

Enfield Planning Board – Meeting Minutes
DEPT OF PUBLIC WORKS/ZOOM PLATFORM
August 25, 2021

PLANNING BOARD MEMBERS PRESENT: David Fracht (Chair), Dan Kiley, Linda Jones, Kate Plumley Stewart (Selectboard Representative), Erik Russell, Phil Vermeer (via Zoom platform), Jim Bonner (Alternate Member and Videographer).

PLANNING BOARD MEMBERS ABSENT: Kurt Gotthardt

STAFF PRESENT: Rob Taylor- Land Use and Community Development Administrator, (Minutes recorded remotely at a later date by Whitney Banker-Recording Secretary)

GUESTS: Dr. J.H. Theis (via Zoom platform), Kim Withrow (via Zoom platform), Josh Gerard, Monica Gerard, Miles Gerard (minor child of Monica and Josh), David Rogers, Victoria Rogers, Crista Keegan (via Zoom platform), Josh Keegan (via Zoom platform), Nicole Sipe (via Zoom platform)

I. CALL MEETING TO ORDER:

Chair Fracht called the meeting to order at 7:00 p.m. and took a “roll call” of members present for attendance.

II. PUBLIC COMMENTS:

None.

III. REVIEW MEETING MINUTES: July 28, 2021

Chair Fracht shared that Ms. Austin was not able to be at tonight’s meeting. Regarding the July 28, 2021 meeting minutes, both he and Mr. Taylor discussed and believe the minutes need significant work. He suggested that the board table the review of the minutes until Ms. Austin is provided guidance on the expectations of the board for minutes and can provide a second draft. Ms. Jones provided Mr. Taylor with her copy of the July 28, 2021 minutes for feedback to be given to Ms. Austin. *(Note: minutes from the July 28, 2021 meeting were re-recorded remotely at a later date by Whitney Banker-Recording Secretary).*

There was no vote on the decision to table the minutes for future review. No board members were opposed.

IV. SELECTBOARD REPORT:

Ms. Stewart shared that the Selectboard met last on August 16, the meeting was relatively short. Megan Butts who is the Interim Executive Director of the Upper Valley Lake Sunapee Regional Planning Commission came and reintroduced herself and spoke about their offerings.

The Selectboard also spoke about broadband, as well as a masking policy for town offices (such as DPW this evening).

They received an update on the joint power agreement, and also discussed 2022 budget guidance.

In addition, re: the prior planning board meeting and some misrepresentations that were corrected. There was a member of the audience who did not represent the decision of the Planning Board correctly, and it was corrected by the Selectboard. There were concerns raised about possible future projects, which was not appropriate.

V. HEARINGS:

Chair Fracht explained for the public how the board hearings typically work: the details of the case/project are presented by the property owner, questions/comments are done by the board, questions/comments are done by the public, and then the public session closes for deliberation and decision by the board. A written decision will be sent within a couple of weeks, and there is a written appeal period of 30 days where anyone can appeal the decision. Any work done to the property during the appeal period is at the property owners' risk. Chair Fracht declared the public hearing now open.

A. Enfield Land Use Case #P21-08-01: David and Victoria Rogers. Minor subdivision approval of 2 lots: 4.1+/- acres and 46+/- acres from a 50.1+/- acre parcel at 1443 NH Rt. 4A, Tax Map 9, Lot 36. Property is located partially in the R1 residential district and partially in the R5 district.

Daughter of Mr. and Mrs. Rogers, Monica Gerard and her husband Josh were present at the meeting. Mr. Taylor introduced that the proposed lot would be for their family to build on. Chair Fracht invited Mr. Rogers to share the proposed subdivision plan. Mr. Rogers noted, as Mr. Taylor had stated, that he hopes to sub-divide 4+/- acres in the corner of the lot for his daughter's family to build on. He explained on the map provided to the board members where the planned house would be within the proposed lot. Mr. Rogers noted that he thought part of the lot was in R5 but sees on the map it is in R3. All of the proposed work of the smaller parcel of the subdivision would be within R1. Mr. Taylor reminded the board that the property owners had come for a consultation some time ago for the board's feedback and to create a plan with that. Mr. Taylor also shared that they had received the State of NH subdivision approval, and that they have applied for and are waiting for septic system and driveway approvals.

