

HAMPTON PLANNING BOARD

FINAL MINUTES (as amended)

August 4, 2021 – 7:00 p.m.

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

ABSENT:

I. CALL TO ORDER

Mr. Emerick commenced the meeting by leading the Pledge of Allegiance and introducing the Planning Board members. Attendance was taken, and it was stated who was in the room.

It was noted that the applicant for 465, 467 & 469 Ocean Boulevard wishes to continue both applications (Site Plan and Wetlands Permit) to the September 1, 2021 Planning Board meeting.

MOVED by Mr. McMahon.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

It was noted that the applicant for 449 Ocean Boulevard wishes for the Site Plan application to be continued to the Board's September 1, 2021 meeting.

MOVED by Mr. McMahon.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

II. ATTENDING TO BE HEARD

Change of Use – One Merrill Industrial Drive, Bldg E, Units 114 and 115 (a/k/a Units 26 & 27). Day Care Center to Health Care Provider

Mr. Kevin Schultz appeared with Norman Carpentier, of Carpentier Construction. Mr. Schultz said they have an empty unit that the Petitioner purchased. It used to be a child care center. It has been vacated. The applicant wants to move her business to here. She's expanding her business. She's going to teach as well.

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Mr. Lessard asked if they removed the playgrounds. It was stated 'yes'.

MOTION by Mr. Lessard to grant the change of use.

SECOND by Mr. Waddell.

VOTE: 7 – 0 – 0

MOTION PASSED.

III. NEW PUBLIC HEARINGS

21-034 212 Lafayette Road

Map: 189 Lots: 14 & 18

Applicant: Tony Olbres

Owner of Record: Yankee Faust Trust, Tyler Olbres, Trustee

Subdivision and Site Plan: Subdivide Lot 14 into two conforming frontage lots and construct one condex on each lot with common driveway and utilities from Drakeside Road.

Waiver Request: Section V.D.13 (showing entirety of all lots of a subdivision).

Mr. Joseph Coronati appeared, Jones & Beach. Mr. Tony Olbres, the applicant was present. Mr. Coronati said this is two parts. One is to subdivide the parcel into two frontage lots; the second is to get approval for two duplexes which would be condominiumized. Each unit would be sold separately. Four units constructed on two separate lots. Lots are conforming. Proposed structures meet setbacks; no variances were required.

Access to the property would be by a common driveway off Drakeside Road. Being off Drakeside Road is for safety. There is frontage on Route One. Utilities are on Drakeside Road. Two structures are in the lawn area. There will be no changes to Mr. Olbres' parcel.

Stormwater from the site is being handled with a porous driveway, porous walkways and a drip edge for water so stormwater is contained.

BOARD

Mr. McMahon discussed setbacks. It will not be a public street. There are still setbacks. There are still frontage requirements.

Mr. McMahon asked about the subdivision. If they do the subdivision what prevents them from selling separately was asked. Mr. Coronati said the application is for the subdivision and the units proposed on each lot. Mr. McMahon asked what is the reason for the subdivision. It's

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currently one lot. They previously looked at a different lot. The multi-family regulations were discussed. These units would not comply if three units per lot.

Tocky asked, if the subdivision is approved, if we are implying the lot can be built on. She asked why don't they have to comply with a court decree that says you can't put a structure up front. The easterly one.

Tocky said there is a Court Decree that says you cannot put a structure between the General Moulton House and Route One. Mr. Olbres said Tocky did not understand the Decree. He read it aloud. Tocky asked for Mr. Olbres to let them know if Historic New England was fine. Mr. Olbres said it's a private matter between two parties. Tocky read an RSA. Mr. Emerick said we are not involved in legal issues. Tocky does not think the Board should vote on something violating the law. RSA 477:47. Mr. Emerick said we don't get involved in Deeds. Tocky said then to build it on the Russell's property and they won't have to worry about being in between the facade of the General Moulton House and Route 1.

