



Londonderry Conservation Commission
Tuesday, April 12, 2022
Minutes

1 **Present:** Marge Badois, Chair; G Harrington, Vice Chair; Deb Lievens, member; Mike Byerly, member;
2 Bob Maxwell, member; Susan Malouin, member; David Heafey, member; and Mike Speltz, alternate
3 member

4
5 **Absent:** none

6
7 **Also present:** Amy Kizak, GIS Manager/Comprehensive Planner; Officer Aprile; and Beth Morrison,
8 Recording Secretary

9
10 Marge Badois called the meeting to order at 7:30 pm.

11 **DRC – Howe’s Condo Conversion – Map 9, Lot 22-1 – 350 Mammoth Rd :** Dan Howes, owner of 350
12 Mammoth Road, addressed the Commission. D Howes informed the Commission that they are
13 converting an existing two-family house into two townhouses/condominiums. M Speltz asked if the plan
14 looked different from the aerial GIS mapping. D Howes replied that he thought the plans were accurate.
15 M Badois noted that there is a shed and a fire pit in the wetland setback. M Speltz mentioned that he
16 thought the wetland ordinance allows for “accessory structures,” but cannot remember the square
17 footage limit. A Kizak stated that she does not know the square footage limit right now, but she can get
18 this information to the Commission. M Speltz asked if the applicant has had discussions with the
19 Planning Staff. D Howes replied that his engineer has been dealing with Staff and he is here tonight
20 because his engineer could not make it. M Speltz remarked that he believes the shed is fairly big, which
21 would exceed the square footage. M Badois suggested asking if the shed is allowed in the setback. D
22 Lievens asked if the shed is new or existing. D Howes replied that it is existing, and he does not believe it
23 is that big. M Speltz added that the plan does not show the markers for the wetland buffer and it should.
24 G Harrington asked if the abandon well is plugged. D Howes replied that it is not. G Harrington asked if it
25 is a drilled well or dug well. D Howes responded that it is a drilled well. G Harrington stated that the well
26 should be plugged. D Howes asked what that means/entails. G Harrington answered that he is not sure
27 of the exact process, but they will plug it so nothing could run down the well. The Commissioners
28 comments are as follows:

- 29 1. Is the shed allowed in the wetland setback?
30 2. The wetland buffer should be marked.
31 3. The abandoned well should be plugged.

32 **DRC – Outdoor Pride Site Plan – Map 17, Lot 5 – 2 Kitty Hawk Landing – Robert Duval:** Robert Duval,
33 P.E., from TF Moran Inc., 48 Constitution Drive, Bedford, NH addressed the Commission. R Duval
34 reviewed the site with the Commission noting it is for a landscape contractor with a gravel outdoor



