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TOWN OF WILMINGTON

DEPARTMENT OF PLANNING & CONSERVATION

121 GLEN ROAD, WILMINGTON, MA 01887 www.wilmingtonma.gov (978) 658-8238

CONSERVATION COMMISSION MINUTES

February 7, 2024

Donald Pearson called the meeting to order at 7:03 p.m. Michael McInnis, William Wierzbicki, Frank Silveira, Jean Marie Cole, and Laurie Finne were also present. Theron Bradley was absent. Valerie Gingrich, Director of Planning & Conservation, Cameron Lynch, Conservation Agent, and Erika Speight, Conservation Senior Clerk were also present.

PUBLIC HEARING – NOTICE OF INTENT – 5 Carter Road – Map 8 Parcel 100 – DEP File #344-1540

Documents: NOI application & materials, received January 10, 2024
"Subsurface Septic Disposal System Replacement," dated December 18, 2023

Present in Interest: Luke Roy, LJR Engineering, Inc., Representative

L. Roy explained that they submitted a Notice of Intent (NOI) for the replacement of the septic system. He stated there is a Bordering Vegetated Wetland (BVW) that they had delineated, which cuts diagonally through the property. The existing home has a septic system located in the rear yard, which failed a Title V inspection. He explained that he was contracted to design a replacement system, and the backyard was really the only option to install the system despite the proximity to the wetlands. The new system is designed for a three-bedroom dwelling, which is what the home is currently, so there will be no expansion. He stated the septic system will be installed 25' from the wetland at the closest point. The front yard wasn't an option for the septic system with the driveway and all the services that run through it. He explained erosion control is proposed and there will be a little bit of grading but won't extend within the 15' no disturb.

C. Lynch stated a draft Order of Conditions (OOC) was sent to the applicant. He asked if they are proposing to remove a tree as part of the grading.

L. Roy stated they aren't proposing to remove any trees.

C. Lynch stated for erosion control they recommend silt fence rather than straw waddle, since it's so close to the wetland. He asked the Commission if they would like to see a post-and-rail fence installed as a form of permanent demarcation.

L. Finne asked if there was any indication that permanent demarcation was previously required.

C. Lynch stated the house has been there for quite some time and he doesn't believe it was ever required.

M. McInnis asked if they'd consider something as simple as a sign for demarcation.

L. Roy added that the 15' coincides with the top of slope and it's a steep drop off from there. He explained the tree line will remain, and he has no problem with adding signage.

M. McInnis stated that's a tough site and he thinks that signage will be more beneficial especially with the transfer of ownership because a post-and-rail fence could easily be removed.

L. Finne agreed.

M. McInnis stated two (2) signs would be adequate.

All Commissioners agreed with installing two (2) signs, to be approved by the Conservation Agent prior to installation.

No comments were made by the public.

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To close the Public Hearing for 5 Carter Road – Map 8 Parcel 100 – DEP File #344-1540

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To issue the Order of Conditions for 5 Carter Road – Map 8 Parcel 100 – DEP File #344-1540

CONTINUED PUBLIC MEETING – REQUEST FOR DETERMINATION OF APPLICABILITY – 409 Salem Street – Map 95-8 Parcel 17J

Documents: "Site Plan in Wilmington, MA," dated December 22, 2023

Present in Interest: Angelo Ciano, Owner & Applicant

A. Ciano stated he is proposing an addition to his existing home. The work associated with the addition is approximately 80' from the wetland, but it is entirely on existing lawn and paved areas. There will be no new disturbance and to make the nonconforming lot work, they were trying to capture and infiltrate the existing house and the addition into stone trenches along the rear and side yard. By doing that, they believe it'll capture most of the stormwater with that type of design. He explained that is the best they can do with the existing layout. He explained that the Town Engineer agreed this would be the best option after exploring different ways to make it work. Erosion control is proposed.

C. Lynch stated there are no comments.

Upon motion duly made by M. McInnis and seconded by L. Finne, it was unanimously

VOTED: To issue a Negative Three (3) Determination of Applicability for 409 Salem Street – Map 95-8 Parcel 17J

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Middlesex Avenue – Map 66 Parcel 1 – DEP File #344-1538

Documents: None.