Chair Fracht asked board members for any questions.

Chair Fracht asked members of the public for any questions, there were none.

Chair Fracht declared the public hearing closed.

85 **Mr. Kiley *MOVED* to approve the subdivision as proposed. Chair Fracht added with**
86 **amendment of approval of state driveway and septic system design.**
87 ***The MOTION was seconded by Ms. Stewart.***

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90 **Roll Call Vote:**

91 David Fracht (Chair), Dan Kiley, Linda Jones, Kate Plumley Stewart (Selectboard
92 Representative), Erik Russell, Phil Vermeer (via Zoom platform) **all voting Yea.**

93 **None voted Nay.**

94 **None Abstained.**

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96 **** The Vote on the MOTION was approved 6-0).***
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98 **V. CONCEPTUALS:**

99 **A. Shaker Village Lot Line Adjustment:** Crista Keegan. Chair Fracht introduced that this is a
100 conceptual, so Ms. Keegan should introduce her concept to the board. Mr. Taylor added that he
101 has been in contact with Ms. Keegan, and she had sent several items with maps and her questions
102 that he had provided to the board. Chair Fracht reminded Ms. Keegan anything said tonight by
103 either her or the board is non-binding and is meant only to kick around ideas and formulate a
104 plan.
105

106 Ms. Keegan presented that her location in the lower shaker village along the lake needs a
107 property line adjustment. They wish to do it appropriately but have some questions about how to
108 best make the adjustment. She asked the board if there are any questions about her question:
109 there is one property with a house built that has a fence, a porch, walkways, etc. to be found
110 somewhat over onto another property. There is an interested party in the lot that is in question.
111 Chair Fracht noted that these are already non-conforming lots, so a boundary adjustment would
112 also be non-conforming. The first issue is if you take property from one lot for another, you have
113 to give property back to that lot in some way so that the gain/loss is equal. For future building,
114 setback requirements and other zone regulations that are currently in effect would need to be
115 observed. Chair Fracht also asked a question: on the enlargement of the survey, the left-hand side
116 of the property line between the two lots is crooked and notes there are pins missing. When he
117 looks at a previous document of the property line, the line is straight – when did this change? He
118 would like to see researched and addressed. Mr. Taylor shared the previous map and noted in the
119 early 80's the subdivision was approved with a straight line, but as the property currently stands
120 there is a discrepancy with the property line. He shared that any undeveloped lots in this
121 subdivision have a "building envelope" of where the house is supposed to go. What this means is
122 that anyone who buys the lot cannot just change the location of the house. Changing the lot lines
123 with regard to the existing property and house may jeopardize the building envelope for the
124 vacant lot's future owner. The board's concern would be that any lot-line tweaking would have
125 consequence to the building envelope. Mr. Taylor suggested that the best solution would be for
126 Ms. Keegan and the other neighbor of the vacant lot, Mr. Malawi, to each acquire half of the

127 vacant lot to add to their own properties. Ms. Keegan shared that the house that was built on her
128 lot (29) is significantly closer to the lot 28 property line than shown on the document Mr. Taylor
129 shared. Ms. Keegan also shared that regarding property swap, the property was purchased by her
130 family as a waterfront, which would be the only area where land could be “given” to lot 28 and
131 would reduce what they consider a significant asset of their property on lot 29. Chair Fracht
132 noted that he believes the first thing that needs to happen is a complete survey of the property
133 that goes back in researching through all of the deeds from the sub-division’s creation to present
134 day. This would be a chance to review if any lot-line adjustments happened that would impact
135 the properties. Ms. Keegan noted she believed landscaping done was what affected the property
136 line, and that the surveyor that she had hired already had agreed. They survey found that the
137 original owner also owned the properties on either side, which is why she believes the property
138 line discrepancy occurred. She asked for clarification that for a property lot line adjustment, her
139 lot would have to give up part of their waterfront property, to allow the current owners to sell the
140 vacant property. Chair Fracht noted that the board wouldn’t necessitate that they give up all of
141 the waterfront, but traditionally it’s a “give and take” situation for lot-line adjustments.