Tocky brought up the condominium plan; it's four units. 1-4. She thinks it looks like multi-family. There are not two lots yet. Mr. Coronati said this is happening at the same time. Tocky does not have a condominium site plan. There is no land surveyor stamps; plans don't show dimensions of units and improvements. Mr. Coronati said they can't put everything on one plan.

Mr. Lessard asked if there is a common HOA. Mr. Coronati said there is. Four units will share the maintenance of the driveway. Condominium documents will be drafted. There will be additional easements.

Mr. Lessard discussed two units and a condo association of two units and then an overlay over the two units. A Master Association that would deal with roof, siding, and so forth would be included. Mr. Lessard said the two buildings with the two condexes in each of the two buildings--they are sharing a common driveway which is an easement granted to both parcels.

PUBLIC

Betty Moore, 375 Ocean Boulevard appeared. She represents the Hampton Historical Society. They are listed in the deed restrictions. She gave background on the history. Deed restrictions that go with the historical house were discussed.

Laurie Cotter, 168 Mill Road, VP of the Hampton Historical Society appeared. They never received notice from the Zoning Board. They sent a letter to the Planning Board. She pointed out the breach. She discussed the court document.

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Leslie Lafond, 53 Moulton Road appeared. She is not concerned with the buildings but is concerned about the cut onto Drakeside Road. She discussed traffic at the sports arena. The corner is dangerous. There will be many accidents she is afraid.

BOARD

Mr. Olbres rebutted the Hampton Historical Society comments. It says “either or”. They’ve worked with the Historical Society for 40 years. The Hampton Historical Society has never inquired about their property in 44 years.

Mr. Emerick discussed the intentions for tonight. It should be continued until the first meeting in September. There is a cloud of legality. We are a land use board. They have been asked by the Historical Society to deny. They need to have this referred to Town counsel for an opinion. He does not want to be a Planning Board in the middle of a legal fight.

Mr. Bachand agrees with that. We just received the (Hampton Historical Society) letter this morning. He has not had a chance to touch base with the Town Attorney.

Mr. Olbres does not understand the legality opinion whatsoever. Mr. Emerick said we are not a court and we cannot get in the middle of this. Mr. McMahon said the applicant and Historical Society should provide documents to our Town Attorney so he has all the documentation. Mr. Lessard asked if this is a complete plan. The original submission was complete. It did go to the PRC. It is noted the resubmitted plan does not have a land surveyor stamp or condominium certification. The plan before us is incomplete right now. We should not accept jurisdiction right now.

Mr. Bachand said he believes the waiver request is reasonable.

MOTION by Mr. Lessard to continue this matter until the September 1st meeting so there is time to have a meeting of the minds. We are not accepting jurisdiction.

SECOND by Ms. Carnaby.

Mr. Coronati asked what is our obligation between now and the next meeting. It was noted getting plans up to snuff and to resolve whatever else needs to be resolved per Mr. Emerick. If it’s cloudy business, we need it cleared up. Share the information with the Town Attorney. Mr. Bachand said to send the material to the Planning Office. This is for the Deed Restriction involving the Moulton House and Historic New England. Tocky said it’s a 4-unit condominium – that makes it multi family to her.

VOTE: 7 – 0 – 0

MOTION PASSED.

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21-036 182 Exeter Road

Map: 88 Lot: 27

Applicant: David and Ellen Goodman

Owner of Record: Same

Conditional Use Permit for Accessory Dwelling Unit (ATF): Formalize existing 756 s.f. (Accessory Dwelling Unit) constructed and created in 2001.

David and Ellen Goodman appeared. Four years ago they bought the family home. It came with a sister dwelling unit. They are trying to get it into compliance with the ADU rules. He updated the floor plans and passed them out.