Present in Interest: None.

The applicant requested to continue the Public Hearing to the March 6, 2024, Conservation Commission meeting.

Upon motion duly made by F. Silveira and seconded by J. Cole, it was unanimously

VOTED: To continue the Public Hearing for Middlesex Avenue – Map 66 Parcel 1 – DEP File #344-1538 to the March 6, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 911 Main Street – Map 25 Parcel 4 – DEP File #344-1530

Documents: Response to Review Meeting and Review No. 3, dated January 9, 2024
“Notice of Intent Enforcement Order,” revised January 6, 2024
“Existing Conditions Aerial Image Plan,” dated January 3, 2024

Present in Interest: Jill Mann, Mann & Mann PC., Representative

J. Mann stated she is hoping to secure the Order of Conditions (OOC) to begin the higher-level work. They have moved all materials off the site, they have submitted all the required documentation, and they are ready to begin the work.

C. Lynch stated the Engineering Division didn't have any additional comments on the revised plans. He explained that a draft OOC was sent to the applicant for review. The only nonstandard condition was #34, requiring a date of completion. He asked the Commission when they think a good time for completion of the project is appropriate.

J. Mann requested early summer if possible, to ensure plantings are more secure. She will continue to update the Commission on the progress of construction.

D. Pearson asked if the removal of miscellaneous steel and such will be done prior to installing erosion control.

J. Mann stated it wouldn't disturb the erosion control, so they will install erosion control and then remove material since there will be no disruption to the erosion control.

The Commission agreed on June 21st for the date of completion.

No comments were made by the public.

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To close the Public Hearing for 911 Main Street – Map 25 Parcel 4 – DEP File #344-1530

Upon motion duly made by M. McInnis and seconded by F. Silveira, it was unanimously

VOTED: To issue the Order of Conditions for 911 Main Street – Map 25 Parcel 4 – DEP File #344-1530

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535

Documents: "Notice of Intent" plan, revised January 7, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated the last time she was in front of the Commission, they were proposing a retaining wall around the perimeter of the lot that extended from Darby Lane to the main road. They have since eliminated the retaining wall, redesigned it, and are proposing grading and restoration within the 30' natural vegetated buffer that was incorporated around the whole subdivision design itself. They are proposing native plant species as well as native conservation and wildlife and wildflower mix. They also eliminated the rain garden design. They met with the Director of Planning & Conservation as well as the Town Engineer regarding the constraints of the drainage pattern. P. Alunni sent the applicant a memo highlighting some comments and concerns, which seem to be minimal plan edits. She asked if the Commission would be open to closing the hearing subject to addressing the minor concerns that the Town Engineer has.

C. Lynch stated a draft Order of Conditions (OOC) wasn't written due to the Town Engineer's outstanding comments. He explained from a Conservation standpoint, there are no comments.

M. Herald asked to schedule a meeting with the Town Engineer prior to the next meeting to iron out all the changes he would like to see to the plan so that at the next meeting, all his concerns are met, and the Commission can issue the OOC.

C. Lynch stated he will coordinate with her and the Town Engineer to set up a meeting.

No comments were made by the public.

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To continue the Public Hearing for 2 Darby Lane – Map 10 Parcel 5 – DEP File #344-1535

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 16 Darby Lane – Map 10 Parcel 41 – DEP File #344-1534

Documents: "Notice of Intent" plan, revised January 7, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated at the last meeting the original design had shown the house right up against the post-and-rail fence and naturally the Commission had concerns about that. She explained that they were able to shift the house towards the roadway, eliminating the porch from the front of the house, now proposing the house 6.9' away from the buffer. They are proposing three (3) red maple trees in an area that is existing lawn within that 30' buffer. There are similar engineering comments to 2 Darby Lane, that they will need to resolve with the Town Engineer. The septic design hasn't been submitted to the Board of Health (BOH); however, she has notified her client and they plan to submit them as soon as possible.