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143 Mr. Taylor asked how likely it would be that herself and the other abutting land owner acquire
144 the property and split it? Ms. Keegan noted that her family did not expect to be pulled into a
145 property matter, given COVID and the current market she is not sure obtaining the property at an
146 agreeable price would be possible with the current owners. Ms. Jones asked for clarification of
147 where the water is in relation to the house, which Ms. Keegan explained. She noted the street
148 front of the property is where the encroachments are. Mr. Kiley asked if they had title insurance?
149 Ms. Keegan noted they had attempted that route without success. Ms. Keegan added that the
150 owners of Lot 28 are the same owners that sold her family Lot 29 with the housing issue. Ms.
151 Stewart asked if Lot 28 would even be buildable? Mr. Kiley noted that when the subdivision was
152 approved setbacks did not matter, and that is why the building envelope was used. Chair Fracht
153 asked if the lot line changes, how does that affect the regulations? Mr. Kiley noted that it would
154 then be subject to current regulations.

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156 Mr. Keegan asked for clarification – if it were found that the encroachment of their house on lot
157 29 went so far into lot 28 that it were too close to the building envelope – what would happen if
158 someone applied to build on lot 28 as defined on the original survey? The board did not know.
159 Mr. Taylor asked if the owners of lot 28 have a buyer? Mr. Keegan noted that he was told they
160 had received offers but he did not know how much of the encroachment issue was disclosed. Ms.
161 Keegan added that their house on lot 29 was not built within its envelope. Mr. Taylor added to
162 have the Keegan’s attorney look into adverse possession – there could be a case to make that
163 given the house has been there more than 20 years and has never had an issue that the land in
164 question could be considered property of the lot 29 owners. He suggested the Keegans and their
165 lawyer look into the adverse possession law.

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Chair Fracht summarized the boards position: if the Keegans believe they will need to do a lot-line adjustment, the +/- of each lot must be equal so the square footage of each lot remains the same. If that happens, the current building and setback regulations would then kick in for any structure to be built on lot 28, since it would then be considered a different lot. Setback issues would then need to go to the Zoning Board, and progress from there. He noted that cooperation from all parties would provide an equitable resolution, but that would need to be obtained prior to coming to the Planning Board or Zoning Board. Mr. and Mrs. Keegan thanked the board for their time.

B. Bog Road Crate Pit: Chair Fracht introduced the board for Ms. Sipe who joined the Zoom after initial board introductions. He asked for her to present her plan and reminded her that this is a conceptual discussion, so any representations are non-binding, and informal. She shared that the property on Bog Rd abuts the Eastman development, and is near the town of Springfield Line. She noted that the property is currently an active gravel pit but does not believe the sellers have taken material out in some time. She identified an area on her proposed plan that she would need to grade and re-seed, etc. She provided a plan to the board for review with regard to riding rings, a barn, etc. She outlined several areas on the plan and her ideas.

Mr. Taylor also provided an overview – the Crates currently own the pit which is about 100 acres. Portions of the pit across the road owned by Art Conkey have been reclaimed, and he is currently constructing a spec house on a section of that property (approved ~3-4 years ago by the board). Mr. Conkey has plans to develop additional lots there. As Ms Sipe stated, the Crate family have done very little in the pit since Don Crate Sr. passed away. The family does file yearly an intent to excavate with the Selectboard, which Mr. Taylor reviews yearly as part of his role. There has been a lot of work to clean up the site, and there are several portions that have been reclaimed. He noted there are only a few open areas where the family was continuing to take out small loads of material (a few dozen every year or so). The site is generally cleaned up, there is one last piece of equipment for sand screening that the family is hoping to sell. Ms. Sipe is aware of the gravel pit reclamation standards from both the State of NH and the Town of Enfield. Mr. Taylor noted that he had cautioned Ms. Sipe if she purchases the property she would then be responsible for the process of reclaiming. Mr. Taylor also added that he believed Ms. Sipe planned to put a house in where a previous trailer existed.

