associated pollution.

36 Peter Hogan noted that the energy consumption cited in the goals was relative to energy
37 consumption that was paid for by the Town of New Boston. Bill Morrissey, Energy
38 Commission, commented that Town property and Town buildings should be specified within the
39 goals. Cathy Morrissey, Energy Commission, disagreed with Bill Morrissey as it was not the
40 intention of the Commission to only include Town owned property. Susan Carr, Energy
41 Commission, went on to say that it was her understanding that the Master Plan pertained to all
42 citizens and not only to the Town as a municipality. She continued that when she reviewed the
43 Master Plan she took it to heart that she was part of the Town of New Boston and as such she
should be aware of, care about and support and act upon the goals and objectives that were

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3 contained within it. She stated that the buildings within New Boston were a part of her town and
4 a piece of her world as well as her neighbor's homes and their property, behaviors and land use.
5 Peter Hogan asked if the Commission wanted to reach across what the Town was doing and
6 project their agenda to their neighbors. Susan Carr, Energy Commission, answered that the
7 Master Plan projected the agenda. Peter Hogan commented that Susan Carr, Energy
8 Commission, proved his earlier point with regard to people citing the Master Plan. Bill
9 Morrissey, Energy Commission, pointed out that it was the role of the Planning Board to review
10 the findings of the Energy Commission; however, it did not require that a personal stamp be
11 placed on the finding that stated the Board members did not believe in it. Peter Hogan stated that
12 Bill Morrissey, Energy Commission's, previous comment was his opinion.

13 David Litwinovich did not believe that the Board and the Commission were too far apart
14 with regard to their agreement with the proposed goals. Peter Hogan disagreed with David
15 Litwinovich and stated that his idea of goals for the Town differed from the Commission as he
16 believed consumption of the Town only referred to Town buildings. David Litwinovich stated
17 that as a Town the goal of decreasing expenditures for Town buildings could be worked towards.
18 He also believed that the goal of community awareness involved making the community aware
19 of what they could do personally to reduce their energy use. Mark Suennen added it was
20 important to note that the community "may" do things to reduce energy but they should not be
21 required through the goal by words such as "shall" or "should". Susan Carr, Energy
22 Commission, stated that the Town as a municipality was the model for the Town in general on
23 how to behave and operate. David Litwinovich commented that it was better to lead by example
24 rather than force people. Susan Carr, Energy Commission, stated that the goals could not be met
25 if they did not start somewhere. She noted that she understood the Board's position of not
26 wanting to be bound by numbers and she did not have an issue with their position. She
27 continued that the proposed energy chapter captured in writing good things that were already
28 being done in town.

29 Jillian Harris, SNHPC, asked if the three previously read proposed goals covered
30 everything that the Commission and Board wanted to see in the chapter. Mark Suennen and
31 Peter Hogan stated that they supported the proposed goals.

32 Cathy Morrissey, Energy Commission, asked Jillian Harris, SNHPC, to remind her of the
33 process of creating the energy chapter. Jillian Harris, SNHPC, explained that she would be
34 drafting the chapter that would include the goals, background information and data from building
35 assessments. She continued that recommendations would be formed and be brought before the
36 Planning Board for review and discussion. And finally, she indicated that an action plan would
37 be created to implement the actions.

38 Peter Hogan asked for confirmation that it was no longer the goal to reduce only
39 municipal energy use but it was the agenda of the Commission to reduce municipal and
40 community energy use. He added that originally the goal had been presented as the reduction of
41 municipal use and now it was being expanded to include community energy use. Jillian Harris,
42 SNHPC, noted that the second proposed goal had been amended to cover the community aspect
43 of the chapter.

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11

1 **MASTER PLAN ENERGY CHAPTER GOALS AND OBJECTIVES, cont.**

2
3 Mark Suennen commented that the Energy Commission was tasked with setting its
4 mission, goals and priorities. He continued that the Master Plan was a piece of the
5 Commission's work that interacted with the Planning Board's work.

6
7 **VISTA ROAD, LLC**

8 Public Hearing/Major Subdivision/2 Lots

9 Location: Byam Road & River Road (Route 13)

10 Tax Map/Lot #6/40-2

11 Residential-Agricultural "R-A" District

12
13 Present in the audience was Vinnie Iacozzi.

14 The Chairman read the public hearing notice. He noted that the application had been
15 accepted as complete on March 8, 2011, with an original date of May 12, 2011, for Board action.
16 He explained that several adjournments and site walks had taken place and if a decision was not
17 made at this evening's meeting a further extension of the Board's action deadline would be
18 needed.

19 The Chairman stated that a few outstanding issues needed to be addressed. He advised
20 that the sample warranty deeds required minor changes with regard to the bearings and distances.
21 He also noted that PRLAC had failed to submit written comments to the Board with regard to
22 this subdivision and the Board would not be seeking further comment.

23 The Chairman indicated that a site walk had been conducted on June 30, 2011. He stated
24 that the site had been marked and laid out.

25 The Chairman stated that at the previous hearing the Board had decided that an
26 Environmental Impact Study was required; he noted that the Study had not been submitted.
27 Vinnie Iacozzi requested that the Board reconsider his waiver request. He explained that after he
28 began going through the requirements for the Environmental Impact Study he discovered that all
29 of the required information was already in the Town's possession. He stated that he brought the
30 information with him which included complete drainage studies for the entire 110 acres, the
31 wetlands approval, the wildlife study and all of the impact studies. He added that the
32 aforementioned information had been submitted beginning in 2004 through 2007. He went on to
33 say that the land and the use of the land had not changed in the time since the information had
34 been submitted. He commented that it seemed to be a duplication of effort and a waste of money
35 to resubmit studies that the Town already had in its possession. The Chairman stated that the
36 Board was not concerned with the 110 acres but they were concerned with the area of the
37 driveway where disturbance would take place. He noted that the area in question had not been
38 part of the plans in 2004 and as such could not have been addressed. Vinnie Iacozzi noted that
39 the previous plans were for a 50' road that was proposed in the same path as the currently
40 proposed driveway. He pointed out that thousands of dollars had been spent in engineering, soil
41 analysis, drainage reports and wildlife studies for the originally proposed 50' road. He added
42 that the proposed road had been shrunk to a 20' driveway crossing and the inherent aspects of the
43 roadway were far less than what had previously been approved.

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1 **VISTA ROAD, LLC, cont.**

2
3 The Chairman asked the Board if the applicant were to submit, or point to sections of
4 documents, that included information regarding the appropriate sections of what had been
5 originally proposed as a 50' road, would that suffice? Peter Hogan asked if the originally
6 proposed 50' road was off River Road as he remembered it coming off Byam Road. Vinnie
7 Iacozzi answered that the original proposed road had been submitted prior to acquiring the Byam
8 Road driveway. He showed the Board the original plan and pointed out the location of the
9 proposed driveway. Peter Hogan and Christine Quirk commented that the plan had not been
10 approved.

11 The Chairman asked if an Environmental Impact Study had been completed for the
12 originally proposed 50' road. Vinnie Iacozzi answered that he had not looked through all of the
13 information but he believed that all of the impacts, i.e., crossings and ponds were included. He
14 noted that he had filled out a freedom of information form with the State and would not be able
15 to get the wildlife information until Thursday or Friday. He continued that he did have test pits
16 and impact information that had been submitted to DES in 2004 and 2005.

17 Mark Suennen asked for confirmation that the applicant believed that Board should
18 accept the environmental work that had previously been completed for the 50' roadway as the
19 Environmental Impact Study for the proposed driveway. Vinnie Iacozzi confirmed Mark
20 Suennen's statement and further explained that the engineering would not change. Mark
21 Suennen commented that the applicant had made a valid argument and he requested that the
22 information be resubmitted to be part of the record for the current subdivision. He added that he
23 believed the information would provide an effective Environmental Impact Study; however, he
24 noted that he would not be able to approve it without the information. Vinnie Iacozzi stated that
25 he would submit the information that he had with him this evening and would submit the
26 remaining information from DES by Friday. Mark Suennen stated that Vinnie Iacozzi could
27 resubmit his data as an Environmental Impact Analysis, asserting that the whole analysis of the
28 lot would include pertinent data to be picked out relative to the site currently in question. He
29 further stated that the Board reserved the right to request more information if they felt the
30 submitted information was insufficient. The Board agreed with Mark Suennen.

31 The Chairman seated David Litwinovich as a full voting member in Don Duhaime's
32 absence.

33 The Chairman requested that the applicant include a letter with the information to be
34 submitted that stated his reasoning that explained why it sufficiently served as an Environmental
35 Impact Study.

36 Vinnie Iacozzi asked if the back lot required a site plan. He noted that it was currently a
37 48 acre lot that could have one home on it and no septic design had been prepared and the house
38 site had not been established. Mark Suennen stated that the lot had to be proved to meet all the
39 regulations.

40 The Chairman advised that Mark Suennen had previously recommended that active and
41 substantial improvement be defined as the cut for the second driveway and substantial
42 completion be defined as the installation of the culvert. The Board agreed with Mark Suennen's
43 recommendations.

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13

1 **VISTA ROAD, LLC, cont.**

2
3 The Chairman stated that the remaining outstanding issue was relative to the ISWMP.
4 He noted that the applicant should assess the need for an ISWMP based on whether or not the
5 driveway construction would impact critical areas as defined in the Zoning Ordinance and
6 Subdivision Regulations. He asked the applicant if an ISWMP had been part of the application.
7 Vinnie Iacozzi answered no and pointed out that Note #10 on the plan stated the following, “an
8 ISWMP was not required at the time of subdivision based on Subdivision Regulations, V-U, C,
9 4. The ISWMP is required at the time of the building permit application...”. The Chairman
10 stated that the Coordinator needed a moment to review the note.

11 Mark Suennen believed that the Board needed to review the materials to be submitted for
12 the Environmental Impact Study because during the site walk he had observed the potential for
13 four of the critical areas listed in the regulations. He noted that specifically he wanted to review
14 the engineer’s environmental assessments to determine if critical areas existed. He went on to
15 say that if the critical areas did exist he believed an ISWMP was required. Vinnie Iacozzi
16 pointed out that if an ISWMP was required it would only be a theoretical one as final use had not
17 been determined, i.e., size of house, size of the area to be covered. Mark Suennen clarified that
18 he was specifically referring to an ISWMP for the driveway and added that it needed to be
19 amended when the house size, shape and location was determined.

