

Middleborough Conservation Commission  
April 29, 2021

Present: Jacqueline Jones, Chair; Diane Stewart, 1st Co-Vice Chair; Peter Gately, 2<sup>nd</sup> Co-Vice Chair; Adam Guaraldi (7:40PM), Melissa Guimont, Edward Medeiros, and Nancy Ockers. Also present was Patricia Cassady, Agent, Phyllis Barbato, Senior Clerk, and Catherine Pipher, Minutes Clerk.

Meeting started at 7:03PM. Jacqueline Jones chaired.

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and Governor Baker's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Middleborough Conservation Commission was conducted via remote participation to the greatest extent possible.

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**Update regarding DEP:**

Barbato said there is now a revised capacity limit for meetings, which was set on March 29<sup>th</sup>. She also put a few things in Drop Box for the Commissioners to review.

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**Accounting**

A motion was made by Melissa Guimont, to pay W.B. Mason in the amount of \$20.88, 2<sup>nd</sup> by Edward Medeiros. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

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**Minutes: 4/15/21**

Gately said he would like the minutes to state that he would like to step down from being 2<sup>nd</sup> Co-Vice Chair, but would like to remain on the Conservation Commission.

A motion was made by Edward Medeiros, to approve the April 15, 2021, meeting minutes, with the amendment by Peter Gately, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

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**Office Forms, Policy and Procedures**

Barbato said that Adam Guaraldi and Nancy Ockers are up for re-appointment. Ockers said she would like to serve for another term.

A motion was made by Peter Gately, to re-appoint Nancy Ockers to the Conservation Commission, 2<sup>nd</sup> by Edward Medeiros. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

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**Notice of Intent for 21 Benson Street, Jesse Smith (ZCE) DEP#SE220-1481**

Jones read the legal ad into the record. Proof of mailing was received.

Present was Jamie Bissonnette, ZCE. Bissonnette said they are proposing a pool with a hard scape patio and pool house. Bissonnette said that Cassidy has been to the site and there were a few minor adjustments to the delineation. He said the plans have been revised to reflect Cassidy's comments. He said they will also put in conservation signs around the 25ft. buffer zone. Cassidy said she went on a site visit with Medeiros and Ockers on Saturday. She said they also went out there on Tuesday with Zager, to make adjustments to a couple of flags.

A motion was made by Melissa Guimont, to accept the revised plans dated April 27, 2021, into the record, 2<sup>nd</sup> by Diane Stewart. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

Stewart asked if the pool house will have a foundation? Bissonnette said it will have a slab foundation. Guimont asked if the wattle was moved to encompass the dewatering basin? Bissonnette said yes it was, they brought it up closer to the existing shed. Gately said the North arrow on the plan is actually West. Bissonnette said they can revise the arrow.

Jones asked if anyone from the public would like to be heard, hearing none.

Cassidy said everything on the plan is what the Commission asked for. She said if the arrow needs to be changed on the plan, they will need to continue the hearing. Bissonnette said it does need to be changed. Medeiros said whether the arrow is right or wrong, there is an existing house there which will help with the direction.

A motion was made by Edward Medeiros, to close the hearing and issue a Standard Order of Conditions, with one Special Condition noting that the Commission acknowledges that the North arrow may not be in the correct position on the plan that was submitted, in conjunction with the signatures that are made in accordance with M.G.L Ch.110G in pursuant to the Conservation Commission electronic signatures authorization vote dated May 1, 2020 Book 52695 Page 344 at the Plymouth County Registry of Deeds, 2<sup>nd</sup> by Peter Gately. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

Edward Medeiros is recusing himself for the next two hearings.

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Notice of Intent for 0 Wareham Street, Mark F. Jackson, Sr. (Prime Eng.) DEP#SE220-1487**

Jones read the legal ad into the record. Proof of mailing was received. There are no comments from DEP.