Mr. Taylor suggested that from the standpoint of Town of Enfield Planning and Zoning, approvals for the commercial equestrian use would be needed from both boards, as well as minor site plan review/use approval. He noted that any of those approvals would be conditional to her satisfying the reclamation of the property. Chair Fracht noted that he believed the site plan review would be major, not minor. He asked for Ms. Sipe to tell the board more about her equestrian business. She shared that her plan would be for 10 horses on site, mostly horses that are sent to her from owners for training onsite. She would also like to have a small lesson program of people learning to ride on horses that she has. She prefers to keep the facility smaller,

not too big to manage, not with a high amount of traffic, etc. She would plan to teach no more than 2 students at a time for safety. She likely would have 1-2 other people who might have interest in the horses, but not employees. Ms. Jones asked that the property is about 100 acres.

Dr. Theis asked, on the planning board agenda there is no map and lot number noted. To confirm what he is looking at what is it? Ms. Sipe noted it is Map 1, Lot 3. Dr. Theis noted that this borders conservation land, is she aware? She noted yes, she was aware. Dr. Theis noted conservation land has some stipulations for development that is prerogative of the Conservation Commission. Chair Fracht noted that this is not the prerogative of the Conservation Commission. Dr. Theis asked for clarification of the property is it lot 4-2 or lot 3 (the properties are separated by Bog Rd). Mr. Taylor confirmed they were talking only about lot 3.

Mr. Kiley reiterated for Ms. Sipe that she needs to understand she is buying a gravel pit; the onus would be on her for the reclamation. He suggested the board may want to do a site visit? Chair Fracht noted that he thought it would be a good idea. Ms. Stewart added that they board wants to help Ms. Sipe be successful. Chair Fracht asked Mr. Taylor to coordinate a site visit prior to the next Zoning Board meeting.

VI. UPDATE ON MASTER PLAN TASK FORCE WORK:

Chair Fracht shared that the last two meetings of the Master Plan Task Force (MPTF) have been working on exercises to determine the question content of the community wide survey. The task force hopes to get the survey out in September. It will be available online as well as in hard copy at local merchants, restaurants, bars, etc.

The task force has narrowed the field of potential planning consultants to two – Place Sense and the Upper Valley Lake Sunapee Regional Planning. The task force hopes to meet with both applicants at some point before the end of the month. The meetings will consist of Mr. Taylor, Mr. Wozmak, Chair Fracht, Ms. Smith, and Mr. Vermeer. After the meetings a decision will be made.

The “Question of the week” online continues to get positive feedback and utilization from the community. Chair Fracht believes the community is starting to recognize the MPTF and the Master Plan.

He also shared that the Friends of Mascoma has a competing project asking similar questions. Ms. Stewart clarified that it is not a competing project, but that it could be confusing to those who do not understand that the organizations are separate and gathering data separately, for different purposes.

Mr. Russell added that the October community information sessions for the MPTF are also upcoming. Chair Fracht shared that there are 4-5 community information sessions that are

planned to begin in October. The topics are: What is A Master Plan (how is it accomplished/general introduction to the topic), Housing with Film: [*Communities and Consequences II*](#), Transportation, Economic Development.

The goal is to have a consultant on board to review the MPTF survey questions and advise best practices and changes to gather the best data, and then analyze that data.

VII. PREVIOUS HEARINGS

A. July 28, 2021 – Enfield Land Use Case #P21-07-03

Chair Fracht circled back to the previous meeting's Land Use Case #P21-07-03: Keyser subdivision with road frontage primarily on a class VI road. He shared that, at best, he felt the zoning ordinance was unclear. In the process of looking through old emails for an unrelated matter, he came across messages from an attorney at the NH Municipal Association, who pointed out that in Enfield's definition section, there is a definition of street frontage: "the measured distance along a town maintained, state maintained, or private street between the points of intersection of the side of lot lines with the road". His take on this definition is that a class VI road is not a town-maintained road, and he believes the board made an error by allowing them to count road frontage on a class VI road. Fortunately, the decision for this case had not been mailed out yet to the property owners. Chair Fracht brought it to the attention of Mr. Taylor as well as the town's attorney. The town's attorney advised the board my change their decision within a "reasonable time". As it is within the appeal period, Chair Fracht believes a change is reasonable. He noted that in the past there is precedent where the town has allowed a class VI road to count as frontage, however.