20 The Coordinator advised that the note previously referred to on the plan was in reference
21 to lots that showed a suitable building envelope of 0.5 acres or more and building would not
22 disturb critical areas. She continued that the applicant had to submit an ISWMP for any lot being
23 developed or subdivided when one or more of the following conditions were proposed: disturbed
24 critical areas. She stated that she had discussed this matter with Jason Lopez and had explained
25 that a driveway to a back lot, by definition, disturbed a critical area because it was within 20’ of
26 a side lot line. She added that during the discussion it had been decided that Jason Lopez was
27 going to verify whether or not an ISWMP was needed. She advised that ISWMPs were always
28 needed for driveways to back lots.

29 The Chairman stated that if the hearing was adjourned to the next scheduled meeting the
30 applicant should have plenty of time to submit the Environmental Impact Study with cover letter
31 and the ISWMP for the construction of the driveway. He asked for further comments or
32 questions. Mark Suennen asked for clarification with regard to PRLAC no longer having the
33 opportunity to submit comments. The Chairman clarified that he would no longer be tracking
34 whether or not PRLAC wanted to submit comments. Mark Suennen stated that the PRLAC had
35 been given an opportunity to submit comments and the Board was not going to “chase them
36 down”. The Chairman agreed with Mark Suennen’s statement and added that the Board had
37 asked a couple of times and he felt that was enough.

38 Vinnie Iacozzi stated that he had obtained the CUP for the wetland crossing as well as the
39 State wetland crossing permit. He continued that the typically the ISWMP were filed during
40 construction by his site division. The Chairman reiterated that the ISWMP needed to be
41 submitted and if the ISWMP and the Environmental Impact Study information were submitted
42 by the next hearing the Board should have enough information to come to closure on the
43 subdivision. He added that questions could arise from the information submitted but the Board

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14

1 **VISTA ROAD, LLC, cont.**

2
3 should not be looking for further information to be submitted.

4 The Chairman advised that the next meeting was scheduled for September 13, 2011,
5 making submission of materials due a week in advance of the meeting, September 6, 2011.

6
7 Mark Suennen **MOVED** to deny the waiver and request that the applicant submit the
8 materials indicated at this meeting from his 2004 application with a narrative letter as his
9 Environmental Impact Study. Christine Quirk seconded the motion and it **PASSED**
10 unanimously.

11
12 Peter Hogan **MOVED** to adjourn the public hearing of Vista Road, LLC, Byam Road and
13 N.H. Route 13 a/k/a River Road, Tax Map/Lot #6/40-2, Residential-Agricultural "R-A"
14 District, to September 13, 2011, at 7:30 p.m. Mark Suennen seconded the motion and it
15 **PASSED** unanimously.

16
17 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
18 **August 9, 2010**

- 19
20 1. Distribution of June 28, 2011, minutes, for approval at the meeting of September 13,
21 2011, distributed by email.

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

- 25
26 2. Approval of the May 24, 2011, minutes, distributed by email.

27
28 The Chairman noted that a clarification had been made with regard to his question
29 regarding a statement he had made during the above-referenced meeting. He explained that he
30 did not say what he believed he had said and as such he withdrew his request for clarification.

31
32 Mark Suennen **MOVED** to approve the minutes of May 24, 2011, as written. Peter
33 Hogan seconded the motion and it **PASSED** unanimously.

- 34
35 3. Approval of the June 14, 2011, minutes, distributed by email.

36
37 Mark Suennen **MOVED** to approve the minutes of June 14, 2011, as written. Christine
38 Quirk seconded the motion and it **PASSED** unanimously.

- 39
40 4. Letter received July 13, 2011, from Kenneth J. Kozyra, KJK Wireless, to New Boston
41 Planning Board, re: Cell Tower Compliance, Tax Map/Lot #6/33, Thompson Lane,
42 request for an extension to the conditions subsequent date of June 15, 2011, to September
43 15, 2011, for the Board's action.

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15

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 The Chairman stated that the applicant wanted to do more work relative to site
4 stabilization. The Planning Assistant advised that she had met with the site contractor at the site
5 and he believed that the stabilization should be addressed by the site owner. She continued that
6 the site contractor was going to contact the site owner to determine if the owner would be willing
7 to contribute to the repairs. She added that the site contractor understood that the repairs needed
8 to be completed.

9 David Litwinovich advised that he had visited the site the previous Sunday and eleven of
10 thirty trees at the site were dead. He continued that it appeared that six additional trees would
11 not survive. The Coordinator stated that she would pass the information along to the applicant.

12
13 Mark Suennen **MOVED** to extend the conditions subsequent date to September 15, 2011,
14 with David Litwinovich's note forwarded to the site owner and site contractor. Christine
15 Quirk seconded the motion and it **PASSED** unanimously.

- 16
17 8. Letter copy received July 18, 2011, from Dwight D. Sowerby, Esquire, Drescher &
18 Dokmo, P.A., to Mr. Al Lindquist, re: 236 Meadow Road, for the Board's information.

19
20 The Chairman acknowledged receipt of the above-referenced matter; no discussion
21 occurred.

- 22
23 9. Daily road inspection reports dated June 16, 17, 21, and 22, 2011, from Northpoint
24 Engineering, LLC, re: Karen M. Morin Revocable Trust, for the Board's information.

25
26 The Chairman acknowledged receipt of the above-referenced matter; no discussion
27 occurred.

- 28
29 10. Letter with boundary plan attachment received July 25, 2011, from Jane Perron, Todd
30 Land Use Consultants, LLC, to New Boston Planning Board, re: Boundary Plat, Land of
31 Mark D. & Rhonda S. Luedke, Tax Map/Lot #11/23, for the Board's information.

32
33 The Chairman acknowledged receipt of the above-referenced matter; no discussion
34 occurred.

- 35
36 11. Article, titled: Condominiums and Land Use Controls, By David R. Connell, Legal
37 Services Counsel with the New Hampshire Local Government Center's Legal Services
38 and Government Affairs Department, from the New Hampshire Town & City
39 July/August 2011, edition, for the Board's information.

40
41 The Chairman acknowledged receipt of the above-referenced matter; no discussion
42 occurred.

43

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16

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 12. Email received July 28, 2011, re: No OEP Fall Conference this year, for the Board's
4 information.

5
6 The Chairman acknowledged receipt of the above-referenced matter; no discussion
7 occurred.

8
9 14. Letter copy received June 30, 2011, from NHDES, to Craig Heafield, re: Wetlands File
10 #2010-01087: Gravel Operation, Tax Map/Lot #6/16, for the Board's information.

11
12 The Chairman acknowledged receipt of the above-referenced matter; no discussion
13 occurred.

14
15 15. Memorandum dated July 27, 2011, from Shannon Silver, Planning Board Assistant to
16 Stuart Lewin, Planning Board, re: Start-Up of 2012 -2017 Capital Improvements Plan
17 Process and distribution of Town of New Boston, Capital Improvements Program Policy
18 & Procedures Handbook, Adopted June 28, 2011, for the Board's information.

19
20 The Chairman acknowledged receipt of the above-referenced matter; no discussion
21 occurred.

22
23 16. Letter received August 2, 2011, from Brian K. Rose, AICP, Town Planner, Town of
24 Goffstown, to Town of New Boston, re: Public Hearing/Woodland Trust and Placid
25 Woods, Regional Impact Notification, for the Board's information.

26
27 The Chairman acknowledged receipt of the above-referenced matter; no discussion
28 occurred.

29
30 **HEAFIELD, CRAIG E. & CRYSTAL L.**

31 Submission of an Earth Removal Application/Public Hearing

32 Location: 722 River Road

33 Tax Map/Lot #6/22

34 Small Scale Planned Commercial District "Com" District

35
36 Present in the audience were Craig Heafield, David Mann, Jerri Stanford, Jay Marden,
37 Skip Gomes, Ed Colburn, Sue Tingley and Susie Frost.

38 The Chairman read the public hearing notice. He thanked the applicant for volunteering
39 to be the first applicant to go through the process. He noted that the application form had been
40 signed and submitted July 6, 2011. He stated that waivers for the Traffic and Environmental
41 Impact Study had been submitted. He advised that all items required for a completed application
42 had been submitted.

43 The Chairman stated that the applicant had an insurance bond in the amount of

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17

1 **HEAFIELD, CRAIG AND CRYSTAL, cont.**

2
3 \$28,000.00 and questioned how the amount had been determined as well as the size of the gravel
4 pit. Craig Heafield answered that the area of disturbance was a little over four acres and the
5 bond was originally obtained for four acres. The Chairman noted that the old Selectman rate for
6 calculating bonds was \$7,000.00 per acre. Christine Quirk advised that the rate had been
7 lowered. The Chairman stated that the new rate was \$3,500.00 per acre. Mark Suennen asked
8 the applicant if he wanted to reduce the bond amount. Craig Heafield advised that he did not
9 have a problem with the current bond amount.

10 The Chairman advised that as part of the State statute an ending date had to be attached to
11 an Earth Removal Permit; he asked the applicant for an ending date. Craig Heafield answered
12 that he would like to have an ending date for the maximum allowable and added that he preferred
13 to have an ending date of "the life of pit". He asked the Board what they believed was a realistic
14 date. Mark Suennen asked how often the AOT Permit needed to be renewed. Craig Heafield
15 answered that the AOT Permit was valid for the life of the pit and amendments had to be made
16 every five years. Mark Suennen suggested making the ending date every ten years. Craig
17 Heafield pointed out that the Planning Office would receive a copy of the information every five
18 years. Mark Suennen stated that he could simply amend the end date every ten years. Craig
19 Heafield questioned if he would be required to go through public hearings for the amendment to
20 the end date. The Coordinator answered yes as there was no renewal process and it would be a
21 new process each time. The Chairman suggested an ending date of 50 years. Christine Quirk
22 stated that the State rented out some of their property for 99 years. Mark Suennen asked for an
23 approximation of how much material was left in the applicant's pit. Craig Heafield answered
24 that approximately 500,000 yards of material remained in his pit. Mark Suennen asked the
25 applicant to advise how much material was typically removed on an annual basis. Craig
26 Heafield answered that typically 10 yards of material were removed. Mark Suennen commented
27 that based on an annual removal of 10 yards of material, 50 years for an end date seemed
28 reasonable. The Chairman stated that an end date of December 31, 2061, would be entered for
29 the end date of the pit.