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35 storage area, paved circulating area in front of the building, a gate and 15 parking spaces. M Speltz
36 asked about the history of the site. R Duval replied that it was subdivided in 2001, for a six lot
37 subdivision that created Kitty Hawk Landing. He noted that all the other lots are occupied. He explained
38 that the prior owner of the lot was S.W. Cole, a geotechnical engineering firm, that planned to build
39 their office on the site. He pointed out that they decided to make other plans and now Outdoor Pride is
40 looking to develop it. He commented that prior to S.W. Cole, the site was a big ledge knob that sloped
41 down to Grenier Field Road, and the prior owner blasted out a level pad to try and make it more
42 sellable. He mentioned that Outdoor Pride wants to use the gravel pad, not do any more blasting on the
43 site, and conform to town regulations while using the driveway in its relative location. He commented
44 that the six lot subdivision was designed in 2002, to drain to a common detention pond that is just
45 across the street from the site. He passed out a rendering labeled detention pond grading plan, Exhibit
46 1, to the Commission, which is attached hereto. He said that there is an easement on the property with
47 the common detention pond that favors the six lot subdivision and they were all given an allocation of
48 stormwater run-off at the time. He pointed out that S.W. Cole discovered in 2018 that the pond needed
49 some maintenance work, and now Outdoor Pride will be required to perform the maintenance work. He
50 told the Commission that there are buffer impacts and wetland impacts, with the drainage maintenance
51 work that has to be done. M Speltz asked how the stormwater travels to the detention pond. R Duval
52 explained how the stormwater reaches the common detention pond on the other site with the
53 Commission. M Speltz asked if the material storage area is open to the right of the silos. R Duval
54 responded that there is a roof or canopy over them. M Speltz asked what the yard will be surfaced with.
55 R Duval replied that it will be gravel. G Harrington asked what will be in the silos. R Duval replied that it
56 will be brine. M Speltz mentioned that there is a gap in the landscaping and asked if there was a reason
57 for this. R Duval replied that he is not aware of any reason and will look into this. D Lievens suggested
58 that they should fill the gap. M Speltz asked if there was a containment mechanism under the brine
59 tanks. R Duval replied that the brine tanks are sealed, self-contained and have a drip pad/pan
60 underneath them. He described how they are filled by a delivery truck that has a secure, sealed
61 connection, noting that there is no exposure to the ground with leaks. He added that they are not
62 double walled such as a petroleum tank would be, but he believes there is an extra thick pad
63 underneath. M Speltz asked if there was a containment structure outside the base of the tank , so a
64 potential leak would only go that far. R Duval replied that there is a concrete pad that the brine silos are
65 on, and the intent of the pad is to keep minor spills contained. B Maxwell mentioned that in his
66 experience, the pad would have raised walls a couple feet high to contain the full capacity of one of the
67 tanks if not more. He asked if there was such a requirement. R Duval replied that he does not know for
68 sure, but does not think there is a secondary containment requirement. M Speltz suggested that the
69 Commission could ask for a containment structure or cape cod berm to contain a possible leak. R Duval
70 told the Commission that he will look into this. M Speltz asked for the chance of generating sediment in
71 the yard with truck activity. R Duval responded that he did not believe it would generate sediment, as
72 the activity will be loading the trucks, noting that the trucks are not that big. M Speltz asked what the



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73 fine gray lines on the north side of the property are near the driveway. R Duval reviewed the plan on the
74 computer noting that he does not believe they have any significance, so they will clean this up and figure
75 it out. The Commissioners comments are as follows:

- 76 1. Suggest filing the gap in landscaping in front of snow storage area.
- 77 2. The would prefer to see pad under brine tanks to also have additional containment such as a
- 78 curb or cape cod berm.

79 **CUP (for use in the Rt 28 performance overlay zone) – 2V Londonderry LLC – Map 15, Lots 61 & 61-7 –**

80 **Robert Duval:** A Kizak informed the Commission that this Conditional Use Permit (CUP) is for the use
81 only in the Rt 28 Performance Overlay Zone. She went on stating that if the CUP gets approved they will
82 be back before the Commission for the site plan review. Robert Duval, P.E., from TF Moran Inc., 48
83 Constitution Drive, Bedford, NH addressed the Commission. R Duval told the Commission that the CUP is
84 for 174 and 178 Rockingham Road and started to review the plan. He noted that the plan was approved
85 by the Planning Board for a gas station and a bank, where three lots were consolidated into two lots, last
86 year. He explained that for a number of reasons, such as not being able to get a bank interested in the
87 site, as well as having a new buyer proposing a slightly different gas station, that is why he is there
88 before them with a new CUP. He went on stating the new buyer wants to consolidate the two lots into a
89 single lot approximately 2 acres in size, with truck fueling on the left hand side of the site and gas fueling
90 on the right hand side, a convenience store, and diesel tanks. He commented that there is more
91 impervious coverage on the new plan, but falls within the 66% of the allowed. He mentioned that the
92 driveways, and more importantly the pavement edge on the west side of the site, remains exactly the
93 same as was previously approved. He reviewed the plan noting that there was a wetland permit from
94 The New Hampshire Department of Environmental Services (NHDES) for which the work has been
95 completed, at least to sub-grade, and will be planted and allowed to grow back wild on the sloped area
96 to restore the buffer that was impacted. He added that since the edge of pavement is exactly where it
97 was before, there is no further encroachment into the buffer. D Lievens asked if the landscaping was the
98 same as before. A Kizak replied that information will be for the site plan, which will come before the
99 Commission later, but this is just for the use. M Speltz asked who would be approving the CUP for the
100 use. A Kizak responded that the Planning Board would approve the CUP. M Speltz asked how the rumble
101 strips work and why they are there. R Duval replied that because the use now has tractor trailers, the
102 rumble strip is the widening of the driveway to allow a tractor trailer to make that right turn. He
103 remarked that the site is not designed to have tractor trailers enter off Symmes Drive, but instead only
104 off Route 28. M Speltz asked if the rumble strip alerted the tractor trailer driver that his wheels are off
105 the driveway. R Duval replied that it is not to alert the driver, but to allow the tractor trailer driver to
106 stay on pavement when making a turn. M Speltz asked if a car can enter off Symmes Drive and go out to
107 Route 28. R Duval replied that is correct. D Heafey asked if the fuel tank is above ground. R Duval
108 answered that it is underground and protected by a concrete pad. M Speltz asked if tractor trailer trucks
109 coming east on Route 28 could make a left turn into the site on Symmes Drive. R Duval reviewed the



