



**Raymond Planning Board
Minutes*
Wednesday, July 10, 2013**

Present: Charman Patrick Clark, Vice Chair Robert O'Neill, Greg Foster, William Priest, Bruce Sanford, and Dan West.

Absent: None

Staff: Jim Seymour, Contract Planner; Mary Costigan, Town Attorney; Chris Hanson, Code Officer; and, Danielle Loring, Recording Secretary.

Applicant: Wayne Fornier (FI Town Manager), Mark Gray (JAMM), and Pat Cayer (Land Services, Inc.)

Other: Charly Leavitt, Barbara Lovell,

1. Call to order; Chairman Pat Clark called the meeting to order at 7:01pm and declared a quorum.

2. Approval of February 13, 2013 Meeting Minutes:

MOTION: Bruce Sanford motioned to accept the minutes; Seconded by Dan West.

DISCUSSION: Robert O'Neill stated that he had a few typos that he would submit separately and Chairman Clark asked that all others be submitted as well.

VOTE: UNANIMOUS APPROVAL (6/0)

3. Applications

a) Consideration of a Request for a Motion to Reconsider the February 13, 2013 Board vote that the Town of Frye Island's application for site plan review satisfies the second review criterion under Section 16 of the Shoreland Zoning Ordinance, finding that the project will not result in water pollution, erosion, or sedimentation to surface waters- Stephean Chute, Esq.

Chairman Clark asked Mary Costigan *Esq.* to explain the agenda item. She explained that Mr. Chute had filed for the Board to reconsider the Board's vote for the second shoreland zoning criteria. She continued that under Robert's Rules, only a Board member could make a vote and only a member of the prevailing side (4/1) could initiate the vote.

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**Item taken out of order

Chairman Clark asked if Mr. Chute was present to add anything else but he was not. Chairman Clark asked the Board if anyone was interested in making a motion and there was none. Chairman Clark declared the item closed.

b) Unfinished Business

Town of Frye Island

Cape Road & Quarry Road

Map/Lot: 002/011 & 070/006

Applicant is requesting a site plan review for a Park & Ride for ferry landing.

Chairman Clark explained that it was a public meeting but not a public hearing and there would not be an opportunity for public comments. He asked Mr. Seymour to summarize his memo. Mr. Seymour explained that the Board was continuing review of the application with the Shoreland Zoning standards that they left off on, which was number 3, at the last meeting. He explained that his memo also refreshed the previous items and that there had been much correspondence regarding opposition from both Raymond Cape and Frye Island residents. He stated that, as of the date of his memo, the Department of Environmental Protection (DEP) was close to approving their stormwater permit, but he had not yet received approval. There were also updates included in their packets and he asked that the floor be given to Mr. Gray to continue with information regarding application.

Mr. Gray explained that there were changes made to the lighting, such as 25' poles from 30', but did not feel that lighting would be an issue, given the time of year that the facility would be used. Chairman Clark asked if the applicant had completed a light intensity study, and Mr. Gray stated that they had and were willing to adjust the lighting but the current plan was in response to the ordinance standards.

Mr. Gray continued that they had made changes to the plan that had not yet been submitted given that the Board had not gotten through all of the Shoreland Zoning Standards. He showed that there was a tree that they were proposing to remove to improve site distance. Chairman Clark reminded him that the applicant would have to meet the point system in tree removal, and Mr. Gray agreed. Mr. Gray said that there had been a vernal pool and it was determined that the spotted salamander was not an issue but they were waiting for the flowering of the begonia as a threatened species.

Mr. Gray summarized his memo and stated that the purpose of the applicant's project was to reduce queuing on Cape Road. He felt that they were able to get 26 cars in the queuing lane and there would be a trained traffic monitor on site to direct traffic. Chairman Clark asked if there were any traffic count numbers completed to demonstrate that cars backing up onto Cape Road was an issue.

Barbara Lovell, Wild Acres, spoke stated that during the holiday weekend there was rarely a bleed out of cars past the stop sign at the end of the Ferry Road. She explained that residents had taken counts of cars in shifts for the cars as they waited to board the ferry. My. Gray stated that he would like to see those numbers.

