



Town Council Meeting Minutes



Thursday, March 25, 2021, at 7:00 PM, in the Matthew Thornton Room

Call to Order

Chairman Koenig called the meeting to order. Present at the meeting were Chairman Koenig, Vice Chair Boyd, Councilor Rothhaus, Councilor Albert, Councilor Healey, Councilor Woods, Town Manager Eileen Cabanel and Assistant Town Manager/Finance Director Paul T. Micali. Councilor Harrington was excused.

Pledge of Allegiance

Chairman Koenig led the Pledge of Allegiance

Announcements

Chairman Koenig made the following announcements:

Voting Day (Official Ballot Vote) will be held on Tuesday, April 13, 2021, 7:00 AM – 7:00 PM, at the three (3) polling locations - James Masticola Upper Elementary School, the Merrimack Middle School and St. John Neumann Church *Please contact the Town Clerk's office at 424-3651 or visit the NH Secretary of State's website to find your specific polling location.*

Upcoming Town Council meeting schedule:

Thursday, April 8, 2021, 7:00 PM Regular meeting and Thursday, April 22, 2021, 7:00 PM regular meeting

Town Manager Eileen Cabanel made the following announcements:

- The Merrimack Parks & Recreation and the Lions Club of Merrimack have teamed up with the American Red Cross to host a Spring Community Blood Drive at Wasserman Park on Saturday, April 3rd, 2021 from 10:00 am to 3:00 pm. The American Red Cross is facing a shortage that has led to an "urgent need" for blood donors of all types. Please consider donating an hour of your time to give a pint a blood and help to save 3 lives. Advanced registration is required and can be done by visiting the Parks & Recreation Dept website at: www.merrimackparksandrec.org
- The Assessing Department is accepting applications for the Elderly and Disabled property tax exemptions. The filing deadline is April 15th. More information about each program is available on the Assessing page of the Town's website or by calling the Assessing Department at 424-5136. Town Manager Eileen Cabanel welcomed back Maureen Covell to the Assessing Department.

Comments from the Press and Public

None

Recognitions, Resignations and Retirements

None

Appointments

Chairman Koenig moved item #2 up on the agenda

2. Town Election Discussion (Official Ballot Vote) – April 13, 2021

Submitted by Town Moderator Lynn Christensen

Town Moderator Lynn Christensen provided the Town Council with an update on the upcoming Town Election scheduled for Tuesday, April 13, 2021. Lynn Christensen advised the Town Council that she anticipates this election to run smoothly. She stated that there are three polling places and if residents are unsure of where to go they can look up their polling location on the secretary of state's

website or through the Town Clerk's office. She advised the Town Council that she expects each of the Town Councilor's to assist on Election Day. She stated that Vice Chair Boyd is not eligible to work because he is on the ballot as a non-election official. Lynn Christensen informed the Town Council that there have been approximately 200 requests for absentee ballots. She stressed that she does not anticipate any issues. Chairman Koenig asked if she anticipates any issues with three ballots versus two. She explained that the state ballot can only be counted if it is correctly cast in the state ballot box. She assured the Town Council that her moderators will be watching the state ballot box closely. Lynn Christensen informed the Town Council that a candidate on the school election ballot will no longer be a Merrimack resident after April 1, 2021 making that candidate no longer eligible. She explained that person's name will be crossed off each ballot. Councilor Albert asked for clarification on the number of open Town Council seats, the number of candidates and the possibility of an open seat after the election. Lynn Christensen stressed that the Town election on April 13th only deals with the three open Town Council seats. She explained that if Vice Chair Boyd is elected to state representative he is still able to continue serving as a Town Councilor.

Lynn Christensen stated the absentee ballot request form is on the town's website. She stated that when the ballots are delivered they will fill those requests. She expects the ballots early next week.

1. New Hampshire Department of Environmental Services (NHDES) Settlement Agreement Update with Saint-Gobain

Submitted by Assistant Director of Public Works / Wastewater Sarita Croce

The Town Council received an update on the latest settlement agreement between NHDES and Saint-Gobain Performance Plastics. Chairman Koenig read the following statement:

The Town stands by the accuracy of the calculations and comments which were provided to NHDES and the courts. The Town developed these comments and calculations using three expert consultants and an environmental attorney. Neither NHDES nor Saint-Gobain Performance Plastics have provided to the Town any specific comments. In fact, all the elements of the Consent Decree were obtained from the Town's technical comment letters. If NHDES and or Saint-Gobain continue to believe that our claims, facts or figures are inaccurate or in error, I challenge them to sit down with us and review the material and data at any time.

