

SHERBURNE COUNTY
PLANNING ADVISORY COMMISSION MEETING
MINUTES
July 19, 2018

The Sherburne County Planning Advisory Commission met at the Sherburne County Government Center in Elk River, Minnesota on July 19, 2018 to hold a public hearing for all unincorporated areas of Sherburne County in which the County has zoning and land use authority, along with the Township of Big Lake, the Township of Baldwin and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Lawrence called the meeting to order and advised that the Planning Advisory Commission is a recommending body to the County Board of Commissioners which will hear the agenda items on August 7, 2018 in this same location at 4:30 PM. He also went over the meeting procedures and noted that the hearings are being recorded.

Roll call was taken. The following members were present: Chairperson Bryan Lawrence, Baldwin Township; Roger Nelson, Blue Hill Township; Lila Spencer, Livonia Township; Mike Ganz, Alternate from Palmer Township; County Board Commissioner, Ewald Petersen; Bruce Aubol, Big Lake Township; Jeff Schlingman, Haven Township; David Jehoich, Santiago Township

Staff present: Zoning Administrator Nancy Riddle, Assistant Zoning Administrator Lynn Waytashek, Planner Marc Schneider, Secretary Judy Weber.

Not present: Stephen Demeules, Palmer Township; Bryan Adams, Orrock Township; Terrance Vander Eyk, Clear Lake Township;

Jehoich moved and Spencer seconded to approve the minutes of the June 21, 2018 Public Hearing. The motion carried unanimously.

Schlingmann moved and Aubol seconded to approved the agenda for the July 19, 2018 public hearing. The motion carried.

1. 6:30 PM A public hearing was held at the request of **ROBERT M. GRAHAM TTE** (Property owner is Robert Graham Living Trust) for an Amendment to the Sherburne County Zoning Map to rezone twenty acres of property from an Industrial District to an Urban Expansion District Legal Description: PID # 10-324-2400 SE1/4 of NW1/4 & S1/2 of SW1/4 of NW1/4 Sec 24, Twp 33, Rge 28 Requesting to rezone only the 20 acres on the West side of Co Rd 81. Full legal on file. Big Lake Township

Marc Schneider presented the request to the Planning Commission and proceeded to review with them the following items:

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BOARD PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Big Lake Township Comprehensive Plan
- C. Zoning Map

BIG LAKE TOWNSHIP COMMENTS: Recommends the parcel to be rezoned as Urban Expansion. This will suit the area and its current and future uses well.

CITY OF BIG LAKE COMMENTS: Recommend approval to rezone the property to Urban Expansion with the following comments:

- The City and Township acknowledge that the existing "Industrial" zoning is inappropriate and that the property should instead be zoned/guided for residential development.
- The County's comprehensive plan for Big Lake Township calls for this land to be "Urban Reserve Residential." The City's draft land use plan steers the property towards "low density residential" development.
- City sewer and water are already located near the subject property and the property could be served very easily. It is the City's intent that this property be eventually brought into the City and zoned "R-1 E Residential Estate" which is our large-lot single family home zoning district which allows for maximum tree preservation.
- The "Urban Reserve" zoning district most closely aligns with the City and County's comprehensive plan goals for this property. It will protect the land's value and the landowner's ability to market the land as residential without blocking the City's logical growth area with a semi-rural 2.5-acre lot subdivision.

STATE AGENCY COMMENTS (DNR): No comment.

PUBLIC WORKS: No comment.

PLANNING & ZONING STAFF COMMENTS:

The applicant is requesting to rezone 20 acres west of County Road 81 from Industrial to Urban Expansion (see Board Packet Attachment A). Since 1994 when the County updated the Zoning Map this 20 acres has been zoned Industrial. This parcel is undeveloped and heavily wooded.

The applicant is planning to sell this 20 acre parcel. As the owner was preparing to sell property it was determined that the property abuts Beulah Pond (71-101W) a Natural Environment Lake. Per MN Shoreland Management Rule 6120.3200, Subpart 4 E. industrial uses are prohibited within a Natural Environment Shoreland District. Any future development of this property requires it to be rezoned.

The applicant is requesting to have the property zoned Urban Expansion. The parcel is surrounded by land zoned Urban Expansion, Industrial, Commercial and General Rural (see Board Packet Attachment B). The County's Comprehensive Land Use Map has this land as Urban Reserve Residential (see Board Packet Attachment C). No change to the County Comprehensive Land Use Map is needed for this request.