Mr. Gray stated that he understood that the applicant was creating pedestrian traffic that was

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not currently there, but they were trying to alleviate an issue of vehicle traffic congestion and backup into the travel lane. He addressed issues brought up by Mr. Seymour at the last meeting by stating that there was going to be staff to address any problems and monitor the site.

Mr. Gray then explained that the traffic study showed that, during the peak night, there were 0.37 cars per minute, which meant that they were spaced and not bumper to bumper (approximately 1 car every 3 minutes). He added that there was a new safety feature added by painting the paved shoulder. Chairman Clark asked if there was an advanced warning sign for pedestrians, and Mr. Gray stated that those could be added. Mr. West asked if there had been a review of the speedlimit or the use speed tables, and Chairman Clark responded that they had not been proposed for this project.

Mr. Gray stated that, in terms of runoff, that he felt that two 18" culverts were sufficient in the event of a historical storm. He did not understand how anyone would want one culvert because the purpose was to protect the road. He said that with two 18" culverts the roads would be protected from run-over and washout in the event of a 25 yr storm, which was 5 ft/sec but one 18" culvert was 10 ft/sec. He said that the volume would be the same but the velocity would be greater in the smaller culvert. Mr. West agreed with his suggestion.

Chairman Clark wanted to know about the pending application with the DEP. He asked if there were any changes to the project from what had been proposed, and Mr. Gray responded that there was an existing buffer that had been altered. Chairman Clark stated that there was a chance that requiring that the site be monitored would be a condition for approval so that the applicant would need to need to return to the Board in order to remove it. Chairman Clark then stated that Mr. Gray had mentioned noting site distances on the plan but did not feel that they could get adequate site distance without removing vegetation, and Mr. Gray agreed.

Chairman Clark stated that the Town was concerned with the additional culvert because of the day to day use of two culverts versus the one major event.

Mr. O'Neill asked about hiring a monitor and funding that ongoing expense. He asked if there would be a security bond to cover those expenses. Chairman Clark clarified that the Board would not be involved because it was a private project. Mr. O'Neill asked how that issue would be enforced. Mr. Seymour stated that it would be an enforcement issue and the Code Officer would issue a violation. Chairman Clark said that was why he suggested it as a condition so they could not make decision lightly.

Chairman Clark stated that they were going to continue with the standards.

3. Will adequately provide for the disposal of all wastewater.

Chairman Clark explained that the Mr. Seymour had indicated that there would be no additional waste water and it would be optional for the applicant to provide proper facilities. Mr. Seymour asked how wastewater was controlled now, and Mr. Fournier responded that there was one port-o-potty next to the ferry landing and one toilet for staff use.

MOTION: Robert O'Neill motioned that the application adequately provided removal of waste

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water; Seconded by Greg Foster

DISCUSSION: Mr. Seymour asked that those facilities be indicated on the plan, and Chairman Clark asked the applicant to comply.

VOTE: MOTION CARRIED (5/0/1 [ab BS])

4. Will not have an adverse impact on spawning grounds, fish, aquatic, life, bird or other wildlife habitat.

Chairman Clark stated that there was a letter from Inland Fishery & Wildlife (IF&W) in the submissions, and Mr. Seymour added that it was in the submissions from March 5, 2013. Chairman Clark stated that the response from the State of Maine was that they did not feel that there was an impact. Mr. O'Neill asked if they were still waiting on DEP, and Chairman Clark confirmed but that he wanted there to be a condition that the applicant obtain approval from the DEP before moving forward with the project.

Mr. Seymour reminded the Board of the letter from IF&W that was submitted on August 12, 2012. He stated that they have hearsay but no formal vernal pool study had been submitted for review by that bureau. Chairman Clark suggested approving the conditions based on the information that they had to date and the results of the DEP application. Mr. Seymour suggested finding the standard incomplete. Mr. Foster stated that he was in favor of having it as a condition.

Mr. O'Neill asked Mr. Cayer about his memo to the Board concerning the wetlands and the scope of the project and response to vernal pools, and he explained that it was based off of the information and communications with the IF&W.

MOTION: Dan West motioned that they waive the formality of requiring the report based on the testimony given; no second.