Sarita Croce addressed the Town Council explaining that back in 2016 the Town discovered that the Town's land water and air have been contaminated by the use of PFAS from the Saint-Gobain process stack emissions. She stated that Saint-Gobain is currently emitting PFAS, Precursors and Gen-X which have carbon-fluoride bonds (C-F bonds). Sarita Croce informed the Town Council that C-F bonds are one of the strongest bonds known to man. She stated that because of that PFAS are referred to as the "forever chemical". She recapped the NHDES remedies that included the installation of a regenerative thermal oxidizer (RTO) for which the NHDES issued a permit. She stated that the RTO is an air pollution control device. She explained that the RTO was an incinerator that is connected to the process stacks (smoke stacks). Sarita explained that the incinerator heats the PFA, Precursors and GEN-X to 1832 degrees Fahrenheit. She explained that when the C-F bond is broken it creates the deadly hydrogen fluoride gas.

Sarita Croce stated that the NHDES issued a flawed air permit to Saint-Gobain. She explained that the Town used 3 consultants and an environmental attorney who discovered major flaws in the permit. She stated that the Town spent over \$100,000 on experts to review the air permit. Sarita Croce explained that Saint-Gobain failed to meet the deadline February 11, 2021 to install the RTO. She emphasized that NHDES took the missed deadline to correct the major flaws in the air permit by way of a settlement agreement also known as a consent decree.

Sarita Croce reviewed the achievements through the consent decree.

- Saint-Gobain is required to reduce operating hours by 433 hours per month
- Saint-Gobain is required to reduce PFOA emissions by 42% based on 2018 emissions.
- Testing of the inlet and outlet of the RTO to ensure it is properly removing PFAS.

Sarita Croce stressed a significant achievement for the Town was the requirement of testing prior to sending materials to the RTO followed the testing of the outlet of the RTO resulting in controlled hydrogen fluoride emissions. She stated that previously the NHDES did not require this testing. She advised the Town Council that Saint-Gobain prior to placing the RTO online on July 30, 2021 is required to complete the analysis/testing by June 30, 2021. She stated that per the agreement Saint-Gobain must also control the emissions. Sarita Croce stated that Saint-Gobain is also required to conduct a rainwater study on and off site to determine the impact of their emissions on the storm water and groundwater. Sarita Croce asserted that going forward the Town must continue monitoring and reviewing technical documents provided by Saint-Gobain and the NHDES. She urged the Town to remain vigilant to ensure that the hydrogen fluoride calculations are accurate, stack testing is executed correctly and the analytical data is correct. Sarita Croce does not want to see Saint-Gobain and the NHDES repeat the mistakes.

Sarita Croce thanked the Town Council, Town Manager Eileen Cabanel and Assistant Town Manager Paul Micali for their leadership and guidance. Chairman Koenig stressed the significant improvement in the permit requiring Saint-Gobain to evaluate the amount of fluorine is in their overall process and ensure that nothing comes out the other end of the RTO or exceeds the ambient air limit. Vice Chair Boyd appreciated the storm water and ground water study that is now included in the settlement agreement. Sarita Croce agreed that the safety of the rivers and lakes is vital.

3. Annual Review with the Technology Committee

Submitted by Technology Committee Member John Sauter

Per Town of Merrimack Charter Section 6-6, at least annually, there should be an annual review with the Technology Committee. This agenda item is to highlight the committee's significant actions, current projects, anticipated actions, and to raise any concerns the Council should know or could act on. Mr. John Sauter advised the Town Council that the Technology Committee was not able to meet last year because the committee does not have a quorum. He stated that currently the Technology Committee only has two members and the committee consists of 5 members. He advised the Town Council that he participated in the interview of the new technology coordinator. Councilor Rothhaus inquired if a quorum is necessary for this committee. He suggested make changes that allows the group to meet and work with the technology coordinator for the good of the town. Vice Chair Boyd suggested including the technology coordinator as a committee member giving the current committee a quorum. Assistant Town Manager Paul Micali stated that the technology committee is not prohibited from meeting they just cannot vote without a quorum. He does believe the technology coordinator is a committee member.