Present was Richard Rheume, Prime Engineering. Rheume said this is an encroachment out to the abutter's property and a disruption of 700sq.ft. of the BVW, and quite a bit of the buffer zone. He said there were stumps and boulders that were kicked up when the impact was done. He

said this is an after the fact filing. He said they delineated the wetlands and they have numbered flags. He said there needs to be a restoration on this property and they are proposing a restoration plan. They will be planting shrubs and using a wetland seed mix. Guimont asked if the tree line was disturbed? Rheume said yes. Guimont asked if the plantings will be the same as the trees that were disturbed? Rheume said the trees are not the same and the owner would like to plant fruit trees. Guimont said she would like to see native trees such as Oak or Pine go back on the property. Ockers said she went to the site on Saturday, and she thought the disturbed area looked a lot like fill. She feels someone else should look at where the wetlands are in order to restore them. She is not in favor of fruit trees either. Cassady said there was one plan that was submitted with the filing and there have been 3 more plans submitted since. She said she received an e-mail from Julie Goodwin, wetland scientist, late today but she did not have time to read it.

A motion was made by Melissa Guimont, to accept the revised plans dated, 3/24/21, 3/26/21, 4/13/21, and 4/23/21, into the record, 2<sup>nd</sup> by Peter Gately. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, and Nancy Ockers Aye. Unanimously voted.

There were a few things that Cassady had suggested to Julie Goodwin. Cassady said restoration to wetlands should have a wetland seed mix and not clover. They should have a high bush blueberry. It should be labeled that there is a path between A series and B series wetland flags. She would like it to be noted that the B series flags look like a potential vernal pool. Cassady said the wetland flags do need to be reviewed in the field and she recommends a peer review for this property. Cassady said the e-mail that Goodwin sent is regarding her suggestions, she just has not had a chance to review it. Gately asked Rheume if they planned on planting beyond the 25ft. no touch? Rheume said yes, they intend on planting within the 25ft. no touch.

Jones asked if anyone from the public would like to be heard, hearing none.

A motion was made by Nancy Ockers, to get quotes for a peer review for 0 Wareham Street, 2<sup>nd</sup> by Diane Stewart. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, and Nancy Ockers Aye. Unanimously voted.

Jones asked Rheume if they are proposing Conservation signs? Rheume said yes. Jones said she would like to see the proposed signs on the plan.

A motion was made by Melissa Guimont, to continue the hearing to May 20, 2021, 2<sup>nd</sup> by Peter Gately. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Melissa Guimont Aye, and Nancy Ockers Aye. Unanimously voted.

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Notice of Intent for 535 Wareham Street, Mark F. Jackson, Sr. (Prime Eng.) DEP#SE220-1486**

Jones read the legal ad into the record. Proof of mailing was received.

Present was Richard Rheume, Prime Engineering. Rheume said the first plan shows the area of disturbance and the second plan shows the restoration plan. Rheume said that the boulders that got kicked up from the disturbance will be placed to make a wall. He said he will revise the plans to show the wall at the 25ft. no touch line. He said they will also put in conservation signs. The third plan is showing the proposed barn and driveways. The owner wanted to propose a barn that was bigger than expected because he is not sure of the size it will actually be. Guimont asked if the livestock will be able to jump the boulders/stone wall? Rheume said yes, they will be able to walk through but they would have a fence to prevent the livestock from coming through. Guimont said she does not want livestock in the wetlands. She asked if the driveway will be paved or gravel? Rheume said they prefer it to be paved. Cassady said she would like both 0 Wareham Street and 535 Wareham Street peer reviewed by the same peer reviewer because they are connected. Ockers asked if they can cut 10 cords a year of trees? Cassady said they would need a Forestry Plan to cut anything in the wetlands. Cassady said she also noticed that they have the proposed fence in the area of the wetlands. She said livestock is not allowed in the wetlands. Rheume agrees that animals will not be in the wetlands but feels someone can put a fence in the wetlands to separate the two properties. Rheume said he believes an owner can cut 10 cords of wood for their own use without needing a Forestry Plan. Cassady asked if this would be a Chapter 61A? Rheume said no, it says he believes it in the wetland regulations, that you can cut 10 cords of wood per year. Rheume said he will look into it further. Cassady said he should look into working with a State Certified Forester, to give advice. Stewart said that there is a 5-step process if you want to cut wood within the wetlands. Part of that process is going through the Conservation Commission and get the Forestry Plan approved. Rheume stated that he will research this further and if it is not allowed, he will take it out of the proposal.

