

HAMPTON PLANNING BOARD

DRAFT MINUTES

February 3, 2021 – 7:00 p.m.

PRESENT: Tracy Emerick, Chair
Ann Carnaby, Vice Chair
Alex Loiseau, Clerk
Fran McMahon
Mark Olson
Keith Lessard
James Waddell, Selectman Member
Jason Bachand, Town Planner
Laurie Olivier, Office Manager/Planning

ABSENT:

I. CALL TO ORDER

*Due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic, and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, in order to properly ensure the safety of the public and that of several of the Board members who are within the CDC guidelines needing to take special precautions, this body is authorized to meet electronically. Please note there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, Chairman Emerick is confirming that the Planning Board are: Utilizing a teleconference service for this electronic Meeting. The Public may join the teleconference by calling **1-857-444-0744** and using the code **156034**. If anyone has a problem, please call **603-929-5805**.*

I. CALL TO ORDER

Mr. Emerick commenced the meeting by reading the above criteria and introducing the Planning Board members.

Prior to the meeting, the Planning Office gave information to residents/applicants on how to access the meeting electronically.

Attendance was taken, and it was stated who was in the room. Planning Board members, Mark Olson and Ann Carnaby, and Office Manager, Laurie Olivier, were home; no one was present with them. All other Board members and Town Planner, Jason Bachand were present in the Selectmen's Meeting Room. It was noted that all votes will be taken by roll call.

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It was noted that the applicant for 238 Woodland Road wishes to continue to its February 17th Planning Board meeting, both applications, lot line adjustment and subdivision.

MOVED by Mr. McMahon.

SECOND by Mr. Lessard.

ROLL CALL VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

- **Milone & MacBroom – Consultant for Phase I Master Plan Vision and Coastal Management Content: Progress Update and Next Steps**

Mr. Bachand invited Noah Slovin, Milone and MacBroom to speak. He noted we have held three focus groups. We had an HBAC/HBVD focus group. We had about 15 people. We had meetings with members who work with different organizations that support under-represented groups, lower income or seniors and elderly residents. There has also been off-line communications as well. Yesterday, we had a meeting with members of the fishing community; about 6 people. Two other people from that group, Mr. Slovin has communicated with directly also.

Tomorrow, we have a focus group with the business community. It is at 4:00 p.m. Next Thursday, February 11th, at 7 p.m., the public group will be held with Hampton residents based on the different parts of Town. The teachers and students focus group still need to be nailed down for a time and place.

We are working on drafting the Coastal chapter based on the outline provided. There should be a draft within the next couple of weeks.

March 11th there is a workshop with the Planning Board look at and review. It (draft) will be on line for public review, a week or two before the workshop in March.

Ms. Carnaby asked about the end date for the final report. Mr. Slovin said the final report will be by the end of March. Ms. Carnaby asked if there is any reflection on how COVID might have influenced the results, if they think it did. Mr. Slovin said in the public input process, they will discuss COVID impacts. Probably not in-depth analysis.

Mr. Bachand recognized Barbara Kravitz and Brian Warburton (Steering Committee members) on the phone, and asked if they had any questions or comments. Ms. Kravitz responded that has no comments.

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III. NEW PUBLIC HEARINGS

21-001 147 North Shore Road

Map: 133 Lot: 5

Applicant: Ernest Underwood

Owner of Record: Ernest R. Underwood Rev Trust

Conditional Use Permit for ADU: Construction of 432 Sq. Ft. (approx) accessory dwelling unit to existing single-family dwelling.

“Tocky” Bialobrzkeski was on the line. The applicant, Mr. Underwood, was also on the line. He has a single-family home. They want to add a 430 square foot ADU unit. His son will be on one side.

**BOARD
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Mr. Bachand said the DPW looked at the proposal. Pretty straightforward. Existing sewer service and impervious surface was discussed. He forwarded those comments with his memo to Tocky. Mr. Bachand recommends approval along with the conditions in his Memorandum dated February 3, 2021.