30 The Chairman indicated that the applicant had met all the other requirements on the
31 application form and asked the Board if any additional requirements were needed. Mark
32 Suennen commented that the applicant had been in good standing with the Town for several
33 years and he did not believe additional requirements were necessary.

34 It was the consensus of the Board was that a site walk was not necessary.
35

36 Peter Hogan **MOVED** to approve the Environmental and Traffic Impact Study waivers
37 for Craig Heafield, 722 River Road, Tax Map/Lot #6/22. Christine Quirk seconded the
38 motion. **DISCUSSION:** Mark Suennen commented that the requirement for the
39 Environmental Impact Study and Traffic Impact Study posed an unnecessary hardship on
40 the applicant as he had been required to complete substantial paperwork for his AOT
41 Permit. He continued that the material submitted for this application was accepted in lieu
42 of the Traffic Impact Study as the applicant was very clear about what vehicles and travel
43 paths would be used. The motion **PASSED** unanimously.

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18

1 **HEAFIELD, CRAIG AND CRYSTAL, cont.**

2
3 The Chairman asked for further questions or comments from the Board; there were no
4 questions or comments.

5 The Chairman provided the applicant with a copy of the Conditions Precedent and
6 Subsequent for his review; Craig Heafield reviewed the Conditions Precedent and Subsequent.

7
8 Peter Hogan **MOVED** to approve the Earth Removal Application with associated plans
9 entitled "Site Plan of Existing Gravel Pit/Reclamation, Tax Map #6, Tax Lot #22, River
10 Road (Rte 13), New Boston Hillsborough County, Prepared for Craig Heafield, March
11 20, 2007," most recently revised June 24, 2011, along with a two-page document entitled
12 "Craig Heafield's Site Plan, River Road (RTE 13), New Boston, Tax Map #6, Lot #22,
13 July 2011", a section copy of the site plan indicating the elevation of the highest annual
14 average groundwater table, and a hand drawn sketch entitled "Typical Reclamation and
15 Slope Cross Section, Maximum slope 3 to 1", said additional information to be attached
16 to and considered part of the approved plans, and to grant an Earth Removal Permit, to
17 include the site specific items discussed at this hearing, subject to:

18
19 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 20 1. Prior to the granting of any permit, or to the removal of any topsoil or other
21 overburden material from a new area within an existing excavation site, the
22 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
23 as determined by the Regulator. The purposes of the bond are to guarantee
24 reclamation of the area and compliance with the permit. The surety must be
25 phased to coincide with the phasing of work, in an amount sufficient to guarantee
26 reclamation of the applicable section, to be released as sections are completed.
27 Prior to a new section being opened, new securities shall be posted. The surety
28 shall not be released until the Regulator is satisfied that all conditions of the site
29 reclamation plan have been complied with. This shall be determined at a final site
30 walk by the Regulator and/or its designee.
31 Additionally, if a bond or security is already in place, the applicant is responsible
32 for keeping said security up-to-date and submitting riders, renewals, or other
33 documentation to the Planning Board as proof that the bond or security is in place.
- 34 2. Amendments and Renewals
35 Permit holders wishing to alter the size or location of the excavation, the rate of
36 removal or the plan for reclamation shall apply for a renewal or amendment,
37 following the same procedures as those required for the original excavation
38 permit.
- 39 3. The Earth Removal permit is not transferable without the prior written consent of
40 the Regulator.
- 41 4. A copy of the Earth Removal permit shall be prominently displayed at the site or
42 the principal access to the site.
- 43 5. Inspections

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1 **HEAFIELD, CRAIG AND CRYSTAL, cont.**

2
3 The Regulator or its designee may make periodic inspections, minimally on an
4 annual basis, of all excavation sites, both permitted and exempt, to determine if
5 the operations are in conformance with the New Boston Earth Removal
6 Regulations and the approved plans.

7 6. Hours of operation

8 Start up time for all machinery associated with an Earth Removal Operation shall
9 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
10 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
11 loading and removal of material from the site shall begin no earlier than 7:00
12 a.m.; termination of removal of material from the site shall be no later than 5:00
13 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
14 shut down by 5:00 p.m. These operating hours shall be for Monday through
15 Saturday.

16 No operation shall take place on Sundays and major Federal holidays, as follows:
17 New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and
18 Christmas; provided, however, that access on Sundays and holidays is permitted
19 in the event of a town-wide emergency situation requiring use of material or
20 equipment, for example, flooding situations, ice storms, major blizzards.

21 7. Maximum Excavation Limit

22 Final excavation grade shall be not less than four feet to documented seasonal
23 high water table, provided, however, that pursuant to RSA 155-E:11,II, an
24 exception shall be granted if the application demonstrates to the Regulator's
25 satisfaction that excavation below this height will not adversely affect water
26 quality. The Regulator reserves the right to have an outside review of the
27 information submitted as part of any proposal to excavate within four feet of the
28 documented seasonal high water table, at the Applicant's expense. Written notice
29 of such an exception shall be recorded in the Hillsborough County Registry of
30 Deeds at the Applicant's expense, and one copy shall be filed with the New
31 Hampshire Department of Environmental Services.

32 8. Waste Disposal

33 No disposal of any waste material, including solid and/or hazardous waste,
34 septage, dredge spoils, or refuse shall be undertaken on the site without
35 appropriate State approval under RSA 149:M, or other appropriate State
36 regulations.

37 9. Tree cutting

38 The applicable state statutes pertaining to forestry practice and timber harvesting
39 shall apply to the removal of vegetative cover at excavation sites.

40 10. Stopping of Removal/Excavation Operations

41 If removal/excavation operations stop for more than one year with no notice
42 thereof provided to the Regulator and said stoppage is not in accordance with the
43 approved excavation plan or due to bad weather, the excavation permit may be

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20

1 **HEAFIELD, CRAIG AND CRYSTAL, cont.**

2
3 revoked and the performance bond forfeited with its proceeds used for reclaiming
4 the land in accordance with the approved reclamation plan.

- 5 11. Applicant shall submit one copy of any plans or reports that are approved by the
6 NH DES Alteration of Terrain Bureau within 30 days of said approval.

7
8 **SITE SPECIFIC PERMIT CONDITIONS:**

- 9 A. Approved routes for transportation of material
10 Route 13 (River Road) North & South.
- 11 B. Number and type of vehicles to be used to transport material
12 6 wheel, 10 wheel, triaxle, 18 wheel dumps, average 20 trips per day.
- 13 C. Equipment to be used for material removal
14 Front-end loaders, excavators.
- 15 D. Requirements for material processing
16 Screening and sizing of topsoil and fill material at any location in pit area daily or
17 as needed. Crushing of oversized stone and asphalt/concrete pile 1-2 weeks per
18 year at rear of pit area.
- 19 E. Requirements for temporary stockpiling of offsite materials
20 Topsoil and compost materials to be taken in and blended to existing topsoil
21 stockpiles, processed for reclamation and excess to be removed from site. Sand,
22 gravel, fill, stone to be incorporated into onsite stockpiles, processed and hauled
23 out. Asphalt, concrete to be stockpiled to crush and haul out. Wood chips and
24 stump grindings to be stockpiled for use in reclamation and excess hauled out.
25 Erosion control measures noted on plan.
- 26 F. Required plantings for reclamation
27 Plans show typical details for loam and seeding.
- 28 G. Other requirements
29 None

30
31 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
32 Removal Operation is no longer in compliance with the New Boston Earth Removal
33 Regulations; or, until such time as the operation shall be deemed to be abandoned as
34 defined in the Earth Removal Regulations; or, until such time as the owner informs the
35 Regulator that they will no longer be running the Earth Removal Operation; or, until such
36 time as the operation is depleted; or, until the completion date as determined by the
37 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
38 **December 31, 2061**, whichever first occurs.

39 Mark Suennen seconded the motion and it **PASSED** unanimously.

40
41
42
43

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21

1 **TINGLEY FAMILY TRUST (OWNER)**
2 **GOMES, AUGUST J. III (APPLICANT)**
3 Submission of an Earth Removal Application/Public Hearing
4 Location: Mont Vernon Road
5 Tax Map/Lot #8/106
6 Residential-Agricultural "R-A" District
7

8 Present in the audience were David Mann, Jerri Stanford, Jay Marden, Skip Gomes,
9 Ed Colburn, Sue Tingley, Susie Frost and Heidi Palmer.

10 The Chairman read the public hearing notice. He indicated that the application form had
11 been completed and signed on July 11, 2011. He noted that waivers had been submitted for the
12 Environmental and Traffic Impact Studies. He advised that there were outstanding fees for Sue
13 Tingley's share of the cost of the newspaper notice for this hearing and the permit fee of
14 \$50.00; Sue Tingley submitted the outstanding fees. The Chairman advised that all required
15 items had been submitted for the application and final approval.

16 The Chairman asked for confirmation that the temporary stockpiling of off-site materials
17 as shown on the plan was for the applicant's use and not retail. Skip Gomes confirmed that the
18 material was for his use and not retail.

19 The Chairman noted that the plans contained a "future phase" and advised the need for
20 new permit for the possible future phase.

21 The Chairman advised that the gravel pit existed within the Town's Groundwater
22 Protection Resources Conservation District and the Board needed to decide whether or not to
23 require the applicant to obtain a CUP. He noted that based on information provided to the Board
24 it did not appear that a CUP was necessary.

25
26 Mark Suennen **MOVED** that there was no need for a Groundwater Protection Resources
27 Conservation District Conditional Use Permit. Peter Hogan seconded the motion and it
28 **PASSED** unanimously.
29

30 The Chairman noted that existing access to the gravel pit was on a sharp corner on
31 Hogback. He continued that a driveway plan had been prepared and submitted to NH DOT in
32 2009 that showed a proposed alternate location for the access to the property. The Coordinator
33 informed the applicants that they would need to assess the need for a Dredge and Fill Permit and
34 CUP at the time the alternate location would be used because the proposed location crossed a
35 perennial stream.

