

TOWN OF AMHERST  
Planning Board

October 21, 2020

**APPROVED**

In attendance: Arnie Rosenblatt - Chair, Cynthia Dokmo, Mike Dell Orfano, Dwight Brew-  
Selectman Ex-Officio, Bill Stoughton, Christy Houpis (Alternate), Tracie Adams (Alternate) and  
Chris Yates (Alternate). Marilyn Peterman and Brian Coogan arrived later in the meeting.  
Staff present: Nic Strong, Community Development Director; Natasha Kypfer, Town Planner;  
and Kristan Patenaude, Minute Taker.

Arnie Rosenblatt called the meeting to order at 7:01 p.m., with the following statement. As Chair  
of the Amherst Planning Board, I find that 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, as extended by various Executive  
Orders, this public body is authorized to meet electronically.

Please note that 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, I am confirming that we are:

Providing public access to the meeting by telephone, with additional access possibilities by video  
or other electronic means:

We are utilizing Zoom for this electronic meeting.

All members of the Board have the ability to communicate contemporaneously during this  
meeting through this platform, and the public has access to contemporaneously listen and, if  
necessary, participate in this meeting through dialing the following phone #312-626-6799 and  
password 853 1972 6815, or by clicking on the following website address:  
<https://zoom.us/j/85319726815> that was included in the public notice of this meeting.

Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting,  
including how to access the meeting using Zoom or telephonically. Instructions have also been  
provided on the website of the Planning Board at: [www.amherstnh.gov](http://www.amherstnh.gov).

Providing a mechanism for the public to alert the public body during the meeting if there are  
problems with access: If anybody has a problem, please call 603-341-5290.

Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and  
rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence,  
please also state whether there is anyone in the room with you during this meeting, which is  
required under the Right-to- Know law.

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**Roll call attendance: Chris Yates, Dwight Brew, Cynthia Dokmo, Bill Stoughton, Christy Houpis, Tracie Adams, Mike Dell Orfano, and Arnie Rosenblatt; all alone and present.**

*Tracie Adams sat for Marilyn Peterman, who was not yet present.*

*Christy Houpis sat for Brian Coogan, who was not yet present.*

*Marilyn Peterman entered and took her seat on the Board. Tracie Adams resumed her role as an Alternate member.*

**PUBLIC HEARING: Public Hearing on the Capital Improvements Program, Plan of 2022-2027, as proposed by the CIP Committee.**

**Mike Dell Orfano moved to open the public hearing. Christy Houpis seconded.**

**Roll call: Bill Stoughton - aye; Dwight Brew - aye; Marilyn Peterman - aye; Cynthia Dokmo – aye; Christy Houpis – aye; and Mike Dell Orfano - aye. Motion carried unanimously.**

*Danielle Pray, Chair of the CIP Committee and Ways & Means Representative, and Beth Kuzsma, Representative from the Schools, joined the Board.*

Danielle Pray stated that the CIP Committee met over the summer with representatives from the Planning Board, Schools, Ways & Means Committee, and the public. The group met with Department Heads, who presented their plans up to 2027. She explained that a number of the CIP requests were already on the schedule from previous years.

Marilyn Peterman questioned how some of these projects will be paid for. She explained that interest rates are currently very low, and it might make sense to bond some of these projects to spread out their cost over a longer period of time and to be paid for by more people in town over that time period.

Danielle Pray stated that the group didn't look at that funding mechanism for many of the projects.

In response to a question from Tracie Adams, Danielle Pray stated that there were no contentious items discussed by the CIP Committee. She explained that the Schools are going to try to move to the Capital Reserve Fund (CRF) method this year for some of their requests.

In response to a question from Mike Dell Orfano, Beth Kuzsma explained that the Amherst School building bond and the Souhegan 2.0 projects are highlighted because this will be an either/or decision. If the voters agree to pay to replace Clark Wilkins School, then there will not be a need to replace the HVAC systems there. Some of the proposed projects at Amherst Middle School and Souhegan High School could still be sought, but other items would be included into

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the construction bond. These decisions will be partly up to the Joint Facilities Committee, and then up to the citizens' vote.