MOTION by Mr. Lessard along with the Planner’s Memo dated February 3, 2021. He added comments about appearance of the building not looking like an ADU.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 7 – 0 – 0

MOTION PASSED.

21-002 38 King’s Highway

Map: 223 Lot: 65

Applicant: Martin and Lisa Boldin

Owner of Record: Boldin Family Revocable Trust

Wetlands Permit: Replace existing deck with slightly larger full addition to expand living space for existing home.

Mr. Bachand discussed “Tocky” Bialobrzkeski has this application also. She is on the phone. Mr. Bolden is on the phone. Mr. Bolden said his mother-in-law passed away recently. His father-in-law was living in Georgia. He’s not doing well. He is living in their home. They need more space in a small home. His father-in-law needs to live with them now.

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Mr. Emerick asked if they have the Conservation Commission letter dated January 27th. They are fine with those conditions.

MOTION by Mr. Olson to approve the Wetlands Permit with the Conservation Commission conditions noted in letter dated January 27th.

SECOND by Mr. Lessard.

ROLL CALL VOTE: 7 – 0 – 0

MOTION PASSED.

21-005 95 Drakeside Road

Map: 188 Lot: 3

Applicant: TF Moran, Inc.

Owner of Record: 95 Drakeside Realty, LLC

Subdivision: Subdivide existing lot to create a new lot for residential use.

Waiver Request: Section V.E.7 - Stormwater Management Plan and Section V.E.14-Soil and sedimentation control plan.

Mr. Corey Colwell was on the line. He discussed the parcel that contains the Sports Barn building. A two-sheet set of drawings is submitted for the Board as well. F1 is existing conditions. F2 will be recorded at the Registry. Wetlands were discussed. It is located in the General Zone. Both buildings are on water and sewer and have natural gas. 11.26 acres in size.

One newly-created lot was discussed. This is just west of the Sports Barn. A Shoreland Permit will be needed before a Building Permit. It is to create the lot which will contain a single family home in the future. One new buildable lot for a single-family home was discussed. No wetlands are on the property. The property is relatively flat. Setbacks were discussed. Two waivers are with the application. V.E.7 Stormwater Management Plan and V.E.14 Soil and Sediment Control Plan were discussed. Once building is chosen, and the owner intends to build, plans will be necessary when the building is going to commence. Now, it's just lot lines.

BOARD

Mr. Lessard does not agree with the waivers. There is an area large enough for two units on that lot. One residential unit could be two residential units. That is correct. Mr. Colwell said the plan is for a single-family home, but it could be a duplex. It could be beyond that. It would have to come back to the Planning Board.

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Jessica, who owns the property, called in. They are hoping to put a single-family residence on the lot; not two units.

Christine Lamorte, 96 Drakeside Road, called in. She has an objection with the project. She noted that with the Sports Barn, the entire street has been blocked off because of it. Parking is a problem. They should take care of what they have right now. It is an eye sore.

BOARD

Mr. McMahon asked about the waiver. Is it just for the subdivision of land was asked. Mr. Bachand said the waiver request is for a second lot, but not for anything beyond that. Three units or more, it would have to be heard again by the Planning Board. Mr. Lessard said it could be a business again, in that Zone. The Planning Board would also have to hear it if the use is commercial. General is very General. Mr. Bachand thinks as long as it is clearly to create the second lot and nothing more, the waiver is appropriate. The Board may make this conditioned on it being a single- family lot or duplex. It should be part of the motion. It was asked if a majority of the lot is in the 50' buffer. Mr. Bachand said it is not. Right now, they are just creating the lot. The 50' buffer is to the west side of the lot. The majority of the lot is not in the Town's 50' buffer.

Ms. Carnaby asked if it is in order for the Board to postpone this until an actual use was known and could be stated. It would be a lot more relevant at that time to create the plot of land. Mr. Bachand thinks they can create the lot; they have the right to create the lot. Mr. Emerick concurs. Mr. Lessard thinks they need a parking lot. We gave them larger a parking lot and more days (Sports Barn).