Chair Fracht asked the board to discuss whether they should revisit this decision at tonight's meeting. Ms. Stewart noted that if the board did make a mistake, that is their mistake to own, though she does not believe it should be corrected now based on when the case was originally brought to the board. She noted that with the language so unclear, a decision in either direction could be argued and she did not feel that the board should go back on their decision. Chair Fracht asked about the upcoming case on Lockhaven/Mud Pond Rd – what will happen if the property owner questions the board saying they cannot do this when they just made the Keyser decision a few weeks prior? Mr. Taylor presented the language again to the board with a brief discussion of the issue of it being unclear, and the need for clarification in the language of "class V or better" to be added for the future. He suggested that using "private roads" in this instance opens up a can of worms for use of private roads when not appropriate. From a planning standpoint, private roads often cause issues as well where they aren't always well maintained, multiple property owners using the roads may begin to fight over maintenance costs, etc. Ms. Stewart added that from a public safety perspective, private roads are also not always considered safe for, as example, a fire truck's access. Mr. Taylor added again that the language would be put on this year's warrant to be cleaned up for the future. The board also discussed the issues of laws being in the definitions instead of in the ordinances themselves, and that this should be clarified

290 for the future. Ms. Jones asked Mr. Taylor, following that thinking of clarifying the definitions,
291 class VI roads are not maintained as they are considered not used. If an abutter needs to open the
292 class VI road to access their property, at their own expense, they should be able to. She noted
293 that there are times when an exception to the rule can be the right choice. Mr. Taylor added that
294 in Plainfield where he lives, they do not allow someone to build on a class VI road. If someone
295 wishes to do so, they must upgrade the road, at their own expense, to a class V specification so
296 that the town would then be responsible for maintenance going forward. This would allow fire
297 trucks and safety, etc.

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299 Ms. Jones noted that she did not think the decision on the Keyser subdivision should go forward,
300 it had not been very long. She noted that she feels the board should look at it. She suggested
301 perhaps part of the original property that is along the class V road could be deeded as part of the
302 subdivision to allow for the 250' class V road allowance – given that it is a subdivision of a
303 family. The board reviewed the parcel sizes and whether there would be enough frontage to
304 allow this, which there did not appear to be. The board then discussed the possibility of adjusting
305 all three lots (the original two from the prior subdivision, as well as the third for the currently
306 proposed subdivision. Chair Fracht noted since it is all one family, this might be a solution. Mr.
307 Taylor noted that it sends the wrong message in his opinion to approve it and then take away the
308 approval. It does not appear friendly and could cause a negative view of the town, etc.

309
310 The board chose to go around the table and review how each member felt. Ms. Stewart noted she
311 is not in favor of changing the board's decision. Mr. Kiley noted he, too, was not in favor of
312 changing the decision. Chair Fracht noted that he feels the decision was close enough that he
313 thinks the board should revisit. Mr. Russel shared that he was not at that meeting, so unless there
314 was another full hearing he would not vote on it. Ms. Jones shared that she would revisit the
315 decision. Mr. Vermeer noted that he was not here for that meeting, so he would abstain. He
316 noted that he does dislike changing a decision and agreed with Mr. Taylor that after approving
317 something, taking it back from the property owner is not a good practice for word of mouth in
318 town and is concerning. As Mr. Bonner was a voting member at the previous meeting, he shared
319 that he would not be in favor of changing the decision – he does not feel they need that kind of
320 “bad blood” around the decision. The board chose not to revisit the decision as the majority of
321 members were against doing so.

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323 Ms. Jones asked if Mr. Taylor had spoken with the property owners. He noted that no, he had
324 only spoken with Mr. Sanborn, the surveyor who represented the owners at the case hearing. Ms.
325 Jones wondered if it was worth speaking with Mr. Sanborn to discuss with the property owners
326 the issues around the approval. The conversation circled back to semantics, and that during the
327 original hearing Mr. Sanborn had liked the idea of the private road which the owners could
328 easily do – which they town would like to avoid. Chair Fracht moved the board forward to the
329 next topic on the agenda.