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110 circulation with the Commission again, noting the tractor trailers can only enter off Route 28. M Speltz
111 commented that the encroachment into the buffer is only about 5-feet and asked if they could try to
112 move things out of the buffer to avoid this. R Duval replied that the driveway permit issued by the New
113 Hampshire Department of Transportation (NHDOT) provided this as the only location for driveway
114 access from Route 28 to the site. He added that is why they were granted the wetland permit, as there
115 was no other access to the site from Route 28. G Harrington noted that the rumble strip is further to the
116 east than what was showed in the prior plan. R Duval replied that is correct, stating that the easement
117 had a greater width than they previously showed. He added that they had extensive communication
118 with NHDOT at the time of the original approval, and NHDOT has agreed to make substantial
119 improvements to Route 28, as part of mitigation for the taking of the land. G Harrington asked if the
120 applicant could propose to move the driveway, as they are going back to NHDOT anyways. R Duval
121 responded that he believes this cannot be done, because the driveway is deeded in this location. B
122 Maxwell commented that he still objects to the plan because he believes the encroachment can be
123 eliminated. M Speltz offered that he understands that this will require an additional survey and a
124 different legal description, but it does seem doable to him. R Duval remarked that it would require
125 renegotiating the deed. M Speltz pointed out that the previous comments to the Planning Board were
126 stating that this provides a useful service, but now the service is already met with the plethora of other
127 gas stations in the area. R Duval mentioned that he believes that at the last Planning Board meeting the
128 comments were that it was serving the need of the motoring public and serving the transportation need
129 of the zone. The Commissioners had no objection to the use. The Commissioners had no objection to
130 the CUP.

131 **DRC – 106 Wiley Hill Subdivision – Map 5, Lot 12-1 – 106 Wiley Hill Rd – Robert Duval:** Robert Duval,
132 P.E. from TF Moran, Inc., 48 Constitution Drive, Bedford, NH, addressed the Commission. R Duval
133 explained that the proposal is for one lot, which is approximately 12 acres, to be divided into three lots
134 with frontage on Wiley Hill Road. He went on stating that the existing house and barn will remain for
135 one lot. He pointed out that third lot is the largest lot, which has substantial wetlands, but does have
136 enough upland for a house that conforms to the ordinance. He said that the well is located just inside
137 the wetland buffer on the third lot, but there is nothing else in the wetland buffer. D Lievens noted that
138 during construction something needs to be done so the construction vehicles do not tear up the buffer.
139 She added that if they do tear up the buffer, it should be restored, and asked for this to be guaranteed.
140 R Duval remarked that they can make this a condition of the plan. D Lievens asked what is going to stop
141 the homeowner from disturbing the buffer. R Duval responded that he did not think that the
142 homeowner was prohibited from using the buffer, just prohibited from building on it. G Harrington
143 interjected that the homeowner cannot plant lawn in the buffer. M Byerly asked if the wetland buffer is
144 the line that goes right by the corner of the proposed dwelling on lot three. R Duval replied that is
145 correct, noting the building envelope was drawn to stay outside of the buffer. M Byerly pointed out that
146 the Commission sees this all the time, as the owners cannot plant a lawn, have a shed or a pool, but