Mr. Lessard said it could be a hardship on Drakeside Road certain days, police have been involved; the Board of Selectmen have been involved. He has empathy with the people across the street. This could create more traffic to Drakeside Road. That stretch of road is very challenging. It is near the edge of the river. Flooding was discussed. Maybe they need to show another plan so we know what restrictions are tied to that lot. He wants more definition before he does waivers. It could be two residential units.

Mr. Olson discussed intensity in that area. There is no regard for the people there already. Many people are from out of state. They go north on Route One on the south bound lane. If the Board could see a house going on that lot, it would go a long way. It floods. It flies in the face of what the Conservation Commission is trying to do; avoid flooding.

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Mr. Olson discussed the Route 101 property line. He doesn't see other property lines; he guesses it is along the river. Existing conditions – 3 units. Shed and deck will be within setbacks.

Ms. Carnaby would like to agree with and support Mr. Olson and Mr. Lessard. She is asking about if we can defer this until we know more about what they are going to put on the lot. There are a lot of concerns. We're trying to make Hampton more livable. Approving a lot and not knowing what is going on it was discussed. She does not like being put in that position.

Mr. Colwell discussed boundaries. He discussed parking. Expanding parking was discussed a few years ago with this Board. One, single- family house is being proposed to be built later. If it is anything other than that, they would appear back before this Board. Mr. Lessard asked why not get a variance. Liability issues were discussed.

Mr. Emerick said we should put conditions on this. Mr. Lessard asked about parking conditions.

Cars parking and no parking cars were asked about. Now, you can't park on the street at all. Where will people go was asked by the abutter. She asked about not being able to park on the street if more than 5 cars. It's all because of the applicant. They should fix up what they already have. House is an eye sore; building is an eye sore. Out-of-state people have no regard for the area. No sidewalks. People cannot park in front of Ms. Lamorte's home.

Mr. Lessard said we should have the Conservation Commission's input. Mr. Bachand said this can be continued for one month. It would go to the Conservation Commission as an appointment.

Mr. Emerick said we should continue this for one month to have the applicant go to the Conservation Commission and get their blessing as far as the wetlands situation. We want them to take look at it.

Mr. Colwell understands; the applicant understands. The applicants will do their best to get things in order.

MOTION by Mr. Lessard to continue this to March 3rd so that the Conservation Commission can discuss this.

SECOND by Mr. McMahon.

ROLL CALL VOTE: 6 – 1 (Olson) – 0

MOTION PASSED.

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21-006 40 Ashworth Avenue

Map: 282 Lot: 204

Applicant: E Street Properties LLC

Owner of Record: Same

Condominium Conversion: Conversion of the 58 Mainsail Motel Units and Cottages to Condominium Form of Ownership.

Waiver Requests: Section V.E. Detailed Plans and Section V.C. Waiver (Partial) of Application Fee.

Alex Loiseau recused himself.

Attorney James Scully is on the line. Mr. Dave Hartnett is also on the phone. Two waivers are being requested per Attorney Scully, including a fee reduction. There is a detailed plan waiver, which is common for condo conversions. The application fee would have been nearly \$6,000, so Attorney Scully feels they came up with a reasonable approach. Henry Boyd (Millennium) is on the line also. This will be a contel. The Hartnetts have owned this property for many years; it has been in the family. The same families come back every year. They want repeat visitors to purchase these units as a condo; but there will be a management company, front desk. Nothing is changing on the site. They did go to the ZBA for parking. Some space are stacked. No relief was necessary. This will be seasonal. These cannot be used in the winter months. No additional burden on school department will occur. They reviewed Mr. Bachand's Memorandum; no issues.

BOARD

Mr. Lessard asked about year-round uses. For maintenance? Is there one unit for a caretaker or zero year-round. There will be one year-round unit. The rest will be seasonal units. Mr. Hartnett agreed as did Attorney Scully. Mr. Bachand discussed seasonal uses and rental occupancy certificates; he is not sure if anything is written solidly on that. May through October seems appropriate. Beginning of May up to Columbus Day was noted by Mr. Hartnett.