Chairman Clark explained that a waiver was not required. Mr. Seymour added that the DEP and Army Core look at vernal pools and there were two different rules that could be applied. He continued that he would like to see the report before making his suggestions to the Board.

Chairman Clark asked if there were any wetland disturbances, and MG said there were and they were less than 4000 square feet (s.f.).

MOTION: Dan West motioned that they accept the standard pending approval from the MDEP; Seconded by Greg Foster

DISCUSSION: None.

VOTE: MOTION FAILED (3/3 [RO, WP, BS])

Chairman Clark stated that the applicant would need to submit the vernal pool report as well as DEP approval.

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5. Will conserve shore cover and visual, as well as actual points of access to inland waters.

Chairman Clark read the response from Mr. Seymour:

“The applicant does not appear to significantly impact shore cover and visual, or points of access to inland water ways as the ferry terminal is existing and all improvements at the landing are primarily over existing impervious areas, (with exception of some minor tree removal) and most of the other proposed parking and access areas retain more than adequate tree buffers”.

MOTION: Robert O'Neill motioned that the application, as presented, supports conservation of shore cover and visual, as well as actual points of access to inland waters; seconded by Greg Foster.

DISCUSSION: None.

MOTION: MOTION CARRIED (5/0/1 [ab BS])

6. Will protect archaeological and historic resources as designated in the comprehensive plan.

Chairman Clark read Mr. Seymour's response:

“The application and proposed uses appear to protect both the archaeological and historic resources as with proof from their letters from the Maine Historic Preservation Commission dated July 30, 2012 noting there were no listed or eligible historic sites impacted within vicinity of the proposal”.

MOTION: Greg Foster motioned that the applicant had complied with standard that the project “will protect archaeological and historic resources as designated in the comprehensive plan”; Seconded by Robert O'Neill.

DISCUSSION: None.

VOTE: MOTION CARRIED (5/0/1 [BS])

7. Will not adversely affect existing commercial fishing or marine activities in a Commercial Fisheries/ Maritime Activities District.

Chairman Clark read Mr. Seymour's comments:

“We concur that the existing use as a Ferry Terminal is established and will have no further significant impacts on fisheries, and with well planned stormwater treatment neither will the proposed access roads or parking lots”.

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Mr. Cayer asked if there were any commercial fisheries in Raymond, and Chairman Clark responded that there were not.

MOTION: Greg Foster motioned that the applicant has met the criteria and will not adversely affect existing commercial fishing or marine activities in a Commercial Fisheries/ Maritime Activities District; Seconded by Dan West.

DISCUSSION: None.

VOTE: MOTION CARRIED (5/0/1 [ab BS])

8. Will avoid problems associated with flood plain development and use.

Chairman Clark read Mr. Seymour's comments regarding existing culverts with replacing 15" to two 18":

"We will want to request further evidence that up-sizing culverts under Cape Road will not impose flooding problems downstream of Cape Road or cause detrimental damage to private property located adjacent to the Ferry Terminal. Currently there is a slow wetland flow-age from the existing culvert to the Sebago Lake shoreline. The town has worked diligently to implement spillways and plunge pools to protect the Lake, and would not want those disturbed for this proposed project.

Update: *In conversation with Mark Gray PE the original culvert size was located incorrectly and the size was actually 18" diameter not 15". He may be coming forth with new data where he will not be replacing the existing culvert and will be utilizing the existing culvert. If such plan is produced and stormwater peak rates recalculated, we should confirm that those have been reviewed by the Maine DEP and also have ample time to review with Public Works, to assure that the inlets and infrastructure will be adequately protected from erosion during and after construction".*

MOTION: Dan West motioned that the applicant has met the criteria and the project will avoid problems associated with flood plain development and use; seconded by Greg Foster.