C. Lynch asked why the plantings are bunched together on the north end of the property, instead of spread out.

M. Herald stated she will space them out, that's not a problem.

C. Lynch stated a few more plantings and signage wouldn't hurt to demarcate that area a little more. He stated without that, a new homeowner could dump over the fence unknowingly. He explained that the post-and-rail fence dead ends away from the property line and he recommended extending it to property line.

F. Silveira stated the house is still very close to the 15' no disturb and he can't imagine a homeowner doing work on the house without encroaching.

M. Herald reiterated that they have removed the porch from the front of the house and were able to shift the house 6.9' away from the 15' no disturb. She stated they are trying to work with the Commission's concerns.

J. Cole recommended boulders behind the house instead of a post-and-rail fence to make demarcation more permanent.

M. McInnis agreed with boulders because new homeowners don't necessarily know to leave the post-and-rail fence in place and boulders are harder to move and more permanent in his opinion.

D. Pearson agreed that he prefers boulders as well.

M. Herald stated she will discuss that with her client but doesn't see a problem with that.

No comments were made by the public.

Upon motion duly made by W. Wierzbicki and seconded by J. Cole, it was unanimously

VOTED: To continue the Public Hearing for 16 Darby Lane – Map 10 Parcel 41 – DEP File #344-1534 to the March 6, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 16 Carson Avenue – Map 94 Parcel 58 – DEP File #344-1541

Documents: NOI application & materials, received December 13, 2023
"Plot Plan," dated November 16, 2023

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated they are proposing to remove a portion of driveway to construct a single-family addition with grading and associated utilities. The Bordering Vegetated Wetland (BVW) is off the lot, and they comply with the 15' no disturb as well as the 25' no build. The addition is proposed 30' from the Resource Area.

C. Lynch stated there is a fence that looks like it has been there for quite some time and sort of peeks into the 15' no disturb, and for projects like this in the past, the Commission had suggested more plantings along the 15' no disturb to offset that encroachment, but it is the Commission's decision whether they'd like to see this or not. He explained that a draft Order of Conditions (OOC) was sent to

the applicant for review. He pointed out the condition pertaining to permanent demarcation, and stated the fence that is out there now would likely serve as demarcation because the wetlands are further away from the property when you move closer to the street. He wanted to mention this for the Commission to think about.

No comments were made from the Commission.

No comments were made by the public.

Upon motion duly made by M. McInnis and seconded by F. Silveira, it was unanimously

VOTED: To close the Public Hearing for 16 Carson Avenue – Map 94 Parcel 58 – DEP File #344-1541

Upon motion duly made by J. Cole and seconded by W. Wierzbicki, it was unanimously

VOTED: To issue the Order of Conditions for 16 Carson Avenue – Map 94 Parcel 58 – DEP File #344-1541

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – 79 Nichols Street – Map 35 Parcel 29 – DEP File #344-1527

Documents: “Request to Continue” letter, dated February 1, 2024

Present in Interest: None.

The applicant requested to continue the Public Hearing to the March 6, 2024, Conservation Commission meeting.

Upon motion duly made by F. Silveira and seconded by L. Finne, it was unanimously

VOTED: To continue the Public Hearing for 79 Nichols Street – Map 35 Parcel 29 – DEP File #344-1527 to the March 6, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – NOTICE OF INTENT – Marion Street, Eagleview Subdivision – Map 5 Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494

Documents: “Request to Continue” email, received January 29, 2024

Present in Interest: None.

The applicant requested to continue the Public Hearing to the March 6, 2024, Conservation Commission meeting.