Ms. Carnaby asked about condominium documents that will clearly state no year-round occupancy. If ownership changes to what they are asking for, will it be clearly stated? She discussed population during the summer and management companies. Mr. Bachand said this is among the conditions in his Memo.

It is in Mr. Bachand's Memo and Attorney Scully said he will have every intention going through documents scrupulously to make sure this is in there with Attorney Gearreald.

Mr. Olson discussed best intentions. We would be naïve to not recognize what is happening with Air B&B's. When the Town loses control of what each individual stakeholder wants for the property, what happens. We need to address this now. There are many offenders.

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Overburdening police, the school system, and fire services can happen. This needs to be well documented. Attorney Scully said that can be put on the recorded site plan.

PUBLIC

Alex Loiseau (as a resident) spoke in support of this. He bought his property because of the Mainsail being across the street. They are very good owners. He wants the contel rather than pattern of condos going up and seeing a large condo building.

Mr. Bachand discussed the DPW comments. Trash was discussed. The applicant needs to work with the DPW and the Board of Selectmen on this. Mr. Bachand said Condition #2 needs to be modified to further define seasonal use. May 1st to October 30th was specified. He would suggest including that and adding an exception for one caretaker unit. Mr. Bachand will make sure Attorney Gearreald is aware of these things for document review. The conditions should be on recorded plan as well.

There are two waivers – from the detailed plan requirements and for a partial waiver of fees. Mr. Bachand thought these were reasonable requests.

Mr. Lessard asked about the waiver of detailed plans. There are 58 new property owners. There should be a detailed plan in his opinion. With assigned parking, etc. He does not see it on the current plan.

Mr. Bachand said, with a detailed plan, we are talking about landscaping, grading and drainage, elevations, etc. Mr. Lessard thinks it should be in there. Mr. Lessard asked about stacked parking. There is under-parking. When condo owners own into this, there shouldn't be surprises for future owners. He thinks we need more detail.

Mr. Bachand said detailed plan waivers are very common for Condominium Conversions. They are not providing new grading and drainage, for example, as they are not changing anything on site. There are a total of 64 unstacked spaces. They are allowed one space per unit. They have more than enough parking spaces. Mr. Lessard asked about sewer line plans.

Henry Boyd (Millennium) discussed it is a unique situation. Generally, with detailed plans, drainage, etc. This would happen for vacant lots and tear downs where things are changing. This is just to show a change in the form of ownership. Parking is spelled out. The floor plan sheets spell out unit area. He agrees people need to know what rights they have. Notes are on the plans. Condominium stipulations about seasons will be added. Everything else is pretty well spelled out. Parking to be delineated on the plans can be added. Dave and Kara could re-stripe if desired. They have done a great job maintaining the place. Mr. Lessard said there would be so many new owners.

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David Hartnett discussed his love of the beach. His family has been there for many years. Their goal is they want to maintain Hampton Beach the way it has been for 100 years. The kids don't want to run a hotel on the beach. They could put up 250 condo units at that location. They are making sure it stays a hotel.

Mr. Lessard is trying to cover all of the bases; how far is the Board from the waivers. He is trying to be pro-active.

Mr. Bachand recommends the waivers. Why are they asking for a waiver was asked by Mr. Lessard. Mr. Bachand said the Site Plan and Subdivision regulations require them (detailed plans). Condo conversion is a form of subdivision under the Regulations. We don't need a drainage plan; landscaping plan, etc. in these instances. Therefore, the waiver of the detailed plan is a requirement. The applicants submit the applicable information; the rest is covered under the waiver.

Mr. Waddell concurs with Mr. Bachand. It's just a change of ownership.

Mr. Olson discussed the application fee. It was not in the spirit or the intent of the fees when it was a 58-unit complex; however, to think this is a \$5 million or \$6 million project, someone should come up with \$5,900. It needs to be in the spirit of the community, to pay the fees - he does not agree with that (waiver request). They should give back to the community.