36 The Chairman asked for the size of the gravel pit. Sue Tingley answered that the pit was
37 2 acres. The Chairman stated that at the current rate of \$3,500.00 per acre a bond in the amount
38 of \$7,000.00 was required. Sue Tingley questioned the rate the Chairman cited and explained
39 that she had been provided a quote for hydro-seeding in the amount of \$968.00 and another in
40 the amount of \$1,100.00. She further explained that the previous bond for \$2,200 was based on
41 the rate of \$1,100.00 per acre. The Chairman pointed out that the original bond of \$2,200.00 had
42 been provided in 2004 and questioned where cost changes needed to be considered. Peter Hogan
43 believed that hydro-seeding was only part of the process and he explained that if the pit was

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22

1 **TINGLEY FAMILY TRUST, cont.**

2
3 stripped down to sand, loam would also be needed. Sue Tingley disagreed with Peter Hogan and
4 explained that the DOT had advised that the cost was \$80.00 per acre to hydro-seed and loam
5 was not necessary. Christine Quirk and Mark Suennen agreed with Sue Tingley.

6 Peter Hogan and the Chairman agreed that based on the applicant's calculations, the
7 current rate used and up-to-date fuel costs a per acre amount of \$1,500.00, resulting in a bond of
8 \$3,000.00, was reasonable. The applicant agreed to the change to the bond.

9 The Chairman advised that as part of State statute an ending date had to be attached to the
10 Earth Removal Permit. He continued that the plans envisioned the pit being depleted within the
11 next five to ten years. He asked the applicant if an ending date of ten years was agreeable. Sue
12 Tingley responded that she would like to have an ending date of 2061 as had been done at the
13 Heafield public hearing. Mark Suennen suggested that the end date be calculated in the same
14 way that Mr. Heafield's gravel pit end date had been calculated. He asked the applicant how
15 much material was left in the pit. Ed Colburn answered 200,000 yards remained in the pit.
16 Mark Suennen asked how much material was removed on an annual basis. Skip Gomes
17 answered that not more than 3,000 yards had been removed from the pit during the last few
18 years. Mark Suennen asked with the exclusion of the last few years, how much material was
19 typically removed. Skip Gomes noted that he could not answer the question as he had not
20 operated the pit during the time frame that Mark Suennen had referred to. Susie Frost stated that
21 at a rate of 5,000 yards a year an end date of forty years could be used, 2051. Mark Suennen
22 stated that he would be comfortable using an end date of 2051. The Chairman entered an end
23 date for the gravel pit of December 31, 2051.

24 The Chairman noted that the proposed transportation routes would be north or south on
25 NH Route 13. He noted that the number and type of vehicles to be used to transport material
26 were variable numbers of trucks and trailers. He indicated that that in Note 2 "the trucks will be
27 dump trucks and trailer dumps hauling from the pit in undetermined numbers to meet market
28 demands". Mark Suennen asked for the size of the trucks to be provided. Skip Gomes answered
29 that most trucks were tri-axle. Mark Suennen clarified that typically the applicant used tri-axle
30 vehicles but was remained open to trailer dumps should the need arise. Skip Gomes agreed with
31 Mark Suennen's statement.

32 It was the consensus of the Board that a site walk was not necessary.

33 The Chairman stated that the applicant had represented on the application that the
34 maximum number of daily trips was 100. He noted that the gravel pit was open for ten hours per
35 day and at 100 trips would mean that ten trucks would be sent out every hour or one truck every
36 six minutes. He commented that 100 daily trips seemed excessive. Ed Colburn stated that
37 100 daily trips was the highest number he could conceive happening. The Chairman stated that
38 he had trouble approving an operation that was able to conduct 100 daily trips. Mark Suennen
39 asked how many trips could be done on a "typical good day". Skip Gomes answered
40 fifty or sixty trucks and/or trips. Mark Suennen noted that fifty trips would equal 100 trips as
41 each trip accounted for one trip into the pit and one trip out. The Board agreed to leave the
42 maximum of 100 daily trips as it was written.

43

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23

1 **TINGLEY FAMILY TRUST, cont.**

2
3 Peter Hogan **MOVED** to grant the waiver requests for the Environmental and Traffic
4 Impact Studies for the Tingley Family Trust, Location: Mont Vernon Road, Tax Map/Lot
5 #8/106, Residential-Agricultural District "R-A". Christine Quirk seconded the motion.
6 **DISCUSSION:** Mark Suennen requested that an amendment be made to the motion to
7 add the following language, "strict conformity to our regulations would pose an
8 unnecessary hardship on the environmental side as the applicant has already had to
9 submit an AOT application and approval and that his definition of trip travel and trips out
10 of his driveway can constitute for us the traffic analysis." Peter Hogan added Mark
11 Suennen's amendment to his motion. Christine Quirk seconded the motion and it
12 **PASSED** unanimously.
13

14 The Chairman noted that the security amount needed to be increased and would remain as
15 a Condition Precedent. He asked the applicant how long it would take to have the bond
16 increased from \$2,200.00 to \$3,000.00. Sue Tingley stated that she should be able to go to the
17 bank on the following day; however, she noted that the bond money was in a 10 month CD and
18 she was unsure about the process of adjusting the amount. Christine Quirk believed that Ms.
19 Tingley could pay the Coordinator directly and she could take care of the matter. The Chairman
20 suggested thirty days to complete the increase and the applicant agreed.

21 The Chairman asked for further questions or comments; there were no questions or
22 comments.
23

24 Peter Hogan **MOVED** to approve the Earth Removal Application with associated plans
25 entitled "Excavation Plan, Map 8 Lot 106, Tingley Family Trust, Mont Vernon Road,
26 New Boston, N.H. 03070" dated 7/5/11, and to grant an Earth Removal Permit, to
27 include the site specific items discussed at this hearing, subject to:
28

29 **CONDITION(S) PRECEDENT:**

- 30 1. Submission of correct security amount as determined at this hearing and in the
31 form acceptable to the Board.

32 The deadline for complying with the conditions precedent shall be September 9, 2011,
33 the confirmation of which shall be an administrative act, not requiring further action by
34 the Board. Should compliance not be confirmed by the deadline date, and a written
35 request for extension is not submitted prior to that date, the applicant is hereby put on
36 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
37 the approval.
38

39 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 40 1. Prior to the granting of any permit, or to the removal of any topsoil or other
41 overburden material from a new area within an existing excavation site, the
42 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
43 as determined by the Regulator. The purposes of the bond are to guarantee

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24

1 **TINGLEY FAMILY TRUST, cont.**

2
3 reclamation of the area and compliance with the permit. The surety must be
4 phased to coincide with the phasing of work, in an amount sufficient to guarantee
5 reclamation of the applicable section, to be released as sections are completed.
6 Prior to a new section being opened, new securities shall be posted. The surety
7 shall not be released until the Regulator is satisfied that all conditions of the site
8 reclamation plan have been complied with. This shall be determined at a final site
9 walk by the Regulator and/or its designee. Additionally, if a bond or security is
10 already in place, the applicant is responsible for keeping said security up-to-date
11 and submitting riders, renewals, or other documentation to the Planning Board as
12 proof that the bond or security is in place.

13 2. Amendments and Renewals

14 Permit holders wishing to alter the size or location of the excavation, the rate of
15 removal or the plan for reclamation shall apply for a renewal or amendment,
16 following the same procedures as those required for the original excavation
17 permit.

18 3. The Earth Removal permit is not transferable without the prior written consent of
19 the Regulator.

20 4. A copy of the Earth Removal permit shall be prominently displayed at the site or
21 the principal access to the site.

22 5. Inspections

23 The Regulator or its designee may make periodic inspections, minimally on an
24 annual basis, of all excavation sites, both permitted and exempt, to determine if
25 the operations are in conformance with the New Boston Earth Removal
26 Regulations and the approved plans.

27 6. Hours of operation

28 Start up time for all machinery associated with an Earth Removal Operation shall
29 be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time
30 for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including
31 loading and removal of material from the site shall begin no earlier than 7:00
32 a.m.; termination of removal of material from the site shall be no later than 5:00
33 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be
34 shut down by 5:00 p.m. These operating hours shall be for Monday through
35 Saturday.

36 No operation shall take place on Sundays and major Federal holidays, as follows:
37 New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and
38 Christmas; provided, however, that access on Sundays and holidays is permitted
39 in the event of a town-wide emergency situation requiring use of material or
40 equipment, for example, flooding situations, ice storms, major blizzards.

41 7. Maximum Excavation Limit

42 Final excavation grade shall be not less than four feet to documented seasonal
43 high water table, provided, however, that pursuant to RSA 155-E:11,II, an

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25

1 **TINGLEY FAMILY TRUST, cont.**

2
3 exception shall be granted if the application demonstrates to the Regulator's
4 satisfaction that excavation below this height will not adversely affect water
5 quality. The Regulator reserves the right to have an outside review of the
6 information submitted as part of any proposal to excavate within four feet of the
7 documented seasonal high water table, at the Applicant's expense. Written notice
8 of such an exception shall be recorded in the Hillsborough County Registry of
9 Deeds at the Applicant's expense, and one copy shall be filed with the New
10 Hampshire Department of Environmental Services.

11 8. Waste Disposal

12 No disposal of any waste material, including solid and/or hazardous waste,
13 septage, dredge spoils, or refuse shall be undertaken on the site without
14 appropriate State approval under RSA 149:M, or other appropriate State
15 regulations.

16 9. Tree cutting

17 The applicable state statutes pertaining to forestry practice and timber harvesting
18 shall apply to the removal of vegetative cover at excavation sites.

19 10. Stopping of Removal/Excavation Operations

20 If removal/excavation operations stop for more than one year with no notice
21 thereof provided to the Regulator and said stoppage is not in accordance with the
22 approved excavation plan or due to bad weather, the excavation permit may be
23 revoked and the performance bond forfeited with its proceeds used for reclaiming
24 the land in accordance with the approved reclamation plan.