Kevin Cotreau Technology Committee member suggested reducing the number of committee members from five to three. He stated that he has been a member of the committee for the past two years and they have not been able to hold a meeting because they do not have a quorum. Chairman Koenig agreed and suggested changing the membership from five members to three members. Town Manager Eileen Cabanel stated that it will placed on the next agenda. Chairman Koenig reiterated that the committee could meet for discussions only, voting would not be allowed without a quorum. Town Manager Eileen Cabanel pointed out that the Technology Committee is an advisory committee and she

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does not believe there needs to be concern regarding committee rules. She very much appreciates their advisory role.

Public Hearing

None

Legislative Updates from State Representatives

Chairman Koenig read the following email he received from State Representative Maureen Mooney:

Greetings, Town Councilors:

1.) The House Judiciary Committee voted to retain [HB 478](#) (An ACT relative to treatment of PFAS contaminants in the drinking water of the Merrimack Village Water District). This retention means the bill will be considered further by the committee with a recommendation due in 2022.

2.) The following bills came out of House committees with "Ought to Pass" or "Ought to Pass with Amendment" recommendations and will likely be considered during the upcoming House sessions on April 7-9, 2021:

[HB 236](#) (An ACT creating a statute of limitations on civil actions relative to damage caused by perfluoroalkyl and polyfluoroalkyl substances);

[HB 271](#) (An ACT relative to standards for per and polyfluoroalkyl substances (PFAS) in drinking water and ambient groundwater);

[HB 135](#) (An ACT requiring parties responsible for pollution of a drinking water supply to be financially responsible for certain consequences of that pollution).

3.) The Commission on the Environmental and Public Health Impacts of Perfluorinated Chemicals is making an effort to inform members of when water-related bills have hearings so the members can sign in support. I can be sure the town is notified as well.

Thank you for all you do.

Respectfully submitted,

Rep. Maureen Mooney (R-Merrimack)

Town Manager Report

Contract Assessor Loren Martin and Assistant Town Manager / Finance Director Paul Micali teamed up with our Media Division to create an educational show about the upcoming Town-wide Re-evaluation. This is will be aired within the next couple of weeks on our local community television station and a link will be on the Town website as well.

Consent Agenda

None

Old Business

None

New Business

1. Little Free Library at Horse Hill Nature Preserve

Submitted by Angie Merrill

The Town Council was presented with and asked to consider a proposal to build a Little Free Library at Horse Hill Nature Preserve. Angie Merrill addressed the Town Council. She informed the Town Council that the Little Free Library is a non-profit organization. She stated that the concept is take a book, leave a book. She stated that books are free. Angie Merrill provided a suggested build plan for

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the library. She indicated the design would resemble a house and would be mounted on a post. She suggested placing the Little Free Library near the memorial bench.

Angie Merrill explained that if approved the Little Free Library would be registered with the organization. She would be designated the steward and she would be responsible for maintaining the library. She would check the library every 4-6 weeks. She would continue community outreach through Facebook and the Merrimack Library.

Councilor Albert informed the Town Council that the Conservation Commission supports this proposal. Vice Chair Boyd stated that he supports the project. Councilor Healey suggested that Angie contact the local Scout troops, as they are regularly looking for projects.

MOTION made by Vice Chair Boyd and seconded by Councilor Albert to approve the construction of a Little Free Library at Horse Hill Nature Preserve. Furthermore, to authorize the Town Manager or her designee to sign any necessary paperwork. MOTION CARRIES 6-0-0

2. 2021 Summer Farmers Market & Community Garden Update and Discussion

Submitted by Agricultural Commission Chair Bob McCabe

The Town Council was presented with and asked to discuss the details of the upcoming 2021 Summer Farmers Market and Community Garden. Mr. Bob McCabe stated that he has projected a June 9th start date for the Farmers Market. He stated that the market would run every Wednesday evening, for 18 weeks. He inquired if the Town would provide the PPE equipment as was done last year through the CARES act. Town Manager Eileen Cabanel state the she does not believe there is any CARES act money left over. She will look into any surplus of PPE that the Town has available and she will advise Mr. McCabe early next week.