DISCUSSION: Robert O'Neill believed that, regarding parking areas in Shoreland Zoning District, the runoff needed to be dealt with on site. Mr. Seymour stated that he had raised these concerns at the last meeting, but the Board had moved on with a positive vote for stormwater management and that the Board was satisfied, given that the project would get a DEP permit. Mr. Cayer stated that the plan met the ordinance, but both Mr. Seymour and Chairman Clark agreed that those standards were subjective. Mr. Cayer stated that he did not feel that it would be to the detriment of the flood plain

VOTE: MOTION CARRIED (3/2 [RO, WP]/1 [ab BS])

9. Is in conformance with the provisions of Section 15, Land Use Standards.

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Mr. Seymour read Section G of the Shoreland Zoning Ordinance ordinance and the three sections for parking requirements. Ms. Cositgan explained that the original memo from Mr. Seymour went through the standards in more detail. Chairman Clark asked if he had found any of the parking in the project to be non-compliant, and Mr. Seymour responded that he did not.

Mr. Sanford stated that he did not think that the project conformed and read section 2. He also did not think that they had demonstrated a need for the construction and felt that it was a not in compliance with the ordinance. Mr. Seymour explained that the Board could only consider the application at hand and the phases had come from a third party and had not been submitted for the Board's consideration. Mr. Seymour added that the issue of use could be readdressed when the applicant resubmitted to correct the failed item of safety. He suggested waiting until the other standards had been met.

Mr. Sanford stated that the charge of the Planning Board was to be fair and look at the ordinance but also if the project was proper in the time and space at the time that the project was being proposed. Ms. Costigan clarified that the "use" was defined in a policy set by the Town, not by the Planning Board, via the ordinance and, therefore, the Board was charged with looking at the black and white issues and approving or disapproving the application. Mr. Seymour added that the context was irrelevant given that the standards are set by the ordinance, and Mr. Sanford stated that he disagreed.

Chairman Clark felt that Standard number 9 would be complete upon approval of the other 8 and stated they should return to those that had not passed, starting with Standard number 1.

1. Will maintain safe and healthful conditions.

Chairman Clark stated that the Board had asked the applicant to submit evidence of monitoring the site while maintaining safe and ordered conditions. Mr. Seymour stated that there was a response regarding traffic and parking lot management, but he felt that it was a gray area regarding who would be using the parking lot. He continued that, even though it was assumed that it would be used for visitors, the project seemed to have evolved into long term parking.

Mr. Seymour addressed the traffic study that was presented and stated that it was based on the usage for the ferry, not for the area as a whole and the residents in the area. He felt that there should be a higher count. Chairman Clark did not know if there would be a significant increase, but he stated that the report did not address the fact there were people going faster than 35 mph and felt that they should increase the site distance to address those safety concerns. Mr. Seymour also felt that there would be congestion because of the drop off area, given that there may be people queuing to use that area. Chairman Clark agreed and that was why the applicant should improve site distance but not require more than what was indicated by the ordinance. Mr. Cayer stated that there were limitations in the area to get a better site distance. He felt that the direction that the faster cars were coming from (Cape Road toward Ferry Road) would have better site distance.

Mr. O'Neill expressed his confusion regarding the parking space numbers and wanted to know

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how Frye Island would police those numbers. Mr. Gray stated that the numbers came from the applicants needs and felt that the actual use of the facility would be dictated once it was developed and could not be calculated accurately. He felt that it was an educated guess based on current usage, but Mr. O'Neill argued that there was no data to support the guess.

Mr. Seymour asked how the lot was going to be managed, and Mr. Gray responded that it would not be regulated, except to limit to Frye Island guests and residents. Mr. West felt that the parking lot should be a temporary use and not a long term parking space for the residents and was upset that they were limiting it to residents and their guests and felt that patrons should be allowed as well. Mr. Gray clarified that those wishing to visit the island were also welcome to use the lot and did not understand the concern with a resident using the lot long term.

Mr. Fournier stated that Island Officials had counted the number of cars in the past and the primary concern was access for emergency vehicles and blocking traffic on the Cape Road. The numbers were not daily use. Mr. Sanford asked why they were not building a parking lot on the island and give free passes to those that park in the lot who agreed not drive on the island. Chairman Clark stated that the suggestion was not relevant to the application and they were returning the issues concerning standard number 1.

Mr. Seymour stated that the parking area for Frye Island was not development of convenience, because individuals were already leaving their cars along the side of the road. He did not feel that the parking lot would fix the issue because it could fill with long term parking for residents and the contractors/visitors would still have to park along the side of the road. For these reasons, he felt that the management needed to be adequately addressed.