In response to a question from Mike Dell Orfano, Beth Kuzsma stated that the Schools plan to establish a CRF and place money into it as a savings fund, until the exact project costs are known. The Schools plan to be careful with these funds until the scope of the projects is known. If the bond is passed, the use of funds can be shifted to other items, amounts can be dropped, or funding can be paused.

In response to a question from Mike Dell Orfano, Beth Kuzsma stated that most of the project line items are to be funded through the CRF. There are a couple of items that there won't be enough money to fund from the CRF and so additional funds would be requested in those years.

In response to a question from Mike Dell Orfano, Danielle Pray explained that, if all the projects were to pass, the tax impact for 2022 would be \$3.00/\$1,000. The CIP Committee works to shift projects around based on priorities, in order to level out the tax impact over the years of the plan.

In response to a question from Mike Dell Orfano, Beth Kuzsma stated that it was difficult for the Schools to put these potential numbers into the CIP without knowing for sure which direction the projects will go, but it was a request made in order to gather information needed for impact fees, etc.

In response to a question from Christy Houpis, Beth Kuzsma explained that the plan for the Schools for this year was finalized in August/September, but it was realized that this needed to be amended. The Souhegan School District may ask for a special meeting before March, to request an HVAC upgrade. The Wilkins and Middle School HVAC system upgrades are probably still a couple of years out, but this may be bumped up based on facility needs. These items should be able to be covered by the CRF. If these items are moved up, other projects will be bumped out.

In response to a question from Bill Stoughton, Danielle Pray stated that she can't remember any proposed project being screened before being added to the CIP. The CIP is essentially an advisory document for the Board of Selectmen.

Nic Strong noted that the Planning Board oversees the CIP and, per the statute, can take a project out before sending it along to the Board of Selectmen and Ways & Means Committee.

Cynthia Dokmo suggested that the Committee look into bonding some of the items, as there are currently very low interest rates, and it might spread the cost over a longer period of time and across more citizens.

Dwight Brew explained the typical home in Amherst is \$355,000, up \$3K from last year. There was a \$15M bond for roads passed in 2010. The Town has not taken out a new note in a few years. At one point, note repayment was over \$1.2M per year. The Board of Selectmen did not

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filter the requests coming from the departments; for example, the Board of Selectmen has not voted to move forward with a Recreation Center, but it is on the CIP as a place holder with Board of Selectmen's knowledge.

Dwight Brew explained bridges receive an 80% state match, but Towns have to wait until their year comes up. The plan is for the Town to get caught up and then pay for bridge repair and maintenance annually going forward. The \$1.2M for bridges is money that the Town is behind on. One reason the Town is behind is because it's been playing catchup on the roads for the last ten years. At the end of the Town's seven year roads plan, the intention is for 60-70% of roads in Town to be green, according to DPW's classifications.

Dwight Brew also explained that the Fire/Rescue request is for \$257,000 annually, basically forever. This request will probably need to be adjusted for inflation at some point. Due to this request being necessary each year, it will be spread out among new people coming into the community. Currently, the DPW spends \$250,000 annually on lease/purchases. Dwight Brew stated that he believes the DPW Director will be asking the Board of Selectmen to consider transitioning from a lease/purchase strategy to a capital reserve strategy. Dwight Brew stated that the Selectmen will accept, with thanks, the CIP, but will likely not move forward with one or more items.

Chris Yates stated that he would like to see a narrative to go along with the CIP document, as the description given tonight didn't match everything listed on the sheet. He would like the Committee to show transparency in this way.

Will Ludt, 3 School Street, agreed that an executive summary would be helpful to help the public understand the CIP process.

*Brian Coogan entered the meeting.*

In response to a question from Marilyn Peterman, Dwight Brew stated that the road bond has not been completely paid off, but the bond has been completely borrowed.

Marilyn Peterman suggested that the Town take out a bond for certain items, for example the Fire/Rescue CIP items, this could spread the cost out over a number of years and thus have less of an impact on the overall tax rate.

Mike Dell Orfano agreed with Chris Yates and Will Ludt that there needs to be a greater explanation of the process, especially in regard to the Schools transitional process to a CRF model, and with the juxtaposition with potential bonds.