Mr. McCabe stated that the Merrimack Community Garden at Wasserman Park is projected to start mid-May running through October 10th. He informed the Town Council that a bid was put out to rototill the gardens. He is hoping to have figures in April. He stated that previous gardeners have until April 10th to submit their request and April 11th registration will be open to all. Chairman Koenig inquired on the cost per lot. Mr. McCabe stated the fee is a one-time charge of \$10 for a 10x10 plot. Councilor Albert questioned if the DPW has any equipment to help rototill the community garden. Kyle Fox Director of Public Works stated the DPW tractor is too small.

Mr. McCabe expressed his frustration with what he perceives as inconsistency in rule process. He provided the Town Council a document that he received recently. He explained that he was told that when requesting equipment or supplies the committee had to discuss it at their meetings, vote on the request for funds and to provide meeting minutes to the finance department. Mr. McCabe stated that he is doing the best he can. He spoke about his lack of experience and knowledge of computers. Councilor Rothhaus recalled the issue was that the Agricultural Commission was going through a lot of print ink/toner. He understood that committees were to send what they needed printed to the Town Hall. He stated that spoke about previous lists of items that were requested for purchase. Councilor Rothhaus said the list was enormous. Mr. McCabe outlined his monthly meeting preparation that requires a significant amount of research and printing. He explained the need for postage. He does not believe it is practical for him to go to Town Hall several times a week for a copy or to postage an envelope. Councilor Rothhaus state that is not the case it is requests for large quantities and he urged Mr. McCabe to forward by email his printing requests to Town Hall. Mr. McCabe stated that he does know how to do that. Councilor Rothhaus stated that this issue comes up annually and he would like in the near future to have discussion on this issue. Town Manager Eileen Cabanel explained that the Agricultural Commission's purchase request was significant and there were concerns. She urged the

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Town Council and Mr. McCabe to have a discussion in the future and all the facts and figures can be available.

Mr. McCabe stated that he has been doing this for 13-years and he asserted that it has been a struggle. He is frustrated that the rules are changing again. He does not like it. Mr. McCabe feels like he is being subjected to the point of harassment. Assistant Town Manager Paul Micali informed the Town Council that he sent the email. He assured the Town Council that the Agricultural Commission is treated the same as every other board, committee or commission. He informed the Town Council that he has directed his staff to assist the Agricultural Commission.

Chairman Koenig explained that this topic was not included on the agenda request submitted by the Agricultural Commission. He urged Mr. McCabe to work through the issues with the Town Manager's office and if that cannot resolve the issues the Town Council will need to re-evaluate the Agricultural Commission. Mr. McCabe feels that is unfortunate.

3. 275th Anniversary Certificate of Recognition

Submitted by the Merrimack 275th Anniversary Planning Committee

The Town Council issued a certificate of recognition designating April 2, 2021, as the Town of Merrimack's 275th anniversary.

MOTION made by Vice Chair Boyd and seconded by Councilor Healey to issue a certificate of recognition designating April 2, 2021, as the Town of Merrimack's 275th anniversary. MOTION CARRIES 6-0-0

Assistant Town Manager Paul Micali invited the Town Council to attend the 275th anniversary kick off on Friday April 9, 2021 at 3:30 pm at Abbie Griffin Park.

4. Naticook Day Camp Summer Camp Recommendations for 2021

Submitted by Parks and Recreation Director Matthew Casparius

The Town Council was presented with the Summer Camp recommendations for 2021 with COVID-19 restrictions in place. Matthew Casparius provided the Town Council with the safety steps that will be in place for summer camp. He stated that looking at the State's guidelines he is feeling good about this summer. He informed the Town Council that camp groups are broken into small pods with no interaction with other pods. Matthew Casparius stated that this year the number of campers and staff allowed in a pod is up to 20. He stated that the cost of camp increased to cover the cost of personnel and safety supplies. He informed the Town Council that masks will be required when they are indoors or when social distancing is not an option. Matt Casparius stated they are ready for summer. He stated that he expects approximately 110 kids per week. He explained that the 110 campers will be split into seven groups. Matt Casparius explained that in the event of rain each of the groups would be assigned their own building. He stated there will be a daily screening process and temperature checks. He said that staff will be encouraged to get vaccinated. Food will be served outside. Eileen Cabanel stated that she whole heartedly supports moving ahead with the summer camp programs. She greatly appreciates Matt Casparius' efforts. Matt Casparius informed the Town Council that he is looking for a definitive approval so that he can inform the staff and families that summer camp is going to happen.