Mr. McMahon asked about trash. It is in Condition #5. Mr. Bachand said they have to go to the Board of Selectmen to determine whether they need a private hauler.

Mr. Lessard asked about the year-round unit. Mr. Bachand said if the Board approves, he recommends the conditions in his Memo, modifying Condition #2 saying of seasonal use only – May 1st to October 31st, except for one caretaker unit which may be year round. Mr. Lessard asked which unit number. It is labeled Unit Above Office on the floor plans.

MOTION by Mr. Lessard to approve the waiver request regarding Detailed Plans.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 6 – 0 – 1 (Loiseau recused). MOTION PASSED.

Will the applicant pull back on the partial fee waiver after Mr. Olson's comment was asked by Mr. Lessard.

Mr. Waddell said it is tough after a COVID summer. He thinks times are tough. What is cash flow was asked. Mr. Olson said to pass the cost on to the purchaser. Put the \$100 on the new person who needs trash picked up; needs an ambulance, or has 2 or 5 children in school system. Mr. Olson said to honor the rules of the community. It could happen. We're talking about the next 50 years; not talking about this year.

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Is Mr. Olson making a Motion was asked.

Attorney Scully will circle back with Mr. Hartnett. He may need a minute to circle back to him. When he did approach the Planning Office with this request, part of conversation said it needed to go through this step, but it seemed like an exorbitant fee. After discussing with Mr. Bachand, Attorney Scully felt it was appropriate to reduce the fee. He thought it was a fair and amicable fee to the Town. This is seasonal. This will not be anything but seasonal. Mr. Scully said the unit that is year round is on the plan, it is noted as unit above office. Sheet 3 of 5. Unit above office – just so there is no confusion. He wants to make that clear.

Ms. Carnaby asked if any of the current and past regulars have been approached with offers to them to purchase their unit. How many are interested in doing this was asked.

Mr. Emerick does not believe we have a right to deal with that. Mr. Olson said in a free market, all rights are off. Mr. Emerick said it is not within our purview.

Attorney Scully said he doesn't have the ability right now to discuss with Mr. Hartnett (applicant). If it does not pass, the fee will be paid in full. He asked the Board to vote on the waiver.

Mr. Bachand discussed the \$100 base fee plus \$100 per unit. Attorney Scully based it on the number of buildings instead. It comes to \$1500 in total. Rather than basing on the number of units; it is number of buildings. Mr. Lessard asked if this is the way of the future. Mr. Bachand has not seen this in the past. Mr. Lessard asked about the Riviera on Ocean Blvd. That was new construction, site plan for a condominium building. Mr. Bachand said that is a different fee structure. The Town's fee schedule was explained. Mr. Lessard asked about Mary Batchelder – it is by unit, he believes, but that file is not in front of him. Mr. Lessard wants to be consistent.

MOTION by Mr. Waddell to approve the waiver according to Mr. Bachand's Memo.

SECOND by Mr. McMahan.

ROLL CALL VOTE on \$1,500 as opposed to \$5900.

3 (Emerick, Waddell, McMahan) – 3 (Olson, Lessard, Carnaby) - 1 (Loiseau recused).

The motion did not pass.

MOTION by Mr. Lessard to approve the project, Condominium Conversion, with one year-round unit. Seasonal units running from May 1st to October 31st. Along with the conditions in Mr. Bachand's Memorandum dated February 3, 2021.

SECOND by Ms. Carnaby.

ROLL CALL VOTE: 6 – 0 – 1 (Loiseau recused).

MOTION PASSED.

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CONTINUED PUBLIC HEARINGS

20-059 10 & 14 Sapphire Avenue (continued from January 6, 2021)

Map: 223 Lot: 66 & 74

Applicant: Nancy Keay, Trustee, Lucille Walker Revocable Trust

Owner of Record: Same

Wetlands Permit (After the Fact and Amended):

Remove rip rap and install originally planned stabilization items. The installed bank stabilization varied from what was approved in 2013.