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147 somehow, they end up doing it anyway, which is very concerning. He added that this does not seem like
148 a realistic place for a house and what a homeowner would expect to come with a house for lot three. R
149 Duval stated that he appreciates his comment and hopes this can be worked out with the Planning
150 Board so the buffer will stay protected. M Speltz mentioned that the buffer signs have to go in before
151 construction and asked how the signs will stay up with the use of their heavy equipment. R Duval
152 commented that they deal with this all the time and can require an orange construction fence to be
153 placed a foot outside the buffer. D Lievens remarked that it would be helpful if the rectangle shown on
154 the proposed plan to represent the house is actually the size of the house and where it is going to be. R
155 Duval commented that it would be helpful to illustrate a more realistic footprint of where the house will
156 be on the plan. M Speltz stated that the construction fencing should be established along the buffer line
157 to ensure that the buffer will not be disturbed. M Byerly asked what a 4K area is. R Duval replied that
158 this is a requirement of the state to show a 4,000 SF area that could contain a septic system. The
159 Commissioners comments are as follows to the DRC:

- 160 1. The buffer on lot three should not be disturbed and no turf planted.
- 161 2. The proposed dwelling is extremely close to the buffer.
- 162 3. The construction fencing should be established and maintained during entire construction.

163 **RFI – Phase VI Multi-Use Path, Londonderry, NH – Londonderry #42508/Federal Project No. X-**
164 **A004(880):** A Kizak told the Commission that they have the letter in their packet from Hoyle, Tanner &
165 Associates, Inc, (HTA) that is asking for input. She explained that the next phase of the Rail Trail is being
166 planned, proposed and designed along the airport fence line, past the airport museum and down Kelly
167 Avenue to where it reaches Bouchard Street in Manchester. She said that the comments should be sent
168 to Town Planner Mailloux. M Speltz mentioned that the only valuable resource is crossing the brook to
169 get to the other side along the fence line. He asked when they redo the culvert under the road, will
170 there be pavement, shoulder, or a trail, to get across the brook. A Kizak replied that they are
171 incorporating the town culvert replacement plan to build this in the HTA plan. She asked if Bob Rimol,
172 President of Londonderry Trailways, who was at the meeting this evening had any other details on how
173 this would look. B Rimol commented that the culvert project is a Department of Public Works and
174 Engineering (Department of Public Works & Engineering) project, which does incorporate some plans on
175 building the Rail Trail, but John Trottier would be the person to ask questions about this. A Kizak
176 mentioned that they are working with HTA on the design to incorporate the trail into this, but said there
177 would probably be a gap between the road and the trail. M Speltz asked if it would just be white stripes
178 to get across the road. A Kizak replied that she believes there will be other things, but they have not
179 decided how the crossing is going to look. B Rimol stated that he thinks the crossing would be a
180 pedestrian hybrid beacon because of the traffic on Harvey Road, like at North School. M Badois
181 mentioned that she has not walked the area so she is unsure about invasive species question on the
182 form. B Rimol asked for the question to be read. M Badois read the question as follows: "Are you aware
183 of any existing roadside populations of nonnative invasive plant species, such as knotweed, phragmites



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184 or loosestrife.” B Rimol commented that he thinks there might be invasive species along Harvey Road,
185 but not along the Rail Trail. A Kizak noted that they are doing active construction on another site, which
186 is parallel the fence line, so if there are any invasive species seen they will be dealt with. M Byerly asked
187 if the town would consolidate answers. A Kizak replied that is correct. The Commission went over the
188 questions on the form from HTA. M Badois said that she would compile the answers and send them to
189 Town Planner Mailloux.

190 **CUP Update – Eversource CUP – Information Only:** A Kizak informed the Commission that there was an
191 update to the CUP, because they are adding six new stub poles in the wetland buffer and one in the
192 wetland. She explained that the slight change will bring the total count to 74 structures located within
193 the Conservation Overlay District and 23 structures located within the wetlands. She stated that the CUP
194 was approved for 648,330 SF of impact and this change will result in a total additional impact of 49 SF.

195 **Unfinished Business**

196 **Hickory Hill plan:** M Badois told the Commission that it was discovered by Stantec that a portion of the
197 entrance crosses one of abutting property owners’ lot. She explained that this area needs to be
198 surveyed, which is an additional cost of \$1,350. D Lievens made a motion to authorize to spend no more
199 than \$1,400 for additional survey work on the Musquash Entrance from the Open Space Protection
200 Fund. G Harrington seconded. The motion passed, 7-0-0.