BOARD

Tocky asked when they purchased this, was it like this was asked. Mr. Goodman stated ‘yes’. Was it a bigger house was asked. Did it have two kitchens was asked. It had two kitchens less a range and refrigerator. Tocky asked whatever you have is it kosher. The Building Inspector was inside. Tocky said they are bringing it into conformance with the ADU rules. She asked why they want to do this. They want two kitchens officially. Their daughter and son-in-law will be moving in. Nothing outside will be changed.

Mr. Emerick said that was a legal use. It could not have a range. It’s now being converted to full use. Mr. Lessard said it was his father living in the in-law apartment in the past.

**BOARD
PUBLIC**

Eugene – Driftwood Road, appeared. He wants to make sure it is not going to be a rental unit. He does not want renters in and out of there. They are allowed to be rented per Mr. Emerick. Only one of the units. One must be owner-occupied.

BOARD

Mr. Bachand said spoke with the Building Inspector. In 2001, the Building Permit was for a solarium, bedroom, rec room and porch. The property is in the RA Zoning district. It does not allow two-family. They are making this conform to the ADU Ordinance. Having a locked door so there is no expansion into the basement was discussed. The common area was discussed. He recommends approval along with the conditions in his August 4th Memo, including 8, 9 and 10. Mr. Bachand asked Mr. Goodman if he is okay with the conditions, and he responded “yes”.

MOTION by Mr. Lessard to approve with the conditions in the Planner’s Memorandum.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 - 0

MOTION PASSED.

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21-037 45 Nudd Avenue

Map: 274 Lot: 154

Applicant: Darren Sturtevant

Owner of Record: David and Christine Cardillo

Wetlands Permit: Raise the existing house and construct a new foundation using helical piles and concrete columns. New first floor elevation of proposed house to be at 10.2 elevation.

Norman Carpentier, Carpentier Construction, and Kevin Schultz appeared. Mr. Carpentier said they are proposing to lift the existing house as it is, remove the foundation, install helical piles, and set the house back down in the same position prior to lifting it. It will elevate at least a foot above flood elevation now. They would be keeping the same permeable surface.

BOARD

Ms. Carnaby was on site walk; it was straightforward. Everyone was happy with it.

Mr. McMahon asked about keeping the existing structure rather than building new. Mr. Carpentier said the only part of the project they have is to lift it and put it back down. The builder/developer will do his own renovations.

Tocky asked why 10.2 – in case they make a mistake per Mr. Carpentier. Tocky discussed the five steps with elevation. Will they be off the property was asked. On the front. Will they build a landing was asked. Mr. Carpentier said a granite block will be there. The first step is a granite block. Mr. Carpentier said they are adding 3 additional risers. Mr. Schultz said the steps can be 7 ¾” rise; 10 inch tread; that’s the travel distance. Mr. Schultz said the steps will be raised with the house. There will be 5 steps when done. Tocky asked what happens on the side of the house. It is air.

Mr. Lessard discussed the landing. Mr. Lessard said on this plan it does not look accurate. Tocky discussed the landing. Build a landing and come down sideways. Mr. Carpentier said they could recess it one step.

Mr. Lessard asked about the second floor.

**PUBLIC
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It says proposed per Mr. Lessard. It covers the applicant for when he expands. 858 and add 312 to deck.

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MOTION by Tocky with to approve along with the conditions contained in the Conservation Commission letter dated July 28, 2021.

SECOND by Mr. Lessard.

VOTE: 7 - 0 - 0

MOTION PASSED.

21-038 16 Boar's Head Terrace

Map: 266 Lot: 44

Applicant: Walter Tate and Tamara Tate

Owner of Record: Same

Driveway Permit Appeal: Driveway Permit Appeal (Already built drive w/pavers in Town right of way; width exceeds 24 feet)

Mr. and Mrs. Tate appeared. They want permeable pavers placed in the Town of Hampton right of way, and a waiver for the width as it exceeds 24', and a waiver to request a reduction for the Certificate of Insurance. They will put a hold harmless in place.

They constructed a new home. In order to comply with State Shoreland Permit, they were asked to use permeable pavers. When they were installing them, the installer said to extend the permeable pavers since they live on a hill. It would help with drainage.