Paige Libbey (Jones & Beach) is on the phone. Nancy Keay (applicant) is on the phone as well. This is for 10 & 14 Sapphire Ave. A Wetlands Permit was approved in 2013. This is an amended application. Same as was approved. Coir logs were approved, but the contractor put in rip-rap instead. The Conservation Commission and the DES said it is not in compliance. It needs to be corrected. Coir logs will be put in.

They went to the Conservation Commission last week and they have the recommendation letter. The only condition different is they want a planting plan for the 5' buffer along the top of the bank. They need a permit from DES also.

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Ms. Carnaby went to the Conservation Commission meeting. Her concern is that this issue has been going on since 2013 and her question may be just to the Board. How did this happen was asked? Rip-rap instead of coir logs. Why was it not remedied sooner so we don't have these after-the-fact applications.

Ms. Keay said the permit was from 2013 and when the contractor was hired, he was told what to do. He was working on #18 Sapphire and he decided to do what he wanted. When she came back – it's been in place since 2018. It's been a nightmare.

Mr. Olson asked how long do these permits last. Are both lots vacant was asked. Yes, they are. They are non-buildable. He sympathizes with her.

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MOTION by Mr. Lessard to approve the after-the-fact Wetlands Permit, as amended along with the conditions in the Conservation Commission letter dated January 27, 2021.

SECOND by Mr. Waddell.

ROLL CALL VOTE: 7 – 0 - 0

MOTION PASSED.

V. CONSIDERATION OF MINUTES

MOVED by Mr. Lessard to accept and approve the January 20, 2021 Minutes.

SECOND by Mr. Olson.

ROLL CALL VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

- **HBAC Coastal Resilience Symposium – February 9, 2021 (Zoom)**

The HBAC is holding a Coastal Resilience Symposium next Tuesday. This ties in nicely with our Master Plan work. He encourages all to attend. Registration is on the Town's website. Go to hamptonnh.gov. People can call the Planning Office also (929-5913) for more information. February 5th is the deadline to register. It runs from 8:30 a.m, to 2:30 p.m..

Ms. Carnaby asked if this will be recorded; it is - yes. Two sessions – morning and afternoon. The morning features a number of presenters. 7 minutes each. Q&A at the end of the meeting. Bob Casassa is moderating. There will be a lunch break and then in the afternoon there is a panel of advisors. Recommendations will be given.

- **Town Master Plan Focus Group for Residents – February 11, 2021 (Zoom)**

Mr. Bachand discussed this upcoming focus group for residents. Thursday, February 11th. This information is on the Town's website, front page. It is an opportunity for the public to give ideas. No advance registration is needed. The Zoom information is on the Town website. Hamptonnh.gov. 7 p.m. to 8:30 p.m.

VII. OTHER BUSINESS

- **Consultant for Phase II Comprehensive Master Plan Update**

Mr. Bachand said this (proposal review process) was well done. We were fortunate to receive several very competitive proposals. All were excellent. Resilience Planning & Design received a unanimous first place vote. Mr. Bachand therefore recommends as a motion that the Planning Board select Resilience Planning and Design as the consultants for the Phase II Comprehensive Master Plan Update, subject to final contract approval and execution.

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MOTION by Mr. Lessard.

SECOND by Ms. Carnaby.

Ms. Carnaby said tomorrow morning to let them know there is a slot reserved for them at the February 9th HBAC Symposium.

ROLL CALL VOTE: 7 – 0 – 0

MOTION PASSED.

Mr. Lessard wants to let everyone know about the Hampton School District meeting. It is tomorrow night, Thursday, the 4th at 6:00 in the Hampton Academy gymnasium.

VIII. ADJOURNMENT

Mr. Emerick adjourned the meeting.

MEETING ADJOURNED: 8:38 p.m.

Respectfully submitted,

Laurie Olivier, Office Manager/Administrative Assistant

****PLEASE NOTE****

ITEMS NOT CALLED OR IN PROGRESS BY 10:00 P.M.

MAY BE CONTINUED TO THE NEXT SCHEDULED MEETING