A motion was made by Melissa Guimont, to accept the revised plans dated, 3/24/21, 3/26/21, 4/13/21, and 4/23/21, into the record, 2<sup>nd</sup> by Nancy Ockers. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, and Nancy Ockers Aye. Unanimously voted.

Jones asked if anyone from the public would like to be heard, hearing none.

A motion was made by Nancy Ockers, to get quotes for a peer review, 2<sup>nd</sup> by Peter Gately. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, and Nancy Ockers Aye. Unanimously voted.

A motion was made by Nancy Ockers, to continue the hearing to May 20, 2021, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, and Nancy Ockers Aye. Unanimously voted.

Edward Medeiros returned to the meeting.

Jones read the legal ad into the record. Proof of mailing was received.

Present was Jeff Youngquist, Outback Engineering. Youngquist said the applicant is proposing the construction of a single-family home, associated amenities, driveway, septic, garage, associated grading, and erosion controls. The erosion control will also work as the limit of work on the property. There will not be any work done in the 25ft. no touch. Approximately 6,000sq.ft. will be disturbed while installing the driveway. The area within the limit of work will be stabilized with loam and seed. Stewart said she appreciates the detailed cover letter. Guimont said she noticed that the Planning Board denied this, and was wondering if they had a reason. Youngquist said the Planning Board did not endorse the Form A for the lot adjacent to this because they said it created a violation by leaving the garage on this property. Youngquist said this will be resolved at the next Planning Board meeting and the Form A will be signed. This will take away the zoning violation. Youngquist said the Planning Board did not deny it but they refused to endorse it. Guimont said there were also concerns with the abutters about the fill that was coming in. Youngquist said there will be fill coming in because you need to have a 2ft. separation between the basement and the groundwater. He said basically they are raising the house out of the ground and the septic is also above the ground. Medeiros said they had some concerns from their site walk on Saturday. Cassady said she sent an e-mail to Jason Youngquist, on Monday, expressing their concerns. Cassady said the Commission wants to see the river flags on the plan because the 100ft. and 200ft. riparian flags are showing but without the river. Cassady asked if they could get permission to delineate the wetlands on the abutting property. Cassady said she received a letter from Natural Heritage, stating that it was a no take. Medeiros said he does not see a 50ft. line on the plan. An abutter sent a letter stating that they are using this property for Commercial use. Medeiros said they could put in the conditions that trucks need to stay out of the 100ft. buffer and the 200ft. river front area. Jones read the letter from Tanya-April-Trzeciak into the record. Medeiros asked if the applicants will have trucks entering and exiting the property? Youngquist said he is not sure. Medeiros wants to make sure there is no dumping on the property.

Jones asked if anyone from the public would like to be heard?

Jim Richardi, 118 Old Center Street. He feels because there is a house already on the property, there is no reason to add another house. He said this property is a certified organic farm land and the previous owners went through great lengths to get it certified. Jones said anything regarding zoning or use of the property is out of the jurisdiction of the Conservation Commission. Jones asked if this property is a Ch.61A. Cassady said she believes it only stays with the previous owner.

Jeanne Richardi, has concerns with an asphalt company coming into a community that has wetlands and farms. Cassady said if they want to do anymore work on this property they will need to file again, and include the Dept. of Fisheries & Wildlife. Cassady said any of the abutters that are concerned with the zoning on this property, should contact the Zoning officer, Bob Whalen.

Cassady said she believes for a retreat lot they would need 40ft. of frontage. Youngquist said they have more than 40ft. of frontage. Cassady asked how many acres they have? Youngquist said they

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have about 7.4 acres. At least 5 acres is needed for a retreat lot. Stewart said she would like to add a condition stating that there can not be any ABC fill and she would like to have that in the notes on the plan. She would also like to add no storage of chemicals within the 100ft. to the plan.