MOTION made by Councilor Rothhaus and seconded by Councilor Woods to instruct the Parks and Recreation Department to start the process of opening summer day camp using the State guidelines. MOTION CARRIES 5-0-1 Vice Chair Boyd voted present

5. DCU Donation for Merrimack Fire Department

Submitted by Fire Chief Matthew Duke

The Town Council considered the acceptance and expenditure of a donation in the amount of \$5,000 from Digital Federal Credit Union to Merrimack Fire Rescue, to be used towards the purchase of a BlowHard positive-pressure ventilation (PPV) fan and Streamlight box-style flashlights with accessories, pursuant to RSA 31:95-b and Charter Article 8-15. Fire Chief Duke advised the Town Council that the fan is a piece of equipment that the Fire Department is extremely satisfied with. He informed the Town Council that he is looking to purchase 11 Streamlight box style flashlights. He explained that the total purchase price is \$5,115 and the balance of \$115 would be paid through the Fire Department's operating budget.

MOTION made by Vice Chair Boyd and seconded by Councilor Healey to accept and expend a donation in the amount of \$5,000 from Digital Federal Credit Union to Merrimack Fire Rescue, to be used towards the purchase of a BlowHard positive-pressure ventilation (PPV) fan and Streamlight box-style flashlights with accessories, pursuant to RSA 31:95-b and Charter Article 8-15. A letter of thanks to be sent to DCU. MOTION CARRIES 6-0-0

6. Building Resilient Infrastructure and Communities (BRIC) Funds Application Discussion

Submitted by Public Works Director Kyle Fox

The Town Council considered a request to expend up to \$60,000 from the Highway Infrastructure Capital Reserve Fund to support a FEMA Benefit Cost Analysis submittal with respect to the replacement of the US 3 bridge over Baboosic Brook. Mr. Kyle Fox explained that the Town requested this bridge be considered for the State Aid Bridge (SAB) program in 2013 at a cost of \$2.52 million dollars. He stated that in 2015 the bridge was placed on the NHDOT Red List. Kyle Fox stated that in October 2020 the feasibility study was completed. The study recognized the need for an alternative bridge and significant construction improvements. He informed the Town Council that the price jumped drastically from the original estimate in 2013. He stated that the preferred alternative carries an estimate of \$5.69 million. Mr. Fox stated that the NHDOT does not have available funding in SAB for the increased amount.

Mr. Fox stated that he is not able to move forward into the final design of the project until he can advise the NHDOT that the project is fully funded. Mr. Fox spoke about a FEMA grant that could help close the funding gap. He advised that the Building Resilient Infrastructure and Communities (BRIC) grant is a 75% Federal and 25% State funding. He stated the grant would be managed by the NH Department of Safety, Homeland Security and Emergency Management Division (HSEM). Mr. Fox informed the Town Council that during his meeting with HSEM the project was received favorably but they cautioned that it is a competitive nationwide program. He explained that the primary factor in the determination by FEMA is the benefit cost analysis being the cost of the project versus the repair cost post flood events for not doing the project. Mr. Fox utilized flood maps depicting the flooding after a 100 year flood. He believes the maps will have a major impact in the application process.

Mr. Fox outlined his proposal which is to hire a consultant to assist with the BRIC grant application that would be due in November of 2021. He stated that FEMA would make their selection by June 2022 and funding would be received in 2023. Mr. Fox outlined the funding scenario of risk vs reward:

NHDOT STATE AID BRIDGE ONLY – 12.23.2020 Project Funding Matrix

• Total Project Costs	\$5,969,000
• Less NHDOT 80% Project Costs	<u>(\$4,775,200)</u>
• Town Match (20%)	\$1,193,800

FEMA BRIC with NHDOT SAB Funding

• Total Project Costs (12.23.2020)	\$5,969,000
• BRIC & COVID Escalation (20%)	<u>\$1,193,800</u>
• REVISED Total Project Costs	\$7,162,800
• Less FEMA BRIC (75%)	<u>(\$5,372,100)</u>
• BRIC Match	\$1,790,700
• Less NHDOT SAB Funding (80%)	<u>(\$1,432,560)</u>
• Town Match (20%)	\$ 358,140