Upon motion duly made by F. Silveira and seconded by L. Finne, it was five (5) in favor (D. Pearson, M. McInnis, W. Wierzbicki, F. Silveira, and L. Finne) and one (1) abstention (J. Cole)

VOTED: To continue the Public Hearing for Marion Street, Eagleview Subdivision – Map 5 Parcels 2J, 3, 3A, 3C, 3D, 3E – DEP File #344-1494 to the March 6, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – ABBREV. NOTICE OF RESOURCE AREA DELINEATION – Birch Street, Fir Street, Alder Street, Hall Street, March Road – Map 49 Parcels 4, 4A, 5, 6, 7, 8, 9, 11 – DEP File #344-1524

Documents: "Birch Street Subdivision Existing Conditions" plan, revised January 22, 2024

Present in Interest: Maureen Herald, Norse Environmental Services, Representative

M. Herald stated she will be providing the Commission with a quick update. Last year, she met LEC (Peer Reviewer) on the site and made some flag revisions to the Bordering Vegetated Wetland (BVW) line, mainly within the gas easement (flags 44A-1 to 44A-4). LEC requested some additional information regarding the riverfront mean annual high-water (MAHW) delineation. She explained that she provided a package to LEC last month, and they are in the process of reviewing the paperwork and she has not received any feedback at this time. She explained she would be happy to answer any questions, but essentially will be requesting a continuance to the next meeting.

A resident from the public asked for an explanation of what LEC is.

D. Pearson stated LEC is the Peer Review company contracted with the Town. He explained that since the applicant has requested to continue, there will be no questions from the public at this time and will open questions from the public at the next meeting.

Upon motion duly made by M. McInnis and seconded by W. Wierzbicki, it was unanimously

VOTED: To continue the Public Hearing for Birch Street, Fir Street, Alder Street, Hall Street, March Road – Map 49 Parcels 4, 4A, 5, 6, 7, 8, 9, 11 – DEP File #344-1524 to the March 6, 2024, Conservation Commission meeting

CONTINUED PUBLIC HEARING – ABBREV. NOTICE OF RESOURCE AREA DELINEATION – 143 Lake Street – Map 35 Parcel 3 – DEP File #344-1537

Documents: Peer Review report, received February 5, 2024

Present in Interest: None.

C. Lynch stated the Peer Review was conducted by Rimmer Environmental Consultants last week and they had no comments. M. Rimmer sent over a review letter confirming the wetland line and the Order of Resource Area Delineation (ORAD) is ready to be issued.

No comments were made by the public.

Upon motion duly made by F. Silveira and seconded by L. Finne, it was unanimously

VOTED: To close the Public Hearing for 143 Lake Street – Map 35 Parcel 3 – DEP File #344-1537

Upon motion duly made by L. Finne and seconded by F. Silveira, it was unanimously

VOTED: To issue the Order of Resource Area Delineation for 143 Lake Street – Map 35 Parcel 3 – DEP File #344-1537

REQUEST FOR CERTIFICATE OF COMPLIANCE – 175 Lowell Street (Formerly 201 Lowell Street, Parcel B) – Map 48 Parcel 73C – DEP File #344-1479

Documents: Request for Certificate of Compliance & materials, received January 5, 2024

Present in Interest: Eric Olson, VHB, Representative

E. Olson stated they received a comment letter from the Engineering Division, and they would like to request a continuance to the March 6, 2024, Conservation Commission meeting so they can address all comments and concerns.

Upon motion duly made by L. Finne and seconded by F. Silveira, it was unanimously

VOTED: To table the Certificate of Compliance for 175 Lowell Street (Formerly 201 Lowell Street, Parcel B) – Map 48 Parcel 73C – DEP File #344-1479 to the March 6, 2024, Conservation Commission meeting

ENFORCEMENT ORDER

10 Pond Street – Map 34 Parcel 146 – DEP File #344-1067

C. Lynch stated at the last meeting the Commission approved the restoration plan, and wanted to keep it on the agenda until a Notice of Intent (NOI) is filed for the other work.

M. Herald stated she will be putting the NOI packet together for the Commission's review and submit it within the coming weeks.

52 Adams Street – Map 51 Parcel 99 – DEP File #344-1300

M. Herald stated the wetland boundary, and the property boundary was staked in the field. The property abuts Town-owned land and she explained that there was no wetland filling, however the wetland is maintained lawn area. As a result, they are proposing a number of red maple trees, a variety of shrubs consisting of sweet pepper bush, high bush blueberry, and winterberry. She is hoping to submit a restoration plan to the Commission shortly.