A motion was made by Edward Medeiros, to continue the hearing to May 20, 2021, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

**Notice of Intent for 8 Carpenter Street, Judith Gates, Trustee (Collins Eng.) DEP#SE220-1485**

Jones read the legal ad into the record. Proof of mailing was received.

Present was Peter Lyons, Collins Eng. Lyons said this filing is for a septic repair. This is a 10,000sq.ft. existing single-family home with wetlands across the back lot line. The 50ft. buffer cuts through the proposed system. He said there is no room in the front of the house for a septic and the only space for it, is in the back yard. He said this is a repair and there is no increase in the flow. He said there will be concrete retaining walls. He said they are using plastic tanks because of the lack of site access. They cannot bring trucks out back. They have a proposed erosion control to protect the resource area in the rear. There is going to be a 5ft. change of grade in the back yard. Medeiros asked if they have filed with DEP since it is within 50ft. of the resource area? Lyons said yes.

A motion was made by Edward Medeiros, to close the hearing and issue a Standard Order of Conditions, in conjunction with the signatures that are made in accordance with M.G.L Ch.110G in pursuant to the Conservation Commission electronic signatures authorization vote dated May 1, 2020 Book 52695 Page 344 at the Plymouth County Registry of Deeds, 2<sup>nd</sup> by Adam Guaraldi. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye and Nancy Ockers Aye. Unanimously voted.

**Continuation of Request to Amend Order of Conditions for 97 & 103 Wood Street, Wood Street Fee Owner, LLC (RJ O'Connell and Associates, Inc.) DEP#SE220-1429**

A motion was made by Melissa Guimont, to accept revised plans dated April 21, 2021, into the record, 2<sup>nd</sup> by Edward Medeiros. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye and Nancy Ockers Aye. Unanimously voted.

Cassady said there was a Memo that was in response to two comments. One comment was to show additional straw wattles and the other comment was to investigate the man hole.

Present was Brian McCarthy, RJ O'Connell and Associates. McCarthy said he was the one that responded to the comments. Medeiros said they have done everything that the Commission has asked for and have been very accommodating.

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A motion was made by Edward Medeiros, to close the hearing and issue a Standard Order of Conditions to amend the Order of Conditions, for 97 & 103 Wood Street, in conjunction with the signatures that are made in accordance with M.G.L Ch.110G in pursuant to the Conservation Commission electronic signatures authorization vote dated May 1, 2020 Book 52695 Page 344 at the Plymouth County Registry of Deeds, 2<sup>nd</sup> by Melissa Guimont. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Abstains, Melissa Guimont Aye, Edward Medeiros Aye and Nancy Ockers Aye. One abstention, the remainder in favor.

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**Continuation of ANRAD for 203 Summer Street, Charlie Brooks (ZCE) DEP#SE220-1468**

Zager wrote an e-mail request to continue the hearing to May 20, 2021. The Commission agrees that they will need to continue this hearing to June 3, 2021.

A motion was made by Edward Medeiros, to continue the hearing to June 3, 2021, 2<sup>nd</sup> by Adam Guaraldi. Roll call vote: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye and Nancy Ockers Aye. Unanimously voted.

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**Senior Clerk:**

Barbato asked if Guaraldi would like to be reappointed to the Commission because he is up to be reappointed in June. Guaraldi. Guaraldi said yes. Barbato said she will write a letter to the Select Board and the Town Manager, stating that Guaraldi and Ockers would like to be reappointed to the Commission for 3 more years.

A motion was made by Nancy Ockers, to reappoint Adam Guaraldi, to the Conservation Commission, 2<sup>nd</sup> by Peter Gately. Roll call vote: Jacqueline Jones Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye and Nancy Ockers Aye. Unanimously voted.

Guimont asked if Zoom will be an option if you cannot attend the meetings in person? Barbato and Jones said it will be up to the Governor.

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**Request for Group Use**

Cassady said there was a UMASS Boston student that contacted the office about doing mosquito sampling. Cassady said he will be filling out Group use forms hopefully soon.