201 D Lievens mentioned that she does not think they will make the deadline for the grant, as she does not
202 know what the cost will be, and the first round is due on April 29, 2022. M Speltz mentioned that he
203 thought the Commission decided not to go with the Land and Water Conservation Fund. M Badois
204 commented that she did not believe the project would meet the minimum monetary requirement. M
205 Speltz remarked that the Commission could put a placeholder and get an estimate from John Trottier if
206 this was worth pursuing. D Lievens said that she is happy to keep working on this and go over it with
207 someone. She asked who would give her an estimated cost. M Speltz suggested John Trottier. M Badois
208 agreed. M Speltz offered to take a look at the application.

209 **Ingersoll Easement Monitoring:** D Lievens told the Commission that she received an email from Sarah
210 Pillsbury at The New Hampshire Department of Environmental Services (NHDES) asking if the report was
211 done as she did not have one. D Lievens stated that the report was not sent to her and she does not
212 know why, but placed her name back on the list to hopefully prevent this in the future. She asked if the
213 bill came with the report. A Kizak replied that the bill did not come with the report. D Lievens noted that
214 the Commission gets the incentive of \$400 for doing to the monitoring, which arrived on April 1, 2021.
215 She said that she expects another \$400 for 2022. M Speltz commented that the report is alarming and
216 asked if Officer Aprile has been out there. Officer Aprile replied that he just received the report the
217 other day. M Speltz said that he believes the Commission needs to address these issues. M Badois stated



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218 that the fee owner needs to be contacted to address these issues, as the Commission is just the
219 easement holder. M Speltz noted that a copy of the report should be sent to the fee owner. D Lievens
220 offered that she knows the person they need to contact and would try to get in touch with her. M Byerly
221 asked if he should reach out as he is the contact person on monitoring. D Lievens mentioned that there
222 were some challenges with communication, so she will try first as she knows the person. M Speltz voiced
223 his concern that the hemlock trees are infested with Hemlock Woolly Adelgid and asked if the
224 Commission should be reporting this to New Hampshire Division of Forrest and Lands. D Lievens replied
225 that she is unsure but she would find out.

226 **New Business**

227 **Financials:** D Lievens informed the Commission that there is nothing new to report except for interest.
228 She noted that they have approximately \$1,966 in the Line Item Budget. M Speltz asked if they needed
229 any more maps. B Maxwell replied that they are fine with maps. He added that the winter was slow, but
230 it has picked up in the last month.

231 **e-bikes:** M Badois told the Commission that A Kizak fielded a question from a resident asking if e-bikes
232 are allowed on the Rail Trail. A Kizak replied that all classes of e-bikes are allowed on the Rail Trail. She
233 asked if the Town or the Commission has a policy on trails like the Musquash regarding e-bikes. M
234 Badois mentioned that the Commission had discussed this before, but tabled it last year, and it might be
235 something to look at again. She read from the regulation regarding e-bikes as follows: "Any town, city
236 or state agency that has jurisdiction over a trail system still maintains the right to further restrict e-bike
237 usage." M Speltz commented that electric bikes are considered motorized vehicles, and the ordinance
238 states that no motorized vehicle, other than snow mobiles, are allowed. G Harrington remarked that it
239 states motorized vehicles are allowed by permit only, which the Commission would issue. M Speltz
240 concluded that since motorized vehicles are allowed per permit only, then e-bikes would not be allowed
241 in the Musquash. B Maxwell mentioned that all e-bikes will go 20 m.p.h., which is really fast to ride a
242 bike in the woods. He said that he supports the Commission not allowing e-bikes, but allowing someone
243 to apply for a permit if they have a need for one. Officer Aprile mentioned that he has seen e-bikes on
244 the power lines, as hunters use them now.

245 **Flax Field:** D Lievens told the Commission that they are due for monitoring. She said last year there was
246 some confusion as to where the original request for permission went and it may have gotten lost. She
247 commented that if they call the School District Office, as they are listed as the owners, they will be
248 confused. She added that they need to figure out who the owner is. M Badois said that Mike Malaguti,
249 Town Manager, did a lot of research on this concluding it would be a lot of work to find out. D Lievens
250 asked if she can authorize permission for the monitoring. M Badois replied that she believes that would
251 be okay, noting it has been done before. D Lievens mentioned that this has not been done in a while. M
252 Speltz pointed out that it is not posted, therefore the public has access. D Lievens stated the



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253 Commission is not allowed to go on properties without permission that are being monitored through the
254 New England Wildlife Society personnel.