25 11. Applicant shall submit one copy of any plans or reports that are approved by the
26 NH DES Alteration of Terrain Bureau within 30 days of said approval.

27
28 **SITE SPECIFIC PERMIT CONDITIONS:**

29 A. Approved routes for transportation of material

30 North and South on N.H. Route 13.

31 B. Number and type of vehicles to be used to transport material

32 Dump trucks, triaxles and trailer dumps as needed.

33 C. Equipment to be used for material removal

34 Front-end loaders, excavators, bulldozers, graders, portable crushers and screens,
35 compactors and seeding equipment.

36 D. Requirements for material processing

37 Screen sand and crude loam with portable screen during spring, summer and fall
38 as needed to maintain adequate stockpiles. Screen to be located near active sand
39 face- or crude loam stockpile. Crusher (portable) to be hired during spring,
40 summer and fall to maintain adequate stockpiles. Crusher to be located near active
41 gravel face.

42 E. Requirements for temporary stockpiling of offsite materials

43 Stockpiles of crude loam and fill as shown on excavation plan also cribs of

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26

1 **TINGLEY FAMILY TRUST, cont.**

2
3 various aggregates as shown on plan all to be protected from erosion by surface
4 drainage swales and /or silt fence when appropriate.

- 5 F. Required plantings for reclamation
6 Plans show typical details for loam and seeding.
7 G. Other requirements
8 None
9

10 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
11 Removal Operation is no longer in compliance with the New Boston Earth Removal
12 Regulations; or, until such time as the operation shall be deemed to be abandoned as
13 defined in the Earth Removal Regulations; or, until such time as the owner informs the
14 Regulator that they will no longer be running the Earth Removal Operation; or, until such
15 time as the operation is depleted; or, until the completion date as determined by the
16 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case
17 **December 31, 2051**, whichever first occurs.

18 Mark Suennen seconded the motion and it **PASSED** unanimously.
19

20 Heidi Palmer of Hooper Hill Road identified herself as an abutter to the above-referenced
21 gravel pit and asked for the hours of operation. The Chairman answered 7:00 a.m. to 5:00 p.m.
22 Heidi Palmer stated that she walked at 5:30 a.m. and heard the trucks being loaded. She
23 continued that she was not against the gravel pit operating; however, her husband had been
24 concerned with the slope and she inquired about what was considered an acceptable slope. Skip
25 Gomes answered that a slope of 3:1 was shown on the plan. Christine Quirk believed it was
26 50' from the lot line.

27 Heidi Palmer stated that she was unsure why trucks traveled up Hooper Hill Road when
28 the listed travel route was Route 13 as it was her understanding that commercial vehicles were
29 only allowed to travel on State roadways. Mark Suennen clarified that commercial vehicles were
30 allowed to travel on any roadway open to open travel unless otherwise specifically noted.
31 Christine Quirk added that many years ago a study had been done with regard to trucks traveling
32 on Hooper Hill Road. She explained that the matter had been studied and the Selectmen had
33 decided not to prohibit travel of commercial vehicles on Hooper Hill Road. Heidi Palmer
34 pointed out that as a result of the commercial vehicle traffic on Hooper Hill there was damage to
35 the roadway and the taxpayers were paying for the repairs. She added that Hooper Hill Road
36 was in deplorable shape. She further added that Hooper Hill Road was a scenic roadway. Sue
37 Tingley stated that driving trucks up Hooper Hill Road put tremendous strain on the trucks.

38 The Chairman referred Heidi Palmer to Ed Hunter, Code Enforcement Officer, with
39 regard to her concern with the gravel pit operating outside of the permitted hours of operation.
40 Mark Suennen pointed out that during cold weather months the trucks could be started at 6:45
41 a.m.; however, loading was not permitted until 7:00 a.m.

42 The Chairman asked Heidi Palmer to advise the Board of her concern with regard to the
43 slope. Heidi Palmer asked if some kind of justification of the slope be done so that it does not go

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27

1 **TINGLEY FAMILY TRUST, cont.**

2
3 over the grade during excavation. The Chairman asked the applicant if he had conformed to the
4 3:1 slope contained within the plan. Skip Gomes answered that he was slowly reclaiming and
5 the slope of the working face was legal. The Chairman asked if the slope was 50' from the
6 property line. Skip Gomes answered yes. The Chairman informed Heidi Palmer that her
7 concern with the slope should be addressed with Ed Hunter, Code Enforcement Officer, and/or
8 the State DES as the applicant was also permitted to operate under an AOT Permit.

9 Heidi Palmer asked what the application before the Board was for as the gravel pit had
10 been in operation for years. The Chairman explained that the State changed the laws regarding
11 the permit process and the Town had changed the way the permits were handled in accordance
12 with the law. He noted that instead of the Board of Selectmen handling the gravel pit permits the
13 Planning Board was named the Regulator. He continued that a process had been put in place
14 that required all of the gravel pits to reapply for their permits. Mark Suennen pointed out that all
15 of the gravel pits that were reapplying before the Board currently had active and approved State
16 AOT Permits.

17 Heidi Palmer stated that it was her understanding that the gravel pit owners dictated the
18 routes of the trucks. The Chairman clarified that for permitting purposes the Board only required
19 that the exit and entrance routes be approved. He noted that the this issue should be addressed
20 with the Board of Selectmen rather than the Planning Board. Heidi Palmer noted that she did not
21 have any objections to the pit.

22 The Chairman asked if Heidi Palmer had any further questions or comments; Heidi
23 Palmer did not have any further questions or comments.

24
25 **TINGLEY FAMILY TRUST (OWNER)**

26 **GOMES, AUGUST J. III (APPLICANT)**

27 Submission of an Earth Removal Application/Public Hearing

28 Location: Mont Vernon Road

29 Tax Map/Lot #8/107

30 Residential-Agricultural "R-A" District

31
32 Present in the audience was Ed Colburn, Skip Gomes, Sue Tingley, Susie Frost, Rick
33 Kohler, David Mann, Jerri Stanford, Jay Marden and Heidi Palmer.

34 The Chairman read the public hearing notice. He noted that the application had been
35 completed and signed and the Planning Office had received it on July 11, 2011. He advised that
36 all of the items required for a completed application had been submitted.

37 The Chairman stated that the property in question was located within the Town's
38 Groundwater Resources Conservation District and as such a CUP was usually required to
39 regulate uses that may have an effect on the aquifers.

40
41 Peter Hogan **MOVED** that there was no need for a Groundwater Resources Conservation
42 District Conditional Use Permit. Christine Quirk seconded the motion and it **PASSED**
43 unanimously.

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1 **TINGLEY FAMILY TRUST, cont.**

2
3 The Chairman stated that the existing access to the pit was on Mont Vernon Road;
4 however, a driveway permit could not be located. Sue Tingley informed the Board that Scott
5 Looney from the NH DOT had viewed the driveway and felt there were no problems with the
6 existing driveway and asked that the vegetation along the road be cut back. She noted that a
7 letter from the DOT to the Planning Board would be sent within the next two to three weeks with
8 his findings. The Chairman noted that the recommendations from DOT become part of the
9 Conditions Precedent.

10 The Chairman stated that he would address the bond amount. He asked for the size of the
11 gravel pit. Sue Tingley answered that the gravel pit was 5 acres. The Chairman applied the rate
12 used in the previous public hearing of \$1,500.00 per acre and determined that the required bond
13 amount was \$7,500.00.

14 The Chairman noted that the proposed routes for transportation of material would be
15 north or south on NH Route 13.

16 The Chairman stated that the applicant had listed an ending date for the pit of 2025. Sue
17 Tingley asked to change the date of 2025 to 2051, the end date for her other gravel pit. Mark
18 Suennen asked how much material remained in the pit. August Gomes answered that 300,000
19 yards of material remained in the pit. Mark Suennen asked if the material would be removed at a
20 rate of 5,000 yards per year. The applicants agreed with the amount of 5,000 yards of material
21 removed annually. Mark Suennen stated that it would take 60 years for the material to be
22 removed in its entirety and would create an end of pit date of 2071. The Chairman commented
23 that the Board was the capping end date at 50 years. The ending date for the pit was entered as
24 December 31, 2061.

25 The Chairman indicated that a variable number of trucks and trailers would be used to
26 transport material and daily trips would not exceed 100 trips per day.

27 Mark Suennen asked if the applicant intended on using tri-axles with the possibility of
28 using trailer dumps as needed. Skip Gomes answered yes.

29 It was the consensus of the Board that a site walk was not necessary.

30 The Chairman asked for comments or questions from the Board and the public; there
31 were no comments or questions.

32
33 Peter Hogan **MOVED** to grant the waiver requests for Traffic and Environmental Impact
34 Studies for Tingley Family Trust, Location: Mont Vernon Road, Tax Map/Lot #8/107,
35 Residential-Agricultural "R-A" District. Christine Quirk seconded the motion.

36 **DISCUSSION:** Mark Suennen added that strict conformity with the Earth Removal
37 Regulations would pose an unnecessary hardship to the applicant as they had already
38 submitted and received approval for an AOT Permit. He added that the definition of the
39 vehicles and number of trips acted as the Traffic Impact Study. The motion **PASSED**
40 unanimously.

41
42 The Chairman reiterated that the Conditions Precedent included receipt of the previously
43 discussed letter from the NH DOT and the increased security amount by October 9, 2011. He

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29

1 **TINGLEY FAMILY TRUST, cont.**

2
3 advised the applicant to request any extensions to the Conditions Precedent completion date in
4 writing.

5
6 Peter Hogan **MOVED** to approve the Earth Removal Application with associated plans
7 entitled "Excavation Plan, Map 8 Lot 107, Tingley Family Trust, Mont Vernon Road,
8 New Boston, N.H. 03070" dated 7/5/11, and to grant an Earth Removal Permit, to
9 include the site specific items discussed at this hearing, subject to:

10
11 **CONDITION(S) PRECEDENT:**

- 12 1. Submission of correct security amount as determined at this hearing and in the
13 form acceptable to the Board.
14 2. Receipt of letter from NH DOT regarding driveway.