BOARD

Mr. Lessard said he is not happy. Selling more pavers does not make it okay. Now it is a wide driveway. How do neighbors enjoy this was asked. They are almost claiming the Town property. It appears the parking space goes into the public right of way. That is not their property. How do they park two cars was asked.

Mr. Lessard said land in front of the house-they took as a driveway. They have a parking space in front. Is it part of an agreement with the Town was asked. No grass at all. Mr. Lessard asked if they have the letter from the Conservation Commission. They went through the State (Shoreland Permit). They own 14 Boars Head as well. Mr. Tate says he has two spaces.

Mr. Tate said the plan was illegible. Mr. Lessard said just because the horse is out of the barn; the pavers should be removed and plant grass. Neighbors have 24'. This was not a local contractor. Ms. Tate said they were going to do permeable pavers around the home. It is a 40' x 40' lot.

Mr. Emerick said there is a mixed bag going on here. We can't do anything with insurance. There has to be a supplemental agreement with the Town.

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Mr. Bachand said the width is all the Planning Board can consider. Everything else is dealt with at the Board of Selectmen level.

The DPW will probably knock on the neighbors' doors. Ms. Tate said Jennifer Hale was not concerned with the Town equipment. They let the neighbors park there. Mr. Lessard said the houses outlive residents. It used to be crushed stone.

Mr. Waddell discussed the width. That is a tough situation. Why did they go way beyond the width was asked. It's a problem. He (the contractor) suggested it to the Tate's for drainage and runoff.

Mr. McMahan said they extend onto the property next door. It's several feet. They were already parking there - at #14. Mr. McMahan asked if they are dealing with one waiver or two. They want the Certificate of Occupancy for their home. They filed for a driveway permit in 2020. Before pavers were put in, it was noted the applicants were told what to do. They did not know about the width requirement. It is on the form. Mr. Tate said it doesn't specify what goes on the outside of the property.

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Mr. Bachand said the width is within the scope of the Board. They have pavers in the right of way. They have to go to the Board of Selectmen. Mr. Lessard said they could come back and we could work with them.

Tocky asked about all the way down to two thirds of the adjacent property without a permit at all. That house was already there. Mr. Bachand said he is concerned – it is specifically for 16 (Boar's Head) and the pavers go onto 14 (Boar's Head). It went outside of the scope of the application.

Mr. Waddell hopes we work with them. They need to right what was done.

Ms. Carnaby agrees. She thinks otherwise there is no choice but to deny. It may show that anyone thinks they can put permeable pavers for the good of the environment; it does not wash well. Mr. Bachand asked if they should get a plan to show the driveway. Mr. Lessard hopes they understand where they are coming from.

We need a 4' apron per Mr. Lessard. The \$2 Million is the policy to repair any damage, etc. Mr. Lessard said the Board is concerned with the width.

Ms. Tate asked what the Planning Board wants. Reiterated - 24' wide driveway. What can be next to it was asked. Nothing that can be perceived as a driveway per Mr. Lessard. Examples: grass, sod, crushed stone. Mr. Lessard wants the driveway to be 24' width. The Town property

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in the front of the house, about 6' in. They did not get a driveway permit for #14. **They need to do that as well.**

Ms. Tate asked if they need to remove the pavers and put in crushed stone. They were told to deal with the DPW.

Mr. Bachand said the applicant can follow up with the DPW or the Planning Office. If we can get information from the applicant by next Wednesday, we can continue for two weeks. Otherwise, it could be longer. Mr. McMahon asked if they can get a CO if we agree on a plan. Mr. Bachand said if at the next meeting, based on what happens at the next meeting. We can do two weeks. Consult with the Building Inspector. The 18th of August. It would be August 11th when we would need the new plans. Tocky said put your driveway where the plans are.

MOTION by Mr. Waddell to continue the application to August 18th.

SECOND by Mr. Lessard.