255 **159 South Road:** M Badois reviewed this parcel noting it abuts 15 Gilcreast, and the town of Derry gave
256 the Commission this land, but the town of Derry has the final say if anything was changed. She said that
257 they have not received a response from the town of Derry. She explained that Mike Malaguti, Town
258 Manager, suggested granting the abutter license to maintain the two fruit trees that are there now. She
259 went on stating that the Commission needs to be specific in their definition of maintenance and what
260 areas are allowed to be maintained. She said that this is the only solution as the property lines cannot
261 be changed. M Speltz asked why the abutter needs permission and could the abutter just let the trees
262 grow. M Badois replied that the abutter wants to mow around the trees. She added that this license, as
263 opposed to an easement, would not run with the property, but extinguish when the owner leaves. M
264 Badois said that by giving permission it prevents adverse possession. M Speltz pointed out that you
265 cannot have adverse possession against the government. Officer Aprile explained that the abutter's
266 parents planted the trees 40 years ago and he has been maintaining them since. A Kizak added that the
267 apple trees are sentimental and they would like to be able to maintain them. M Badois asked how the
268 Commission wants to define maintenance, such as spraying. G Harrington mentioned that the problem
269 with spraying, is that if you spray on anyone else's property you need a commercial pesticide applicators
270 license. M Badois said that the owner had a plan drawn up. M Speltz interjected that the Commission
271 paid for the plan to establish that the trees are not on the abutter's land. A Kizak pointed out that there
272 is a restriction in the deed that if the town does anything to it, it has to revert back to Derry or get
273 permission from Derry to do something different with it. G Harrington expressed his opinion, that he has
274 no problem with a license to maintain the trees and designate an area by each tree, but once you start
275 maintaining the lawn in between the trees, you get into lawn chemicals. M Speltz suggested that the
276 abutter can mow within the drip zone of each tree. G Harrington stated that maintenance would be
277 mowing the grass and pruning the trees. M Speltz said that they can pursue the application for
278 pesticides through a licensed applicator and would need to make the town aware of the licensed
279 applicator.

280 **Environmental Consulting Services:** M Speltz explained that before the Commission this evening is a
281 report for the proposed scope of work to do environmental consulting. M Badois stated that they need a
282 motion to authorize the expenditure. M Speltz noted that he believes the amount proposed is fairly
283 firm. M Byerly made a motion to authorize \$3180 from the Open Space Protection Fund for
284 environmental services by West Environmental. D Lievens seconded the motion. The motion passed, 7-
285 0-0.

286 **Trails:** M Badois said that she was out at Kendall Pond and there is a trail marker that you cannot even
287 see it as it has been overgrown. She suggested that the Commission should consider a Kendall Pond
288 cleanup day. M Byerly volunteered to do the assessment at Kendall Pond.



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289 **Signs:** M Badois passed out a rendering of signs that she has been working on to the Commission. A
290 Kizak offered to print out the sign on the plotter so M Badois could get a feel for what it would look like.
291 M Speltz stated that he noticed “No Trespassing” signs on the Higgins property on the part of the
292 easement that allows public access, and this should be addressed.

293 **Conservation Ranger:** Officer Aprile told the Commission that he has put down a couple of raccoons
294 that were showing signs of rabies. He added that the black bear sighting was at Sutton Place.

295 **Other Business**

296 **Minutes:** The Commissioners went over the public minutes of March 8, 2022. B Maxwell made a
297 motion to approve the minutes as presented. G Harrington seconded the motion. The motion passed, 6-
298 0-1, with M Byerly abstaining.

299 The Commissioners went over the special meeting public minutes of March 1, 2022. M Byerly made a
300 motion to approve the minutes as presented. B Maxwell seconded the motion. The motion passed, 7-0-
301 0.

302 The Commissioners went over the special meeting non-public minutes of March 1, 2022. M Byerly made
303 a motion to approve the minutes as amended. B Maxwell seconded the motion. The motion passed, 7-0-
304 0.

305 **Adjournment:** M Byerly made a motion to adjourn the meeting at 9:34 p.m. G Harrington seconded the
306 motion. The motion passed, 7-0-0.

307 Respectfully Submitted,
308 Beth Morrison
309 Recording Secretary