**Christy Houpis moved that the Planning Board approve the CIP and move it forward for review and action by the Board of Selectmen. Cynthia Dokmo seconded.**

**Discussion:**

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Mike Dell Orfano suggested that there also be a recommendation that additional clarity be included for the Board of Selectmen and the public regarding how the process is structured.

Christy Houpis amended his motion to include that the Planning Board recommends that additional narrations and descriptions be added to the CIP document for the Board of Selectmen to review. Cynthia Dokmo seconded.

**Discussion:**

Dwight Brew suggested that, if the Planning Board feels that more clarity is needed, the CIP Committee draft these revisions and bring them back to the Planning Board, before the document is passed along to the Board of Selectmen.

In response to a question from Marilyn Peterman, Nic Strong stated that there is no real timeframe for the CIP, but that the Board of Selectmen and Ways & Means Committee needs the document to help build the budget.

Dwight Brew added that the Board of Selectmen will see the first draft of the budget and Warrant Articles at its meeting next Monday.

Christy Houpis withdrew his second, amended motion.

Christy Houpis moved his first motion [...that the Planning Board approve the CIP and move it forward for review and action by the Board of Selectmen.] Cynthia Dokmo seconded.

**Discussion:**

Bill Stoughton noted that his vote does not reflect the merits of any particular project proposed within the CIP.

*Arnie Rosenblatt noted that Christy Houpis will still be voting for Brian Coogan during this motion, as Brian Coogan arrived late.*

Brian Coogan noted that he arrived late because he was at a School Board meeting. He stated that the amount attached to the Schools project in the CIP is materially different than the actual number that will be attached to the Warrant Article request in March.

Beth Kuzsma explained that the plan created by the Schools over the summer was an estimate that was then submitted to the CIP.

Brian Coogan explained that the cost estimate for the project was just received. He suggested that the process be paused, in order for the correct numbers to be revised in the CIP.

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Danielle Pray stated that the Committee knew that the numbers might not be accurate, but felt it was necessary to move forward with the process. The Committee knows that the numbers on next year's CIP will be much more accurate. She is unsure if the document can be revised and sent back in time to get it before the Board of Selectmen for the budget process.

Beth Kuzsma stated that the Schools were frustrated to have to put inaccurate numbers into the CIP, but did so to move the process along. She is also unsure if the Committee would be able to gather quickly enough to amend the document and get it to the Board of Selectmen for review.

Roll call: Marilyn Peterman – aye; Mike Dell Orfano – nay; Christy Houpis – aye; Bill Stoughton – aye; Cynthia Dokmo – aye; Dwight Brew – aye. 5-1-0 motion carried.

*Brian Coogan took his seat on the Board as a voting member. Christy Houpis retook his seat as an Alternate member.*

**PUBLIC HEARING:**

1. CASE #: PZ12803-062920 – 6 Pine Road LLC (Owners & Applicants) – 6 Pine Road, PIN #: 008-042-000 – Public Hearing/Non-Residential Site Plan. To illustrate the layout of a climate controlled self-storage building on Tax Map 8, Lot 42. Zoned Limited Commercial. *Continued from September 16, 2020*

Marilyn Peterman moved to open a public hearing for CASE #: PZ12803-062920 – 6 Pine Road LLC. Mike Dell Orfano seconded.

Roll call: Marilyn Peterman – aye; Mike Dell Orfano – aye; Brian Coogan – aye; Bill Stoughton – aye; Cynthia Dokmo – aye; Dwight Brew – aye. Motion carried unanimously.

The applicants had requested a continuance prior to the meeting.

Marilyn Peterman moved to table CASE #: PZ12803-062920 – 6 Pine Road LLC to November 4, 2020, at 7:00 p.m. via Zoom. Cynthia Dokmo seconded.

Roll call: Marilyn Peterman – aye; Mike Dell Orfano – aye; Brian Coogan – aye; Bill Stoughton – aye; Cynthia Dokmo – aye; Dwight Brew – aye. Motion carried unanimously.