15 The deadline for complying with the conditions precedent shall be October 9, 2011,
16 the confirmation of which shall be an administrative act, not requiring further action by
17 the Board. Should compliance not be confirmed by the deadline date, and a written
18 request for extension is not submitted prior to that date, the applicant is hereby put on
19 notice that the Planning Board may convene a hearing pursuant to RSA 676:4-a to revoke
20 the approval.

21
22 **CONDITIONS SUBSEQUENT AND ONGOING:**

- 23 1. Prior to the granting of any permit, or to the removal of any topsoil or other
24 overburden material from a new area within an existing excavation site, the
25 Applicant shall submit to the Regulator an acceptable bond with sufficient surety
26 as determined by the Regulator. The purposes of the bond are to guarantee
27 reclamation of the area and compliance with the permit. The surety must be
28 phased to coincide with the phasing of work, in an amount sufficient to guarantee
29 reclamation of the applicable section, to be released as sections are completed.
30 Prior to a new section being opened, new securities shall be posted. The surety
31 shall not be released until the Regulator is satisfied that all conditions of the site
32 reclamation plan have been complied with. This shall be determined at a final site
33 walk by the Regulator and/or its designee. Additionally, if a bond or security is
34 already in place, the applicant is responsible for keeping said security up-to-date
35 and submitting riders, renewals, or other documentation to the Planning Board as
36 proof that the bond or security is in place.
37 2. Amendments and Renewals
38 Permit holders wishing to alter the size or location of the excavation, the rate of
39 removal or the plan for reclamation shall apply for a renewal or amendment,
40 following the same procedures as those required for the original excavation
41 permit.
42 3. The Earth Removal permit is not transferable without the prior written consent of
43 the Regulator.

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30

TINGLEY FAMILY TRUST, cont.

4. A copy of the Earth Removal permit shall be prominently displayed at the site or the principal access to the site.
5. Inspections
The Regulator or its designee may make periodic inspections, minimally on an annual basis, of all excavation sites, both permitted and exempt, to determine if the operations are in conformance with the New Boston Earth Removal Regulations and the approved plans.
6. Hours of operation
Start up time for all machinery associated with an Earth Removal Operation shall be no earlier than 6:45 a.m. in cold weather only; in warm weather start up time for machinery shall be no earlier than 7:00 a.m.; activity of any kind, including loading and removal of material from the site shall begin no earlier than 7:00 a.m.; termination of removal of material from the site shall be no later than 5:00 p.m.; processing of materials shall begin no earlier than 7:00 a.m. and must be shut down by 5:00 p.m. These operating hours shall be for Monday through Saturday.
No operation shall take place on Sundays and major Federal holidays, as follows: New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving and Christmas; provided, however, that access on Sundays and holidays is permitted in the event of a town-wide emergency situation requiring use of material or equipment, for example, flooding situations, ice storms, major blizzards.
7. Maximum Excavation Limit
Final excavation grade shall be not less than four feet to documented seasonal high water table, provided, however, that pursuant to RSA 155-E:11,II, an exception shall be granted if the application demonstrates to the Regulator's satisfaction that excavation below this height will not adversely affect water quality. The Regulator reserves the right to have an outside review of the information submitted as part of any proposal to excavate within four feet of the documented seasonal high water table, at the Applicant's expense. Written notice of such an exception shall be recorded in the Hillsborough County Registry of Deeds at the Applicant's expense, and one copy shall be filed with the New Hampshire Department of Environmental Services.
8. Waste Disposal
No disposal of any waste material, including solid and/or hazardous waste, septage, dredge spoils, or refuse shall be undertaken on the site without appropriate State approval under RSA 149:M, or other appropriate State regulations.
9. Tree cutting
The applicable state statutes pertaining to forestry practice and timber harvesting shall apply to the removal of vegetative cover at excavation sites.
10. Stopping of Removal/Excavation Operations

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31

1 **TINGLEY FAMILY TRUST, cont.**

2
3 If removal/excavation operations stop for more than one year with no notice
4 thereof provided to the Regulator and said stoppage is not in accordance with the
5 approved excavation plan or due to bad weather, the excavation permit may be
6 revoked and the performance bond forfeited with its proceeds used for reclaiming
7 the land in accordance with the approved reclamation plan.

- 8 11. Applicant shall submit one copy of any plans or reports that are approved by the
9 NH DES Alteration of Terrain Bureau within 30 days of said approval.

10
11 **SITE SPECIFIC PERMIT CONDITIONS:**

- 12 A. Approved routes for transportation of material
13 North and South on N.H. Route 13.
14 B. Number and type of vehicles to be used to transport material
15 Dump trucks, triaxles and trailer dumps as needed.
16 C. Equipment to be used for material removal
17 Front-end loaders, excavators, bulldozers, graders, portable crushers and screens,
18 compactors and seeding equipment.
19 D. Requirements for material processing
20 Use portable screen to screen sand and crude loam during the spring, summer and
21 fall as necessary to maintain adequate stockpiles. Screen to be located near active
22 sand face- or crude loam pile. Erosion to be controlled by surface drainage
23 swales. Portable crusher to be during spring, summer and fall as needed to
24 maintain adequate stockpiles. Crusher to be located near active gravel face.
25 E. Requirements for temporary stockpiling of offsite materials
26 From time to time old asphalt pavement may be stockpiled near an active gravel
27 face to later be crushed with raw gravel to make a combined road base product.
28 Erosion control by surface drainage swales.
29 F. Required plantings for reclamation
30 Plans show typical details for loam and seeding.
31 G. Other requirements
32 None

33
34 The Earth Removal Permit is valid until such time as the Regulator determines the Earth
35 Removal Operation is no longer in compliance with the New Boston Earth Removal
36 Regulations; or, until such time as the operation shall be deemed to be abandoned as
37 defined in the Earth Removal Regulations; or, until such time as the owner informs the
38 Regulator that they will no longer be running the Earth Removal Operation; or, until such
39 time as the operation is depleted; or, until the completion date as determined by the
40 Regulator in the regulatory process, in accordance with RSA 155-E:8, in this case

41 **December 31, 2061**, whichever first occurs.

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

43

**TOWN OF NEW BOSTON
NEW BOSTON PLANNING BOARD
Minutes of 2011 Meetings**

August 9, 2011

32

1 **LUEDKE, MARK D. & RHONDA S.**

2 Submission of Application/Public Hearing/Conditional Use Permit/1 Wetland Crossing

3 Location: 26 Hooper Hill Road

4 Tax Map/Lot #11/10

5 Residential-Agricultural "R-A" District

6
7 Present in the audience were Rick Kohler, David Mann, Jerri Stanford and Morgan
8 Hollis, Esq., Brian Stevens, and Margaret and Sean McGann.

9 The Chairman read the public hearing notice. He stated that the application form had
10 been completed, signed and submitted on July 25, 2011. He noted that all fees had been paid in
11 full and the driveway application permit and fee had also been submitted.

12 Rick Kohler indicated that Tax Map/Lot #9/3 represented Mr. and Mrs. Stevens' property
13 and Tax Map/Lot #11/10 represented the applicant's property, he pointed to the properties on the
14 plan. He stated that the Stevens' were intending to purchase #11/10 from the applicant and
15 complete a lot line adjustment at the northern portion of Tax Map/Lot #11/10, merge with Tax
16 Map/Lot #9/3 and create frontage for the Stevens' on Hooper Hill Road. He explained that the
17 Stevens' would discontinue use of their existing driveway on Route 13 as it did not meet safe
18 sight distance of 400' and was at a 14% grade. He advised that the a new driveway was
19 proposed to be constructed over an existing agricultural cart path. He pointed out that the
20 wetland that would be impacted was a stone ford where farmers used to fill the wetland in with
21 big stones and allow the water to trickle through.

22 The Chairman asked if the existing driveway on the Stevens' property would be
23 completely discontinued. Rick Kohler answered that the driveway would not be used for
24 residential access but may be left open for service vehicles. Mark Suennen suggested the
25 installation of a gate. The Chairman asked if the existing driveway was paved. Rick Kohler
26 answered no and advised that the driveway was made of gravel. The Chairman asked if there
27 were potential issues with erosion or debris washing down onto Route 13 if the driveway was not
28 actively maintained. Rick Kohler answered that there was a potential for erosion if it was left
29 unmaintained. Mark Suennen pointed out that the applicant was not before the Board to discuss
30 the matter of the potential discontinued use of the existing driveway. Rick Kohler agreed with
31 Mark Suennen's statement and reiterated that it may be possible to discontinue the residential use
32 of that access to the property and this should be discussed separately.

33 Rick Kohler posted a plan that illustrated the proposed wetland crossing. He emphasized
34 that the hydrologic source of the wetland system was not the outflow of Bailey Pond. He
35 continued that the primary source of the water came from road side ditches along Hooper Hill
36 Road. He pointed to an area of groundwater discharge that also contributed to the wetlands. He
37 identified the existing stone ford on the plan. He stated that over the last 100 or more years there
38 had been a lot of deposition on the uphill side. He explained that soil had been eroded and
39 collected up against the stone during storm events and the proposed 2' culvert would mitigate the
40 erosion and the hydrologic flow would be restored.

41 Rick Kohler pointed to the highest point of the proposed driveway on the plan and noted
42 that it would not exceed 8%. He also pointed out the existing northerly limits of Tax Map/Lot
43 #11/10 and the existing southerly limits of Tax Map/Lot #9/3 as well as the gaps in the

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33

1 **LUEDKE, MARK & RHONDA, cont.**

2
3 stonewall. He identified the location of a farmhouse, barn and pasture that existed across the
4 street.

5 Rick Kohler indicated that the total amount of proposed impact was 7,500 s.f. with an
6 additional 2,500 s.f. of proposed hydro-seeding to preempt further erosion following the
7 construction of the wetland crossing.

8 Rick Kohler noted that the proposed driveway on Hooper Hill Road would meet all the
9 Town Regulations relative to sight distance and maximum grade. He added that he had spoken
10 with the Conservation Commission and it was important to them that this proposal would not
11 impact the outflow of Bailey Pond and he again noted that it would not.