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VIII. RULES ON PROCEDURE FOLLOW UP AND SIGN**A. Rules and Procedures**

Chair Fracht shared that about one month ago, he believed Mr. Gotthardt suggested that within the Rules and Procedures, when there are Zoom hybrid meetings the language should be changed to accommodate this (currently it reads members must be present for meetings). The board reviewed the proposed language and changes that included clarifying hybrid format, changing Mr. Taylor's position title, timing for notification if a member cannot make a meeting, language for review of meeting minutes to be plural. There was also discussion about multiple meetings per month vs. a single meeting and if this should be changed. Mr. Taylor suggested it stay as-is, with things getting busier he suggests the board meet twice next month, even though they have met only once a month through the summer. The second meeting would be a working session, with no hearings or conceptualls. Ms. Jones considered language to clarify but decided against it.

Mr. Kiley suggested a language change to add that the applicants for either public hearing or conceptual hearing need to be present. At tonight's meeting where there was a community member on Zoom with no video, it was difficult to hear and with no video it was more challenging. The board chose to add a section under public hearings to clarify that applicants or their representative must be present in person at the meeting. The subject of conceptualls not being covered was discussed. Ms. Stewart noted that she did not feel that it necessarily had to be covered. The board can set the expectation that the party or their representative is present, but if they experience difficulties or drop the ball that is on them to either reschedule or they must deal with the consequences of the situation.

Chair Fracht brought the board's attention to the section on reconsiderations: should it be taken out? Left in? Mr. Kiley stated that he thought it should be left in – in the Keyser instance the board simply decided that they did not want to reconsider.

Ms. Stewart provided additional changes to include: spelling, formatting, and page breaks.

Chair Fracht suggested that the team review another round of edits before signing the document. The edits will be reviewed at the next meeting (September 8, 2021).

Ms. Jones asked when the board will begin to review items that they want to change and present for the 2022 Town Meeting. Mr. Taylor noted that this would begin at the next meeting, September 8, 2021, which will have an agenda item for this discussion. Ms. Jones suggested adding an item regarding furniture left out on the street and referenced several areas of town that have had various items left out for a long period of time. Ms. Stewart shared that she believed if it was within the right of way, the police department could ticket the property owner – this could be a motivational piece of information for the property owner to take care of the items after a period of time.

B. Signs

Chair Fracht noted that Mr. Gotthardt was not present at this meeting, but he would like a memory refresher as to why this subject keeps coming up. Mr. Taylor shared, one of the issues that came to involve a variance application and a business owner on Rt. 4 that wanted to use new sign technology. Given the age of the ordinance, and the changes that have occurred in signage, he would like to see this looked at – particularly for Rt. 4. Internally lit signs in colors are not currently allowed by definition, but modern internally lit signs can look quite pleasant. The board discussed that in some cases a sign that is less pleasing to look at could be made because of the ordinances.

Chair Fracht suggested that merchants should be included in this discussion. Mr. Taylor noted that there was a Supreme Court decision recently regarding the fact that towns do not have the ability to regulate what the signs say. Chair Fracht suggested that the board do some preliminary discussion on this topic and devote the first meeting in November to a public discussion - invite merchants and community members who live near commercial establishments to participate. This will give the board a general consensus before proposing an ordinance. Ms. Stewart asked if there is a municipality that has an ordinance like this that we are aware of that we could review? Ms. Jones suggested that Lebanon has a very complete one. Chair Fracht noted Lebanon's is incredibly detailed, perhaps more than Enfield would need but that the board should take a look at the document to draw information from.

Mr. Taylor will provide the board with a link to the Lebanon sign ordinance. The discussion is tabled for the next meeting, September 8, 2021.

IX. NEXT MEETING: September 8, 2021**X. ADJOURNMENT:**

A MOTION was made by Ms. Stewart to adjourn the meeting at 8:59 p.m.

The MOTION was seconded by Mr. Kiley

Roll Call Vote:

David Fracht (Chair), Dan Kiley, Linda Jones, Kate Plumley Stewart (Selectboard Representative), Erik Russell, Phil Vermeer (via Zoom platform) **all voting Yea.**

None voted Nay.

None Abstained.

** The Vote on the MOTION was approved 6-0).*

Respectfully submitted,

Whitney Banker

413 Recording Secretary