**OTHER BUSINESS**

2. Draft amendments to the Stormwater Regulations for review and discussion

Bill Stoughton explained that the recommendation is for the Planning Board to send these amendments to Town Counsel and the Town Engineer for review. This document will then come back to the Planning Board for further review.

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Bill Stoughton explained that the Amherst Conservation Commission (ACC) has taken an increased role in water management responsibilities for the Town this year. As part of this increased attention, the ACC has reviewed the Town's Stormwater Regulations and ordinances to look for possible amendments needed. In parallel, the ACC has reviewed the EPA's MS-4 permit for the Town, which is required for the Town to discharge water from its stormwater system. He explained that the ACC, Community Development Office, and DPW have worked together using a draft set of regulations from a coalition of towns in the Nashua/Manchester area. The group took this document and added Amherst-specific requirements.

Bill Stoughton explained that one of these requirements is that stormwater created on site should stay on site, and go back, cleaned, into the ground on site. "Clean," in this case, means free of sediment and with low levels of phosphorous and nitrogen. The State Alteration of Terrain (AoT) permitting process controls much of this process, but the Town regulations focus on smaller projects. The Town uses the same analysis and control techniques that the State uses for larger projects.

Bill Stoughton stated that this document should be sent to Town Counsel for a legal check, and to the Town Engineer for suggestions regarding different clean-up methods for stormwater. The group may want to show the Board tradeoffs on these items when it brings back the final draft for review.

In response to a suggestion from Arnie Rosenblatt, Bill Stoughton stated that he will work with Nic Strong and Arnie Rosenblatt to draft a document that frames the issues for Town Counsel and the Town Engineer.

### **3. Discussion re: Completed Applications**

Nic Strong stated that this discussion is regarding how the Planning Board accepts applications as complete. She explained that RSA 676:4 deals with the Planning Board's Administrative and Enforcement Procedures. She reviewed the steps for applications, including:

**Step 1** – Application is delivered to the Board;

**Step 2** – At the next meeting for which notice can be given or 30 days from delivery of application, the Board determines if the application is complete. Only the Planning Board can determine if the application is complete. The application has to be accepted as complete at a meeting, with notice. There is no statutory requirements for the completeness discussion to take place at a hearing.

Nic Strong noted the differences between submission of an application and a public hearing: submission of an application happens at a public meeting with no requirement that the applicant or public be allowed to speak or give input. Until the application is accepted as complete, it is not within the Board's jurisdiction, the public hearing cannot begin, no action can be taken on the application, and no conditions made for approval, disapproval, or conditional approval.

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If the application is incomplete, the Board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe what is necessary for the application to be complete.

If the application is complete, **Step 3** – the Board begins formal consideration of the application. This could mean moving into the public hearing or scheduling the public hearing. Nic Strong reviewed what makes an application complete, for both subdivision and non-residential site plan review applications. She explained what it means for an application to be complete and what it means for an application to be complete versus correct.

**Step 4** – The Planning Board must render a decision within 65 days.

If the application is not approved, the applicant is notified in writing within five business days of the reason for disapproval. The applicant may then revise and resubmit the application, or appeal to the Superior Court or ZBA.

If the application is approved, a Notice of Decision is issued within five business days, with a detailed description of all conditions necessary to obtain final approval.

Nic Strong reviewed action items for consideration, including: discuss the current process and determine if the Board is still in favor of holding the completeness determination; be mindful of the terminology of the statutes and be sure to accept applications as complete; do not hear any discussion or presentation of the application until the completeness determination has been made and the public hearing has begun; make it clear which phase of the process the Board is in; consider items listed in the regulations that are required for a completed application and determine whether or not the lists are still appropriate; consider adding items needed for completeness for Conditional Use Permit applications; revise the Rules of Procedure to remove reference to accepting applications as complete from Public Hearing section; unless compelling and extenuating circumstances exist, do not continue incomplete applications, it defies the purpose of the statute.

In response to a question from Bill Stoughton, Nic Strong stated that the Board can discuss and vote on potential waivers that deal with completion prior to voting on completeness. The Board can also hear from the applicant at that time, if it so desires.