MOTION: 7 – 0 – 0

MOTION PASSED.

21-039 501-503 Winnacunnet Road

Map: 222 Lot: 117

Applicant: Elizabeth and David Cargill

Owner of Record: Same

Condominium Conversion: Convert three units in two existing structures into condominium form of ownership. Waiver Request: Section V.E - Detailed Plan

Attorney Eugene Geary from Morris Law appeared. They have a single family and a two unit. The Cargills are here also. They want these units to be 3 distinct condominiums.

Attorney Geary said there will be no structural changes. These are already aesthetically pleasing buildings. Mr. Henry Boyd (Millennium) submitted plans to the Board. Mr. Boyd saw the Town Planner's recommendations. There are no problems. The Cargills have no problems either with recommendations. Abutters were noted as being in favor of the project.

**BOARD
PUBLIC
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Mr. Bachand noted suggested stipulations in his Memorandum. Carts at the street were discussed. The need for a better location was noted. He noted there is also a waiver request.

Mr. Bachand recommends approval with the conditions contained in his Memorandum dated August 4th.

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MOVED on the waiver by Mr. McMahon.

SECOND by Mr. Waddell.

VOTE: 7 – 0 - 0

MOTION PASSED.

MOTION by Mr. McMahon to approve the application along with the conditions in the Town Planner’s Memorandum dated August 4th

SECOND BY Mr. Waddell.

MOTION: 7 – 0 - 0

MOTION PASSED.

21-040 37 Naves Road

Map: 147 Lot: 16

Applicant: Victoria and John Wijeyesinghe

Owner of Record: Same

Driveway Permit Appeal: Proposed driveway modification exceeds 24-foot maximum

Mr. and Mrs. Wijeyesinghe (“W”) appeared. Mr. Lessard asked if they heard the last applicant. Ms. W. wants to expand their driveway. They want it expanded 8’ on one side. It’s 20’ wide right now. It would allow one more car space. They are at the end of a cul-de-sac. They also want to put a deck on their home. They are in the Aquifer. They have to decide how to do the driveway. They can get porous asphalt. She did not realize about going beyond 24’. She sees homes that have driveways that are large; beyond 24’ and it is all asphalt. They want to do the right thing.

Mr. W. said the plows come up, they had large banks. If he has to go 24’, he would do that.

The whole driveway would be torn up. Mr. Emerick said the driveway can flare out toward the home. It needs to be 24’ at the curb cut.

Mr. Lessard discussed abutting the Town cul-de-sac. Could the whole radius be paved was asked. Tocky thinks there may be an easement at the cul-de-sac.

Mr. Emerick said if it is determined it is the applicant’s property, do the 30’ driveway. Otherwise, it has to be 24’ and it can then flare out on their property.

Tocky discussed going back to the ZBA. Can we continue this for two weeks was asked. Mr. Lessard said the Town road may be on the applicant’s property.

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Mr. Bachand said the Board could wait two weeks to find more information.

Tocky is not comfortable giving 30'. Mr. Emerick asked if they are crossing the Town property. It's not a right of way; it is an easement. If it is Town property it is 24' – if it is not the Town property, it can be what they (the applicants) want.

MOTION by Mr. Waddell as noted above. If Town property, it's a 24' width; if is the applicant's property, they can have the 30' width.

SECOND by Mr. Loiseau. If it is your property, go 30'; if it is not, it is 24'.

VOTE: 6 – 0 – 1 (Tocky)

MOTION PASSED.

21-041 20 Susan Lane

Map: 281 Lot: 77

Applicants: Brian and Kathy Ronan

Owners of Record: Same

Wetlands Permit: Raze the existing house and construct a new house on a new foundation set on helical piles.

Norman Carpentier (Carpentier Construction) and Kevin Schultz appeared. Brianna O'Brien, Conservation Coordinator, picked up a typo-the existing floor will be 10' – the new finished floor, it will be 10'8"; not 19'4. It's only on the State application.