C. Lynch stated there are no comments.

M. Herald asked if boulders could be used for the continuation of the post-and-rail fence in the rear yard.

L. Finne asked if there is a reason that the homeowner prefers boulders.

M. Herald stated she is unsure, but he might think that boulders look better rather than a post-and-rail fence or he may have access to boulders.

M. McInnis suggested boulders and a sign.

C. Lynch stated the boulders are usually placed 2' to 2.5' in separation so that nothing can go through them. He explained that the Commission can decide if they prefer boulders or the post-and-rail fence prior to the next meeting.

687 Main Street – Map 39 Parcel 11A – DEP File #344-1473

C. Lynch stated they are still waiting for the right time and some nice weather to do the final paving in the back. He explained that 85% of the work is completed, and once the paving is complete, the Enforcement Order (EO) will be ready to close out.

800 Salem Street – Map R1 Parcel 24 – DEP File #344-1516

M. Costa introduced himself on behalf of Camber Development and with him was Eric Olson from VHB, the wetland scientist for the project, and Derek Durkin, the general contractor for the project. He explained that there are a number of wetland resource areas located on the property as well as being within Riverfront Area. To generally summarize, there was discharge of sediment after a heavy rainstorm event and a couple days before that was two (2) full days of rain. They documented the process, and C. Lynch went out to the site and the contractors immediately started working to remediate and stabilize the area. The next day, Enforcement Order (EO) #1 was issued and then the day after they had a site walk with C. Lynch to review what was done to repair the area. He explained there was rain forecasted two days following, so it was a big effort to stabilize the area and prevent anything else from happening. The contractor stopped by the site every day following to make sure all measures held up, which they did. About a week later EO #2 was issued. M. Costa read through the conditions per EO #1.

All action items in this Enforcement Order are to be completed no later than Friday, January 12, 2024. A second Enforcement Order will be issued to address restoration. All work shall be overseen by a Professional Wetland Scientist.

1. All work within the 100' buffer zone to BVWs and the 200' Riverfront Area shall cease immediately until the requirements of this enforcement order and any subsequent Enforcement Orders are completed except for the completion and stabilization of subsurface infiltration system ("Infiltration system 2" per the approved plans) that has already started construction.
2. Construct and maintain a temporary stone berm along the affected areas to stop further sediment from eroding into BVWs and Martins Brook.
3. Install floating boom in Martins Brook immediately outside the start of the spill to prevent further sediment from flowing downstream until restoration is complete and stabilized.
4. A frac tank shall be brought on site and all dewatering activities shall pass through this tank, all water exiting the tank shall then pass through a sediment bag placed at the end of the outlet pipe. All dewatering activities shall be relocated outside the 100' Buffer Zone to BVWs per condition #38.
5. A Professional wetland scientist shall be on site documenting and monitoring the deposited sediment before and after the rain events projected for the weekend of January 13, 2024.
6. Remove sediment from BVW by hand under the direction and supervision of a Professional Wetland Scientist.

M. Costa displayed photos to the Commission of the site before, during, and after restoration with explanation. He explained that the team did a great job stopping anything further from happening. He stated that going forward they will be monitoring the Resource Areas and making sure that nothing travels off site into these areas.

E. Olson stated the applicant hired himself and a colleague as wetland scientists for the violation.

He explained that they reviewed the site to see how cleanup went, and they both came to the same conclusion that the team did a good job cleaning up the site and removed all heavy sediment by hand. He explained that the stream doesn't have any evidence of heavy sediment deposition. He explained that there is still a fine dusting, but to remove that would just do further damage to the wetland at this point.

C. Lynch stated M. Costa hit all the nails on the head and the team worked very fast for a project this large. He gave some background information stating when the violation initially happened, he contacted the Department of Environmental Protection (DEP), which is why there are two (2) EO's, and they wanted the first one immediately sent so the team could get in there to remove the sediment and get erosion control measures in place. The second one was sent and was geared more towards restoration and ongoing maintenance. He stated at this point they are in decent shape and required to maintain all erosion control and dewatering items out there until it comes time during construction when stuff is going to need to start moving. C. Lynch stated they will have to contact him for the one-by-one removal of things like the frac tank and the berm. Once it's springtime, they can start with restoration of the actual Bordering Vegetated Wetland (BVW) when approval of the restoration plan from the Commission is given.