Bill Stoughton noted that this process can be streamlined if the Staff Report lists items of completeness and which ones are missing.

Mike Dell Orfano questioned the process between voting on completeness and opening a public hearing for each case. Nic Strong explained that the Board would vote on completeness and the Chair would then note that the public hearing started. There is no statutory requirement to vote on a motion to open a public hearing; the Chair just needs to state it as so.



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In response to a question from Christy Houpis, Nic Strong explained that the Board can amend the rules of procedure at a regularly scheduled meeting. The subdivision regulations and site plan regulations have to be amended at a publicly noticed public hearing.

Dwight Brew suggested that this information be listed in a flow chart with steps. He stated that it seems a bit harsh to reject an application if the applicant has put in a good faith effort, but certain items are missing.

In response to a question from Dwight Brew regarding why it isn't suggested to continue a hearing if an application is incomplete, Nic Strong explained that there is a 30-day deadline within the statute for the Board to accept an application as complete, with sufficient information to make that decision. She explained that, if a piece of the application is missing but the Board decides that is okay, the Board could then have a discussion about the missing information and move forward with the process, if it so chooses. If the Board denies the application as incomplete, the applicant must then resubmit the application and begin the process anew.

In response to a question from Chris Yates, Nic Strong stated that the subdivision regulations have a long list of checklist items that then become tied to completeness. The Board can always ask for further rationale as to why potential waiver requests are requested, in addition to the proposal that certain items are hardships to the applicant.

Arnie Rosenblatt noted that it is difficult for the Board to know if it wants to accept certain waiver requests, without first hearing the project proposal. Nic Strong stated that the Board can recraft the completeness list to include a statement that certain items may be required later, if not provided upfront. As the list currently stands, if certain items are not included as part of the application, the application is not complete.

Nic Strong explained that site walks also should not be done until after application completeness is voted on. Arnie Rosenblatt noted that the Board may not be able to decide if certain studies or assessments are necessary until after a site walk or speaking to abutters. Nic Strong thus suggested that the Board look at its regulations and rewrite the list as it so chooses.

In response to a question from Arnie Rosenblatt, Nic Strong explained that she would prefer the regulations show applicants what is needed up front, but that the Board could then make a motion to continue the with required studies and defer the decision of whether or not to waive them, while still accepting the application as complete.

Marilyn Peterman stated that, in the past, the Planning Director was asked if the checklist for each application was complete. She is uncomfortable with the Board rejecting an application based on completeness without first hearing from the applicant. Nic Strong stated that the Board can amend its regulation language in order to deal with this.

Chris Yates stated that he believes there is some rationale to applications being able to stand on their own merit and that the applicant should be able to give the Board enough information to

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move forward. A subdivision application could request waivers on all of the studies required, but those studies are requested for a reason, and help the Board to make its decision.

Arnie Rosenblatt explained that the Board hears a range of projects, and that applicants are free to ask for waivers on items. He explained that Nic Strong has suggested that the Board can revise the checklist language in order to capture any concerns it has. He still wants studies to be required of applicants, but he also wants the ability for the Board to not make a decision on waivers up front, if it so chooses.

Mike Dell Orfano stated that he believes the applicant should know upfront what is required. He believes that creating an environment where the Board has to vote on waivers to certain studies before even hearing the application flies in the face of a land owner's right to develop.

Marilyn Peterman stated that she disagrees with this process. She believes it's unfair to applicants to request and vote on waivers upfront. This is onerous to the applicant.

Arnie Rosenblatt stated that he does not want the presumption to be that the Planning Board is not going to request certain studies.

In response to a suggestion from Cynthia Dokmo, Nic Strong stated that it is possible to create one checklist for "simple" applications, and another for more "complicated" applications.

Arnie Rosenblatt stated that he is concerned with this suggestion, because anyone could then say their application is "simple." He agreed with the suggestion that the language be changed so that the Board is enabled to either grant a waiver immediately before hearing the application, or wait until later in the process.

Mike Dell Orfano stated that he disagrees with the language that says the application "shall" be accepted. He does not want to obstruct development in Town.