Mr. Carpentier said they will be above flood elevation. Mr. Carpentier said they have to work out projections to 2050. They will raze the structure. The new structure is to be built on helical piles. The first floor elevation is elevation 10. They pulled the house away from the marsh. No variances were needed. They reduced the sealed surface.

BOARD

Tocky asked about square footage. Mr. McMahon was on the site walk and at the Conservation Commission. The Conservation Commission is happy with what they see.

**PUBLIC
BOARD**

Mr. Bachand recommends approval along with the conditions contained in the Conservation Commission letter dated July 28, 2021.

MOVED by Mr. McMahon.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 – 0

MOTION PASSED.

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IV. CONTINUED PUBLIC HEARINGS

21-027 35 Park Avenue *(continued from June 2, 2021 and July 7, 2021)*

Map: 190 Lot: 13

Applicant: Chelsie Portlock

Owner of Record: Chelsie and Daisy Portlock

Wetlands Permit: Add fill to create gentle slope. Install 4' chain link fence around outer edge of backyard.

Ms. Chelsie Portlock appeared. Their back yard had a major drop off. They want to add fill to create a gentle slope and fence in the back yard. The Conservation Commission said they can leave the fill; the fence needs to be where the rock wall had planned to be. Roughly 3 to 5' feet from slope. The fence is not up yet. It will not be in the wetlands. The initial proposal was in the buffer - in the wetlands buffer. The fence will be in the wetlands buffer.

Ms. Portlock is in agreement with the Conservation Commission recommendations.

**PUBLIC
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MOVED by Mr. McMahon to approve the Wetlands Permit with the Conservation Commission stipulations contained in its letter dated July 28th.

SECOND by Mr. Lessard.

VOTE: 7 – 0 – 0

MOTION PASSED.

21-011 465, 467 & 469 Ocean Blvd *(continued from July 7, 2021)* **BEING CONTINUED**

Map: 266 Lots: 31, 32 & 33

Applicant: RJS Consulting, LLC (Attn: Rick Smith)

Owners of Record: Elaine & Frederick Ayotte (465); J. Hunter Properties (467) & The Stephen LaBranche Living Trust (469)

Site Plan: To construct residential condominiums with associated parking at 465 & 467 Ocean Boulevard (to be merged) and to re-build parking area on 469 Ocean Blvd.

Waiver Request: Section V.C. Application Fees & IV.D.vi Lighting. (See 21-031 Wetlands Permit)

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21-031 465, 467 & 469 Ocean Blvd *(continued from July 7, 2021)* **BEING CONTINUED**

Map: 266 Lots: 31, 32 & 33

Applicant: RJS Consulting, LLC

Owner of Record: Elaine & Frederick Ayotte (465); J. Hunter Properties (467) & The Stephen LaBranche Living Trust (469).

Wetlands Permit: Replace existing asphalt behind 469 Ocean Blvd with porous pavement.

Small portion of work is within the 50' Wetland Conservation District. (See 21-011 Site Plan)

21-029 449 Ocean Boulevard *(continued from July 7, 2021)* **BEING CONTINUED**

Map: 266 Lot: 29

Applicant: Chuck Bellemore, MAM Realty Investments I, LLC

Owner of Record: Sea Spiral Inc., c/o Norman Bolyea

Site Plan: Renovate existing Sea Spiral Suites hotel into thirty-seven (37) one-bedroom condominiums. Waiver Request: Sections V.E. Detailed Plans and Section VII.E - Stormwater Management

V. CONSIDERATION OF MINUTES

MOVED by Mr. McMahon to accept and approve the July 21, 2021 Minutes.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 – 0

MOTION PASSED.

VI. CORRESPONDENCE

VIII. ADJOURNMENT

MOTION by Mr. McMahon to adjourn.

SECOND by Mr. Loiseau.

VOTE: 7 – 0 – 0

MOTION PASSED.

MEETING ADJOURNED: 8:57 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