Barbato said they are also waiting for Gerritt Bingham-Maas to fill out Group use forms for the ramps at the footbridges

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**Office Forms, Policy, and Procedure**

Jones asked if the applicants and engineers have check lists when they turn in their plans and paperwork? Barbato said they do have check lists, but people seem to not be following them. Barbato and Cassady remind the engineers of exactly what they need. Jones would like to send e-

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mails to the engineers stating that if they do not have everything the Commission asks for, their hearings will be continued. Barbato said she will send something out to the engineers.

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**Conservation Lands:**

**Pratt Farm**

Barbato said that Patty's son is getting married this weekend, and there is a tree down. She is hoping someone can help with it.

Cassady said there were e-mails going back and forth regarding a little boy that got hurt on a wire that is near the entrance to the barn. Cassady went out there and flagged the area, and put a pool noodle on the wire. Cassady said there is another spot where there is wire, but it is covered with white plastic. Jones said maybe they could look at fixing that as well.

Cassady said the Stoney Brook Dam grant was applied for. At the town meeting on Monday the vote passed unanimously to fund the 25% that town is responsible for if the town receives the grant.

Cassady said Gately would like to put in a bridge at the small dam. She said she spoke with Orsi about this project and he said a small bridge is definitely a feasible approach, however, it comes down to a bunch of unknowns (ADA Trail, stabilizing the channel, etc.). Cassady said he is going to investigate this project more and look into costs. Cassady said she is going to speak with Dan Badger about the bridge they built in Carver.

Cassady said the encroachments also passed unanimously at the town meeting, so this will now go off to the general court. Marc Pacheco will probably sponsor this. Cassady said she submitted the Form A plan to the Planning Board.

**Oliver Estate**

Cassady said Jacob Donahue has been working on the bridge and asked if they could use 2 massive pine timbers? Cassady said it was ok as long as it was still ADA compliant.

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**Certificate of Compliance:**

**49 Plymouth Street**

Cassady said she went to the site on Tuesday and they still do not have enough grass. She said there was also some erosion that entered the beginning part of the basin. She said she will be in touch with them about resolving this.

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**Conservation Commissioner Reports**

Guaraldi said there were some issues with a property on Highland Street, and was wondering if this problem has been addressed? Guaraldi said he got a report stating that there was additional work being done in the wetlands. Cassady said she will follow up with this and have the police involved.

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**Agent:**

Cassady said there was a complaint about bio solid material that was placed near Summer Street and Murdock Street. Cassady said she has been in contact with the owner and the gentleman that placed the material there. Cassady said they are going to be getting it tested.

**61 Plymouth Street**

Cassady said she was able to make a site visit with the owner. Cassady said it looks as if he cut trees in the wetlands. Cassady said it will be on the next agenda to discuss this further.

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**Conservation Lands:**

**Tarragon Estates**

Cassady said she went to this property on Tuesday with the DPW, to put up more signs behind the houses to mark where the survey work was done. Cassady said there were a few trees that were cut on conservation land, and she will need to speak to Dan Murray about this issue.

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**Mail/Correspondence**

There was a Ch.61A notice for Rocky Meadow. This land is 1.84 acres.

Cassady said she received an e-mail from Brookline Bird Club regarding purchasing the Cumberland Farms property. Cassady said she also sent out e-mail to other Conservation Entities to see if anyone would be interested in purchasing this property.

Cassady said there is another Ch.61A notices for the Schobel Farm, that they have had since April 5, 2021. This property is going for \$24 million.

A motion was made by Edward Medeiros, to express the Commission’s interest to the Select Board, but understand that the cost of this property is likely out of the budget, 2<sup>nd</sup> by Melissa Guimont. Roll call: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Nay, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. One Nay, the remainder in favor.

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A motion was made by Edward Medeiros, to adjourn at 9:54 PM, 2<sup>nd</sup> by Peter Gately. Roll call: Jacqueline Jones Aye, Diane Stewart Aye, Peter Gately Aye, Adam Guaraldi Aye, Melissa Guimont Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

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Respectfully Submitted By:

Catherine Pipher  
Minutes Clerk

**DATE APPROVED:** May 6, 2021