Mr. Foster disagreed and felt that safety relied upon the drivers in that area because the applicant addressed the issue with signage. Chairman Clark did not feel that there had been data or space requirement that stated that the lot was adequate for the use like there was with other projects.

Mr. Priest felt that the Board had been tricked by the applicant, because the project had been presented as a means to get cars off the road but now sees that it is parking for the island residents. He felt that there was a broader way of looking at it to justify the project. He felt that the applicant had other options such as increasing the queue line. Chairman Clark felt that they were proposing a project based on their needs, but Mr. Priest did not feel that the applicant had not submitted the data that they were basing their requests on. Mr. Gray stated that Bill Eaton's traffic report stated that there was a recommendation for 30-35 cars and they were suggesting 42 which was close to that range. Mr. Clark stated that it was not the Board's job to question the applicant's reasoning for having the number of spaces, and they needed to look at the safety conditions.

Mr. Sanford stated that he would only vote for the project if future development were restricted, and Chairman Clark stated that doing so would be illegal. Mr. Seymour stated that the applicant would need to come back to the Board for any future development and the process would get more cumbersome because it would trigger other agencies such as the Army Corps.

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Mr. Priest stated that he did not see handicap spaces on the plan, and Mr. Gray pointed them out and stated that those individuals were given priority.

Mr. Hanson stated that he did not agree with the project and felt that it was not safer than the existing conditions.

Mr. Sanford asked if the applicant had explored queuing on the right side of the road down Cape Road, and Mr. Gray stated that they did not have the rights to improve Cape Road and would need to collaborate with the Town of Raymond and abutters. Mr. Sanford wanted to know than why they did not go forward with that idea if it was a better concept, and Mr. Gray stated that it may be a possibility in the future but that was not the application before the Board. Mr. Sanford suggested that the applicant table project and have discussions with Raymond before proceeding. Chairman Clark reminded the Board that they needed to review the application as presented.

Mr. Seymour stated that the applicant had indicated that they were going with a paved shoulder, which was a suggestion from the Public Works Department, and suggested the same for the drop off area. He felt that the drop off zone would create conflicting movements in traffic, especially the potential for congestion of the pedestrians and the back up of the drop off area.

Mr. West said that he saw the benefit to the project but felt that there were relevant safety concerns. He asked for the number of accidents and the audience responded none. Mr. West felt that was indicative of the safety of the area but felt that the project addressed long term planning for Frye Island and could mean economic development for the area but was concerned with light pollution.

Mr. Gray was concerned that the applicant was not being given direction on what the Board wanted to see in order to correct the existing plan.

Chairman Clark asked that the Board suggest ways to improve the safety of the location. Mr. West stated that he was conflicted that if there were no current safety issues then how could the applicant make it more safe when the proposal created safety concerns. Mr. Sanford stated that he felt applicant was creating an unsafe condition. Chairman Clark stated that he felt that the 4 way intersection was not the same as the traditional one because the cars would only be moving across the street when the ferry was loading.

Mr. Seymour stated that the lighting poles had been reduced and installed with LED lights with full cut off lamp eliminating sky glow.

Mr. O'Neill stated that he did not think the Board should redesign the applicants project and did not feel that it was a fair request. Chairman Clark stated that they should at least tell them why the Board felt it was unsafe. Mr. O'Neill stated that traffic concerns were subjective, much like the applicant's proposed number of spaces, and reiterated that they should not be trying to alleviate their concerns. Mr. West felt that there should be a reasonable standard for safety and felt that his safety concerns had been satisfied and suggested that the Board look at the merits of the plan.

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Mr. Gray reiterated the argument that the primary safety concern was the queuing of vehicles and potential rear-ending vehicles that were stopped in the road. The applicant was asking for a trade off of eliminating queuing in the road in exchange of creating a pedestrian crossing and a drop off zone. He felt that this scenario existed in more congested areas where people were managing it safely, but they were proposing it within the context of a rural road and, personally, believed that it was an improvement.

Chairman Clark felt that there were conditions being proposed by the applicant that did not exist before, such as the intersection and the drop off zone. He felt that, in order to address safety, the Board needed to look for where imperfections existed, such as separating the pedestrian traffic from vehicle traffic. Mr. Gray stated that currently people walked down the middle of the road because there was no travel area for them. Mr. Cayer stated that these safety precautions did not exist in the average parking lot.