12 Rick Kohler asked for questions or comments from the Board and/or the public. Mark
13 Suennen commented that it appeared that previous owners had impacted the stream and changed
14 its hydrologic nature and the applicant was proposing to return the area to its natural condition.
15 Rick Kohler clarified that the area would not be returned to a natural condition. He explained
16 that the area had been subjected to long standing agricultural use and the stone ford was most
17 likely 150 years old. He continued that it would not be returned to its natural state but the
18 crossing would reestablish hydrological flow and remove the deposition. He added that it would
19 be a healthier situation with regard to the wetlands.

20 The Chairman asked if anyone besides himself wanted to attend a site walk. David
21 Litwinovich commented that he would like to attend a site walk. A site walk was scheduled for
22 Saturday, August 13, 2011, at 7:00 a.m.

23 Jay Marden asked for confirmation that the wetlands illustrated in the plans were not the
24 outflow from Bailey Pond. Rick Kohler confirmed Jay Marden's statement. Jay Marden asked
25 where the outflow of Bailey Pond was located. Rick Kohler pointed out the location of the
26 Bailey Pond outflow on the plan.

27 Rick Kohler asked in what form the applicant intended on submitting the bond for the
28 crossing. Brian Stevens answered that the bond would probably be submitted in cash.

29
30 Peter Hogan **MOVED** to adjourn the public hearing for Mark and Rhonda Luedke,
31 Location: 26 Hooper Hill Road, Tax Map/Lot #11/10, Residential-Agricultural "R-A"
32 District, to September 13, 2011, at 8:00 p.m. Christine Quirk seconded the motion and it
33 **PASSED** unanimously.

34
35 **MISCELLANEOUS BUSINESS AND CORRESPONDENCE FOR THE MEETING OF**
36 **August 9, 2010, Cont.**

37
38 7a. Copy of letter received July 8, 2011, from Geoffrey Katz, to David Mann, re: proposed
39 use of commercial space at 3 River Road, for the Board's review and discussion.

40
41 7b. Memorandum dated July 28, 2011, from Shannon Silver, Planning Board Assistant, to
42 Stu Lewin, Planning Board Chairman and Planning Board Members, re: Tax Map/Lot
43 #18/9, 3 River Road.

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34

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Present in the audience were David Mann, Jerri Stanford, Morgan Hollis, and Margaret
4 and Sean McGann.

5 The Chairman addressed 7a and 7b together as they were related. David Mann stated that
6 he had provided the Board with signatures of various townspeople that knew the history of 3
7 River Road. Jerri Stanford added that the townspeople provided were able to confirm that the
8 building had been used to operate businesses.

9 Peter Hogan stated that there was no dispute that the applicants were allowed to operate a
10 business from 3 River Road. Jerri Stanford stated that the Board had advised them that there was
11 a dispute with regard to the change of use. Peter Hogan disagreed with Jerri Stanford and stated
12 that there was no dispute with the change of use. Jerri Stanford stated that the Board had told
13 them that they had to create a site plan. Peter Hogan agreed that a site plan was required. Jerri
14 Stanford disagreed that they needed a site plan as they were grandfathered under the ordinances.
15 David Mann added that no business that had operated out of the building had ever used a site
16 plan. Peter Hogan argued that the reason for the lack of site plans was not because of lack of
17 requirement but rather because Geoff Katz was the owner. He continued that Geoff Katz
18 generally did not feel that he needed to engage in site plan review. He stated that the Board did
19 not want to stop the applicants from operating their business and simply wanted them to
20 complete a site plan.

21 Jerri Stanford stated that the Planning Office had advised that she needed to have a
22 professional site plan completed. Peter Hogan agreed with the advice from the Planning Office
23 because the applicants intended on operating their business out of a commercial property.

24 Jerri Stanford explained that she and David Mann were looking to have the Board
25 approve the site plan that they had completed and approve it. Peter Hogan asked if the Board
26 had the ability to waive the requirement for a professionally completed site plan. The
27 Coordinator answered yes, a waiver could be requested for anything in the Non-Residential Site
28 Plan Regulations. The Chairman explained that the Board could entertain a waiver request to
29 accept a site plan that was not professionally drawn. He continued that in addition to the
30 submission of the waiver request a completed application needed to be submitted. Jerri Stanford
31 asked if the Board would accept the site plan if she submitted the required information
32 tomorrow. Peter Hogan said that the Board would accept the hand drawn site plan. The
33 Coordinator advised that the applicants needed to show that a professionally drawn site plan
34 created a hardship for the applicants and that not requiring the professionally drawn site plan
35 would not go against strict conformity of the regulations. She continued that the Board may not
36 want to say that they would accept the waiver request prior to reviewing it.

37 The Chairman clarified that the applicants, as part of their application, could submit a
38 waiver request that addressed the section of the regulations that required a professionally drawn
39 site plan. He added that a justification for the waiver request should be provided along with the
40 reasons why the Board should grant the waiver request. He continued that the Board could not
41 answer the question tonight and could only agree to consider the waiver when it was submitted.
42 David Mann asked what specific items the Board wanted listed as part of the site plan. The
43 Chairman indicated that a checklist was available that listed all the required items that needed to

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35

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 be provided for a site plan. He noted that waivers needed to be submitted for items that would
4 not be provided. He further noted that everything needed to be submitted as a completed
5 application package. David Mann asked if the completed application could be submitted by the
6 end of the week. The Coordinator pointed out that the next scheduled meeting was September
7 13, 2011, and it was already full. The Chairman asked what was scheduled for 6:30 p.m. on
8 September 13, 2011. The Coordinator answered that a Board discussion was scheduled as usual
9 for 6:30 p.m. for the next scheduled meeting. Christine Quirk stated that the Board could give up
10 the scheduled discussion and place this matter on the schedule. The Chairman suggested
11 scheduling this matter for 6:30 p.m. and the Coordinator stated that it could be scheduled at 7:00
12 p.m. She asked if the Board intended on completing a site walk. Mark Suennen suggested
13 conducting a site walk at 6:30 p.m. on September 13, 2011, with a hearing to follow. Peter
14 Hogan did not believe that a site walk, meeting and final hearing could be accomplished in a half
15 hour. The Chairman did not anticipate that a final hearing would be completed but thought a site
16 walk and an initial hearing could be completed.

17 The Chairman stated that a public hearing on the site plan application would be scheduled
18 for September 13, 2011, at 6:30 p.m. at which time a site walk would also be completed. He
19 advised that the Board was not committing to come to closure on the plan at the September 13th
20 meeting. The Planning Assistant added that it was important that the applicants know that
21 everything shown on the plan needed to be completed at the site in order for compliance to be
22 met. The Chairman explained that there were two phases to the approval process: 1) submission
23 and approval of site plan; and 2) compliance walk that ensures everything on the plan is reflected
24 at the site.

25 Peter Hogan asked if all the lights and trees that appeared on plan existed at the property.
26 David Mann answered yes.

27 The Coordinator advised that Geoff Katz, the owner of the property, also needed to sign
28 the application form. She also noted that all completed information needed to be submitted by
29 August 29, 2011. The Coordinator noted that the Board was being extremely nice and helpful to
30 these applicants which made her very nervous because it was usually then that something
31 important was overlooked. She encouraged the Board to double check everything within the
32 application upon completion. David Mann asked for clarification of what the Coordinator had
33 said. Mark Suennen stated that the Coordinator was warning the Board that they were bending
34 over backwards to accommodate the applicants as best they could and in response to that the
35 Board would encourage the applicants to get everything submitted as early as possible, well
36 before the August 29, 2011, deadline to ensure items were not missed.

37
38 5a. Email received July 26, 2011, from Morgan A. Hollis, Esquire, to Nic Strong, Planning
39 Coordinator, re: ownership of open space, for the Board's review and discussion.

40
41 5b. Email received August 4, 2011, from Dana Lorden, to New Boston Planning Board, re:
42 request to discuss ownership of open space for Forest View II and Certificate of
43 Occupancies for homes built on the 1,000' of Lorden Road.

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36

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 Present in the audience were Morgan Hollis, Esq., Dana Lorden, Shiv Shrestha, and
4 Margaret and Sean McGann.

5 The Chairman addressed items 5a and 5b together as they were related. Morgan Hollis,
6 Esq., stated that there was an issue with the ownership of the open space lots. He explained that
7 originally the ownership of the open space was going to be done through a home owners
8 association. He continued that ownership then changed to the Conservation Commission and
9 subsequently the Conservation Commission decided they did not want ownership of the open
10 space. He explained that upon the suggestion of the Planning Board they had met with Town
11 regarding the ownership and it was decided by the Board of Selectmen and Town Counsel that
12 the Town did not want ownership of the open space. He stated that after meeting with the Town
13 they appeared once again before the Planning Board and suggested that the open space be owned
14 in common by the home owners that would be subject to a set of conservation restrictions. He
15 noted that the PLC expressed an interest in the ownership of the land and following a site
16 walk and discussions they authorized the applicant to present to the Board their acceptance of the
17 title to the property. He pointed out that the Town's Regulations allowed for a developer to
18 select an entity to own the open space and submit same to the Board for approval. He noted that
19 the Board had indicated that they would approve the selection of the PLC and as such the
20 applicant chose the PLC to hold the ownership of the open space and the Board approved the
21 ownership.

22 Morgan Hollis, Esq., informed the Board that in April the PLC had a meeting that the
23 applicants were not invited to attend and the result of that meeting was that it was voted that the
24 deed would be accepted conditioned upon the applicant paying a \$10,000.00 stewardship fee, a
25 fee as each lot was sold, as well as legal and recording fees associated with the transactions. He
26 noted that the conditions came as a surprise to the applicants. He explained that he had spoken
27 with the PLC and explained that he understood their need to require the aforementioned
28 conditions, however, the applicants should have been made aware of the conditions up front.

29 Peter Hogan asked if Morgan Hollis, Esq., was aware of what the stewardship fee
30 covered. Morgan Hollis, Esq., answered that the fee covered stewardship. He continued that in
31 addition to the stewardship fee an undetermined per lot stewardship fee would also be charged.
32 He stated that he could not speak to the basis of the PLC's fees but believed most stewardship
33 fees were used to monitor breaches by homeowners.