He asked the Town council to approve spending \$60,000 on the cost benefit analysis. Council Rothhaus stated that he is in support of this request. Assistant Town Manager Paul Micali spoke from previous experience that having a consultant to help streamline the process would be beneficial. Town Manager Eileen Cabanel suggested waiting a month in light of the proposed infrastructure bill that is proposed by the President. Mr. Fox indicated that he could wait a month but given the amount of work that goes into applying for a Federal grant he cautioned not to wait longer. Town Manager Eileen Cabanel clarified that she would not have an issue if the Town Council wanted to move forward now. Chairman Koenig suggested bringing this back at the April 22nd meeting and suggested that Mr. Fox and staff begin the preliminary work.

7. 2nd Quarter Financial Update

Submitted by Deputy Finance Director Thomas Boland

Deputy Finance Director Thomas Boland reviewed the key financial information of the quarter ending December 31, 2020. Mr. Thomas Boland informed the Town Council that the second quarter cover from

July 1, 2020 to December 31, 2020. He stated that the second half of the year looks good despite everything going on in the world. He stated that the financial position is very solid. Mr. Boland reviewed the appropriation side of the budget focusing on the larger expenditures such as health insurance. He stated that compared this time last year health insurance is running approximately \$55,000 higher. He reviewed the cost for New Hampshire Retirement System (NHRS). He stated the Town's contribution is running \$141,000 higher than last year. Mr. Boland explained the increase in both the health insurance and the NHRS is due to an increase in staff. Mr. Boland stated that the increase to overtime wages is a result of staff increases. Assistant Town Manager Paul Micali attributed the overtime increase to Covid issues. He explained that he has requested a reimbursement of \$200,000 for overtime. Town Manager Eileen Cabanel advised the Town Council that early in the pandemic the Fire Department was working overtime on Covid related events. Town Manager Eileen Cabanel stated that the Town will be reimbursed for much of the overtime. Mr. Boland advised the Town Council that the Police Department overtime has decreased by approximately \$36,000 while the Fire Department has increased by \$280,00 compared to last year.

Mr. Boland reviewed revenues. He spoke about the auto registrations, building permits and interest on the Town's pooled cash reserves. He stated that auto registrations continue to increase.

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Mr. Boland stated that the interest on cash reserves remains the same, it has not improved. He stated that they will be significantly under what was projected. Mr. Boland explained that the Town has received over \$600,000 unbudgeted Covid funds. He stated that the Town has received reimbursement for insurance premiums for workers compensation, health insurance and dental insurance in the amount of \$240,000. Mr. Boland stated that Building Permit revenue is down. He will keep an eye on that. He reiterated that the Town's financial position is strong.

Minutes

Approve the minutes from the following Town Council meetings:

MOTION was made by Vice Chair Boyd and seconded by Councilor Healey to approve the January 28, 2021 meeting minutes as amended. MOTION CARRIES 6-0-0

Page 1 lines 21, 24, 32 strike NI-IDES insert NH DES

MOTION made by Vice Chair Boyd and seconded by Councilor Healey to approve the February 11, 2021 meeting minutes as presented. MOTION CARRIES 6-0-0

MOTION made by Vice Chair Boyd and seconded by Councilor Albert to approve the February 18, 2021 meeting minutes as presented. MOTION CARRIES 6-0-0

MOTION made by Vice Chair Boyd and seconded by Councilor Albert to approve the March 10, 2021 meeting minutes as presented. MOTION CARRIES 6-0-0

Comments from the Press

None

Comments from the Public

Nancy Murphy of Brenda Lane thanked the Town Council for their efforts and dedication to holding NHDES and Saint-Gobain accountable. She expressed her appreciation for the professionalism demonstrated by Sarita Croce.

Comments from the Council

Councilor Healey stated that today is National Medal of Honor day.

Adjourn

MOTION made by Vice Chair Boyd and seconded by Councilor Woods to adjourn the meeting. MOTION CARRIES 6-0-0

The meeting adjourned at 10:00 pm

Respectfully submitted by Tracy Doherty