Chairman Clark suggested a blinking light to increase awareness.

MOTION: Greg Foster motioned that the project would maintain safe and healthful conditions; Seconded by Dan West.

DISCUSSION: Mr. Seymour stated that there maybe additional information with the background traffic flow report that would show the history of the traffic flow.

Ms. Costigan stated that if Board members were going to vote against the standard, they needed to give a rationale for the applicant and finding of fact.

Mr. Sanford stated that he was concerned with the intersection and did not think application could be made safe.

VOTE: MOTION FAILED (3/3 [RO, WO, BS])

Chairman Clark told Mr. Gray that the applicant would need to come back showing that they could meet all of the standards, especially those that had failed (1, 4, & 9).

Mr. Seymour added that the Shoreland Zoning standards needed to be approved in order to move to the application to Site Plan Review because the project was going to have to make changes.

Chairman Clark asked the Board to review the standards briefly and consider moving forward with the application. He felt that there were some standards that did not overlap and could be considered. Mr. O'Neill felt that those smaller standards went quickly and felt that should all be done at once.

My. Gray stated that he was not sure of what the other individual issues were about the safety concerns other than Mr. Sanford and Chairman Clark.

Mr. O'Neill stated that he was concerned with the pedestrian crossing and drop off zone. Mr. Gray suggested that it could be limited for elderly individuals. Mr' O'Neill responded that it should be listed as handicap and eliminated for general use, and he was concerned with

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queuing for the drop off, and Mr. Gray responded that they would line up along the shoulder because of current practice. The Board continued to discuss options for drop off and queue line.

Mr. O'Neill asked what other plans were "superior" to the proposed, as Mr. Gray had mentioned earlier. Mr. Cayer stated that it would to reroute Cape Road to have the parking next to the ferry. Mr. Gray continued by reiterating the design and intention of the project. Mr. O'Neill stated that he was concerned that there were few cars when talking about safety, in terms of cars queuing in the road, and a lot when talking with need, such as what would need to be used by the island residents for general purposes. Mr. Gray explained that it was primarily a response queuing. Mr. Priest felt that more could be done to solve the issue of safety and queuing, because he felt that this project addressed Frye Island future development and was also concerned with the lack of data to back up their claims.

Mr. Sanford suggested a flashing light at the pedestrian crossing and during ferry loading to alert drivers. Mr. Cayer wanted to know why signage was not adequate, and Chairman Clark responded that he felt that it increased safety. Mr. Seymour added that the crossing should be straight on rather than a diagonal.

Mr. Gray asked about landscaping and stated that the applicant was suggesting trees. Mr. Sanford stated that he did not want something that would grow to block site line, and Mr. Seymour reminded him that it was required because the applicant was proposing to cut down a large tree.

Mr. Gray wanted the Board's opinions on the revised lighting, and Chairman Clark felt that the new design was better. Mr. Seymour suggested turning lights of when gate is closed by timer or switch.

Mr. Sanford suggested that the applicant should approach Town, and Mr. Cayer did not feel that would fix parking problem.

Mr. O'Neill stated that he needed more documentation on traffic numbers and how many backed up vehicles and suggested comparing exiting, similar sites that were in operation.

MOTION: Robert O'Neill moved to table the proposed park and ride facility awaiting pending data; Seconded by Greg Foster.

DISCUSSION: Chairman Pat Clark stated that he would like to have the DEP approvals in hand for when they return. Mr. Gray did not think that it would be a problem.

VOTE: UNANIMOUS APPROVAL (6/0)

4. the Planner Communications

Mr. Seymour explained that the next agenda would be handled as a workshop to go over the proposed ordinance changes. Chairman Clark instructed staff that if there were any applications, to schedule the workshop for hour then move on to applications.

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**Item taken out of order

5. Adjournment

MOTION: William Priest motioned to adjourn; Seconded by Bruce Sanford.

VOTE: UNANIMOUS APPROVAL (6/o)

Chairman Pat Clark adjourned the meeting at 9:46pm.

Danielle Loring
Recording Secretary

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