Each Board member voiced an interest in looking at the regulation language to see if it meets what the Board would like to require of applicants.

#### **4. Discussion re: input to ACC regarding Open Space warrant article**

Bill Stoughton explained that the ACC has heard an interest in Town to preserve open space. The ACC is statutorily mandated to have a role in this process. The ACC's ability to preserve open space is constrained monetarily. Currently, 100% of the Town's Land Use Change Tax (LUCT) funds go into the ACC's Conservation Fund. This Fund was recently used to purchase the Buck Meadow Conservation & Recreation Area. The ACC's Conservation Fund currently sits at about \$260,000, which is not enough for the ACC to be a player in purchasing larger parcels in Town that are subject to pressure from developers.

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Bill Stoughton explained that the ACC is considering a Warrant Article for a \$6M bond to purchase conservation land in Town. This idea is being submitted to the Planning Board and Board of Selectmen for feedback.

Bill Stoughton stated that the intention of the Warrant Article will be a \$6M bond, with no more than \$3M to be expended in any given year. Given this thinking, a \$1M acquisition with a 20 year bond, on an average household in Town, would increase taxes by about \$20/year.

Bill Stoughton explained that some of the elements for this Warrant Article that are being considered are that smaller segments of conservation land in Town also have value, along with areas that are critical for continued conservation. He explained that there is also the possibility to work with landowners to take large parcels of land and subdivide them. This would allow lots to be built on existing roads, with the bond money being used to purchase the rest. This preserves open space with a minimal impact development on the land.

Rob Clemens, Chair of the ACC, noted that the ACC believed it was important to move forward with this Warrant Article now, instead of waiting for the Master Plan to be completed.

Chris Yates stated that he believes this proposal is a great idea.

Mike Dell Orfano noted that, in the past, purchasing land with bonds has been an issue because owners will raise their prices. There has also been an issue convincing the Board of Selectmen to agree to certain land purchases in the past.

Bill Stoughton noted that the ACC is constrained by the statute. The Board of Selectmen has the role of approving such purchases. This is the Board of Selectmen's job, and the ACC would need to have any deals approved by the Board of Selectmen first.

Bill Stoughton explained that the ACC surveyed several towns in the area to see their bond practices. He stated that Pelham has used bonds for the past 15 years to buy parcels, with Select Board approval. Each parcel that they purchase, first receives an appraisal.

Christy Houpis, Cynthia Dokmo, Dwight Brew, Tracie Adams, and Marilyn Peterman each voiced their support for this proposal.

Brian Coogan voiced his support, and also questioned how the Fund/bond will be replenished when it is depleted. He wondered about starting with a larger number, noting that there were a lot of unknowns in the next year with the pandemic, economy and the election.

Arnie Rosenblatt voiced this support. Having been on the Open Space Committee, he explained that he does not believe that owners will try to take advantage of land prices. He believes the Committees' problem was that it failed to garner support from the Board of Selectmen and the public regarding acquisitions.

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Bill Stoughton noted that the ACC originally considered a \$10M bond, but decided to request this smaller bond first, use it well, and show the Town a successful record.

In response to a question from Marilyn Peterman, Bill Stoughton noted that the interest rate on the bond when the ACC looked into it was about 2.5%.

**5. Minutes, October 7, 2020**

**Marilyn Peterman moved to approve the October 7, 2020, minutes as amended [to add Cynthia Dokmo's name to the list of attendees].**

**Bill Stoughton seconded.**

**Roll call: Bill Stoughton - aye; Cynthia Dokmo – abstain; Dwight Brew - aye; Marilyn Peterman - aye; Mike Dell Orfano – abstain; and Brian Coogan – aye. 4-0-2 motion carried.**

**Cynthia Dokmo moved to adjourn the meeting at 9:52pm. Marilyn Peterman seconded.**

**Roll call: Bill Stoughton - aye; Cynthia Dokmo – aye; Dwight Brew - aye; Marilyn Peterman - aye; Mike Dell Orfano – aye; and Brian Coogan – aye. Motion carried unanimously.**

Respectfully submitted,  
Kristan Patenaude

Minutes approved: November 4, 2020