M. McInnis asked if there were to be a heavy rain event tonight, is there something in the plan that states someone needs to go on site and check the property to ensure this doesn't happen again.

C. Lynch stated they are required to have someone out there to check everything after every major storm event. He explained that he has been out to the site regularly for walk throughs and drive throughs.

J. Cole asked if water testing would be required to prove that the water quality is okay.

C. Lynch stated that it seemed to just be sediment, and where the water went out was the low point of the property, so it seemed like all the water was going in that direction anyways, but the heavy rain event overwhelmed it. He stated naturally there could be fuel in the ground from however many years Lynch Materials was there operating on the site, but all he saw was sediment and debris cascading over the erosion control.

M. Costa stated this is a difficult site since the whole perimeter borders right up to a wetland buffer, but he believes the team did a great job not only addressing the sediment, but also ensuring this won't happen again.

DISCUSSION

420 Andover Street – Town Conservation Land Trees

J. MacGilvray introduced himself and stated they are new residents to Town as of last December. He explained that Town Conservation land abuts their property and in the past year they've had serious concerns about a few of the trees that are close to the house. The Town has come out to look at the trees and they feel that the trees are okay and not of concern. He stated they have seen so many healthy trees fall because of the weather, so they are willing to absorb the cost to remove these few trees and/or branches of the trees. He explained that they've had a lot of tree experts come out to the property over the past year and they all have expressed concerns.

C. Lynch stated he went out to the site last week and he can agree that if he lived there, he wouldn't want them over his house either. He explained that they are healthy trees, but if they were to fall, they'd

most likely fall on top of the house. Staff is neutral about the trees coming down and DPW staff is neutral, too, if the homeowners agreed to absorb the cost. He explained that the trees are outside of the buffer, but are on Town forest land, so the trees aren't something that staff could have administratively approved, it would need to be approved by the Commission.

M. McInnis asked if there was discussion about replacement trees.

J. Cole asked if they could mulch the trees and see if there could be a use in the camp for the mulch.

C. Lynch stated they will look into that and mentioned leaving a 10' snag on each tree for wildlife.

L. Finne stated she agreed with leaving as many snags as possible as it is a great habitat for wildlife.

J. MacGilvray stated he is willing to compromise. He lives and works in the house and will do whatever the Commission requests if it'll make them feel safer in their home.

D. Pearson confirmed the trees are okay to be removed if they leave a 10' snag and use the woodchips if possible. He recommended planting shrubs and talking with C. Lynch to figure out which shrubs would be best for that area.

MINUTES – December 6, 2023

Upon motion duly made by F. Silveira and seconded by J. Cole,

D. Pearson, M. McInnis, F. Silveira, and J. Cole voted 4-0 to accept the minutes for the December 6, 2023, Conservation Commission meeting. W. Wierzbicki and L. Finne abstained.

MINUTES – January 3, 2024

Upon motion duly made by F. Silveira and seconded by W. Wierzbicki,

D. Pearson, W. Wierzbicki, F. Silveira, and L. Finne voted 4-0 to accept the minutes for the January 3, 2024, Conservation Commission meeting. M. McInnis and J. Cole abstained.

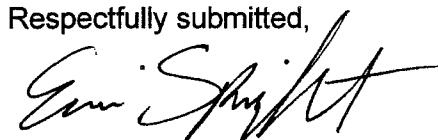
NEXT MEETING – March 6, 2024

ADJOURN

There being no additional business to come before the Conservation Commission, W. Wierzbicki motioned and L. Finne seconded, it was

VOTED: By D. Pearson, M. McInnis, W. Wierzbicki, F. Silveira, J. Cole, and L. Finne to adjourn the meeting at 8:55 p.m.

Respectfully submitted,



Erika Speight
Senior Clerk