34 Morgan Hollis, Esq., explained that it was not a condition of approval that the applicant
35 deed ownership to the PLC; however, it was an ordinance requirement that the developer select
36 an entity and the Board approve it. He explained that the applicant was seeking the Board's
37 approval to change their selection. He added that he did not believe a public hearing was
38 necessary for such a decision as the approval was not a condition of the original approval. He
39 stated that the applicant was interested in deeding ownership of the land in common to the
40 homeowners. He noted that the open space lots would be subject to the conservation restrictions
41 that were reviewed and approved by Town Counsel. He explained that the Town, State and
42 homeowners' association had the right to enforce the conservation restrictions. He believed that
43 the land would be well protected. He commented that ownership was being switched from a

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37

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 group that did not want it unless they were paid to a group of homeowners.

4 Morgan Hollis, Esq., stated that the applicants requested that the selection of the open
5 space owner be changed to owned in common. He noted that the only alternative would be to
6 form a homeowners' association, which had already been done, and deed to the homeowners'
7 association as an entity. He explained that he did not care for the option of deeding the open
8 space to a homeowners' association because they tend to fall apart. He added that if the
9 homeowners owned 1/40th of the property each they would always own that 1/40th. Peter Hogan
10 pointed that the homeowner would also be obligated to pay taxes on their 1/40th piece of land.
11 Morgan Hollis, Esq., stated that he was able to put language in the deed for either option.

12 Christine Quirk asked how the lots would be taxed divided into 40 pieces. Morgan
13 Hollis, Esq., advised that the open space lots would not be taxed as separate lots as they had no
14 value based upon the conservation restrictions. Christine Quirk asked if the homeowners would
15 receive a separate tax bill for their 1/40th ownership of the open space. Morgan Hollis, Esq.,
16 explained that towns varied on how they handled taxes for the open space but he had seen towns
17 bill for a separate 1/40th ownership of open space or add the value to the taxes of the residential
18 lot.

19 The Chairman asked if it was required that the Board give notice for the change in
20 selection. The Coordinator advised that the Board did not need to provide notice for the change.

21 Peter Hogan commented that he could not care less who owned the open space property
22 and added that the ownership had no effect on his decision. Mark Suennen stated that he
23 appreciated the following that was contained in a letter from Morgan Hollis, Esq., to the Board,
24 "In my opinion it is unlawful to force the conveyance of the open space lot to an organization
25 which cannot and will not accept the deed without contributions". He noted that he agreed with
26 applicant.

27 It was the consensus of the Board to allow the applicant to switch ownership of the open
28 space. Mark Suennen asked if the applicant's proposed that the homeowners would own the land
29 in common and the Town and State own easements for conservation. Morgan Hollis, Esq.,
30 answered that through the Declaration of Covenants and Restrictions the Town and State were
31 the beneficiaries of the right of enforcement but not the obligation.

32
33 Mark Suennen **MOVED** to accept the applicant's revised ownership plan for the open
34 space of the Forest View II Subdivision. Peter Hogan seconded the motion and it
35 **PASSED** unanimously.

36
37 Morgan Hollis, Esq., stated that the second issue he had was more complicated as no
38 occupancy certificate could be given until the roadway of the abutting project, i.e., Susan Road
39 and Indian Falls Road were completed. He noted that a lot of work had been done to the road
40 but it was not up to binder coat. He advised that he had contacted the developer and was told
41 that the road would not be completed this year and may be completed in the spring. He stated
42 that he was concerned that the occupancy permits would not be issued because the Fire
43 Department and Highway Department did not want Lorden Road to be considered a long cul-de-

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1 **MISCELLANEOUS BUSINESS, cont.**

2
3 sac. He was unsure how to revisit this matter but hoped that a decision could be determined one
4 way or another at a public hearing on September 13, 2011.

5 Morgan Hollis, Esq., explained that some improvements had been made to the road and
6 the applicants wanted to build their cul-de-sac up to 1,000'; however, the Town departments
7 considered the length to be over the approved length of cul-de-sacs.

8 Morgan Hollis, Esq., suggested that Lorden Road could be built to gravel and not binder
9 to make an acceptable through connection. He noted that the applicant was not looking for a
10 decision this evening. He stated that they were at the mercy of the other developer or they would
11 need to build the entire length of Lorden Road. Peter Hogan commented that this was a risk that
12 the applicants took. He stated that he would need to view the road layout to be able to calculate
13 the length of the road.

14 The Chairman questioned from which end the applicant wanted to start developing.
15 Morgan Hollis, Esq., answered that the applicant was starting their first phase off Susan Road.
16 He continued that the problem was that the extension of Lorden Road off Susan Road was 1,000'
17 and Susan Road was currently considered a cul-de-sac as it had not been connected.

18 Morgan Hollis, Esq., advised that the applicant was going to request for a waiver of the
19 cul-de-sac length because Susan Drive was a cul-de-sac and Lorden Road could be considered.
20 He stated that they were going to speak with other Town departments and hope for a
21 recommendation.

22 Peter Hogan asked the applicant to point out the location of the completed portion of
23 Susan Road on the plan. Dana Lorden pointed out the completed portion of Susan Road as well
24 as the portion that would be connected out to Indian Falls. Dana Lorden pointed out the paved
25 sections of the road on the plan.

26 Morgan Hollis, Esq., stated that the waiver they would submit would be for a 1,750' to
27 1,800' cul-de-sac. Peter Hogan asked if the applicant had met with the safety departments.

28 Morgan Hollis, Esq., answered that they had met with the Fire Department, Road Agent
29 and Building Inspector. He noted that they wanted to have an additional meeting and feedback
30 should be available for the Board.

31
32 6. Letter received August 1, 2011, from Sean McGann, to New Boston Planning Board, re:
33 parking at 1 Old Coach Road.

34
35 Sean McGann advised the Board that Fairpoint Communications had agreed to remove
36 the telephone pole located on their property and replace it at no charge; however, a date of
37 removal had not been set. He noted that they wanted to be in compliance to open by October 1,
38 2011, for the Christmas season. He was seeking guidance from the Board as to what parking
39 would be considered to be in compliance, exclusive of the pole removal as he was not sure when
40 it would take place.

41 Sean McGann asked if they would be in compliance if the upper parking spaces were
42 utilized and the telephone pole was still in its current location. He continued that if the
43 aforementioned scenario was not in compliance could they consider creating commercial spots in

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39

1 **MISCELLANEOUS BUSINESS, cont.**

2
3 the existing lower parking area.

4 Mark Suennen believed that the parking could exist in the upper parking area even with
5 telephone pole in its current location. Peter Hogan added that he did not care where the parking
6 was located as long as the people were not backing out onto Old Coach Road.

7 Sean McGann stated that another option was taking the existing parking area and
8 enlarging it as much as they could and putting in two or three parking spaces. The Chairman
9 advised that it was not necessary to do that and that parking could exist with or without the
10 telephone in its current location. Sean McGann stated that ideally they would like to use the
11 upper parking area.

12 The Chairman explained that whether or not the applicant wanted to have the parking in
13 the upper area or the lower area it needed to be an approved area by the Board. He noted that the
14 Board did not have a preference to whether the parking was located in the upper or lower area
15 and added that the applicant needed to make decision so that the plan could be approved.

16 Peter Hogan clarified that the applicant wanted to know if an approved parking location
17 decision could be changed in the future without a hearing. The Coordinator advised that Board
18 needed to consider who would be impacted by the potential change in order to determine
19 whether or not a hearing would be needed.

20 Mark Suennen stated that the applicant had two options: 1) amend the site plan to
21 eliminate the requirement to remove the telephone pole; or 2) amend the site plan to modify the
22 parking to be the proposed parking.

23 Peter Hogan reiterated that abutters needed to be notified if amendments were going to be
24 made to the site plan.

25 Christine Quirk suggested that if the requirement to remove the telephone pole was
26 eliminated the applicant could place two parking spaces where they were originally proposed to
27 be. She noted that moving the residential parking spaces did not require a site plan.

28 Sean McGann asked when a compliance walk could be scheduled as they were ready to
29 schedule. The Coordinator advised that a walk could be scheduled on September 3rd or
30 September 10th. The applicant agreed to contact the Planning Office during the last week in
31 August to schedule.

32
33 13. Execution by Planning Board Chairman of Notice of Decision Cover Sheet, for Andrew
34 Luneau, Tax Map/Lot #5/52 & 5/53, Beard Road.

35
36 The Chairman indicated that he would execute the above-referenced matter at the close of
37 the meeting.

38
39 17. Email correspondence with attached draft scope of work from David Preece, AICP,
40 Executive Director and CEO of SNHPC, re: HUD Community Challenge Planning Grant
41 Program.

42
43 The Chairman stated that the Town could participate in the above-referenced program.

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40

1 **MISCELLANEOUS BUSINESS, cont.**

2

3 Mark Suennen pointed out that participation was dependent on a “very large match”. The
4 Chairman asked the Coordinator if the Town had a project that fit the criteria. The Coordinator
5 answered no.

6 It was the consensus of the Board not to participate in the above-referenced program.

7

8 18. Draft letter dated July 29, 2011, from Stuart Lewin, to US Department of Urban
9 Development, re: Sustainable Regional Planning Grant Application, for the Board’s
10 review and discussion.

11

12 The Coordinator stated that David Preece had appeared before the Board a year ago and
13 discussed sustainable communities. She continued that grant money was available and
14 David Preece wanted towns to write letters of support. The Board members expressed that they
15 did not support the above-referenced matter and would not sign a letter of support. The
16 Chairman indicated that he did support the above-referenced matter and thought that the letter
17 of support be amended to reflect “the Planning Board’s Chairman’s continued support”.
18 Following further discussion, the Board's ultimate decision was not to send any communication
19 regarding this matter to SNHPC and not to be involved in the project.

20

21 Mark Suennen **MOVED** to adjourn the meeting at 10:28 p.m. Christine Quirk seconded
22 the motion and it **PASSED** unanimously.

23

24 Respectfully Submitted,
25 Valerie Diaz, Recording Clerk

Minutes Approved:
09/27/11

26