FINDINGS:

Pursuant to the County *Zoning* Ordinance after the public hearing, the County Planning Commission shall make a report of its consideration and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator. Consideration of a rezoning request shall include without limitation, the following questions:

Schneider noted that the following comments in *italic* are Zoning Staff's response to the rezone questions:

- A. Is the proposed rezoning consistent with the Comprehensive Plan?
Yes. The Comprehensive Plan, Figure 9.15 Future Land Use map identifies this property as Urban Reserve – Residential. The Urban Expansion zoning district best complies with the County's Comprehensive Plan land use of Urban Reserve – Residential.
- B. Is the current use of the property a permitted use within the proposed zoning district, or will the rezoning create a non-conforming use?
Yes. The property is undeveloped and the owner has not indicated any future development.
- C. Will permitted uses within the proposed zoning district be injurious to health or interfere with the comfortable enjoyment of life or property within the vicinity?
No. The permitted uses under the Urban Expansion District Section 9, Subdivision 2 are uses that will conform to the uses under MN Shoreland Management Rule 6120.3200. Neighboring lands to the north and south are residential uses. Lands to the west and east are in agricultural production.

The minimum metes and bounds lot size in the Urban Expansion district is 20 acres. Any subdividing of this land will require compliance with the Zoning and Subdivision Ordinance.
- D. How will public services (e.g. transportation, schools, parks, and police/fire) be impacted by the proposed rezoning? Will permitted uses within the proposed zoning district adversely impact or overburden existing public service capacity?
The Comprehensive Land Use Maps for Big Lake Township and the City of Big Lake have identified this land for future housing development and both municipalities have provided positive comments on the rezone request.
- E. Is the proposed rezoning located in an area that has the potential to adversely impact natural resources such as surface water, groundwater, or wetlands, or sites identified for rare biological species habitat?
This property is a heavily wooded parcel that is located within a Shoreland District. The MN County Biological Survey shows no biodiverse plant communities within one mile of this property. Any future development of the property will require permits from Sherburne County Planning and Zoning and all development must comply with all Shoreland, Zoning, Subdivision and Stormwater regulations.
- F. Does the proposed rezoning have the potential to impact ecologically sensitive or historically significant areas?
No, the MN County Biological Survey completed by the DNR shows no biodiverse plant communities within one mile of this property.

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G. Does the property have sufficient size and physical characteristics to permit a reasonable use under the current zoning district?

Yes. The property meets the minimum unplatted lot size (20 acres) and if a future landowner wishes to subdivide the property they would need to comply with the platting requirements of Zoning and Subdivision Ordinances.

H. Any other factors that may be relevant to determining whether the proposed rezoning is appropriate?

The property is currently zoned Industrial which is not a permitted use under MN Shoreland Management Rule 6120.3200. The City of Big Lake and Big Lake Township both support the rezone which aligns with their Comprehensive Land Use Maps.

Schneider advised that the applicant resides in Texas and will not be in attendance this evening. He said the applicant supports the staff's findings. In fact, Schneider said Mr. Graham never even realized that this was zoned Industrial due to the benefit of being taxed green acres, because it was in conjunction with the 60 acres across the road. He said this is currently a vacant parcel of land.

Lawrence asked what triggered the Industrial zoning back in 1994.

Schneider said he looked back to the 1992 Comprehensive Land Use Plan and the zoning update in 1994, and he found there were large swatches of land that were classified as Industrial along the highways. There may have been more basis for it, but at that time, he said it was more or less just block zoning. Public hearings were held at that time to make the public aware.

Lawrence opened the public hearing.

Joe Klesk, 19948 202nd Ave NW, Big Lake came forward. He said he lives adjacent to this property and he asked for an explanation of the Urban Expansion District.

Schneider explained that an Urban Expansion District include lands that are identified in close proximity to the city, that could benefit from potential higher density and/or where cities and townships can work together. It could be for housing or for commercial uses, depending upon future requests. At this point they are just asking to change the zoning district to Urban Expansion.

Klesk asked if it would remain under the township's jurisdiction.

Aubol stated that it would unless it were annexed by the city.

Klesk asked what would determine if a property were to be annexed?

Aubol explained that most often, it is driven by the property owner requesting the annexation. In this case, we would have to see what is requested for the proposed use. Just to clarify, he said it would not be for an industrial use, but could be more of a commercial retail type use that would not be as intensive as an industrial use would be.

Klesk asked if an annexation would affect his property. He said he lives in the addition called Tanglewood.

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Aubol replied if the city and township came to an agreement, the annexation would only affect the twenty acre parcel owned by the applicant and is outlined in blue on the aerial photo.

Klesk asked if this could possibly be a Tanglewood Two.

Aubol said it is hard to see what the outcome will be for this particular property, but it would not change your status as far as zoning or being under township jurisdiction.

Schneider said the City has this area identified in their Comprehensive Land Use Plan as R-1 E (Residential 1 Estate) and they view this as single family housing area if someone would come to them with an annexation request.

There were no other comments.

Nelson moved and Aubol seconded to close the public hearing. Motion carried.

The public hearing was closed.

Aubol moved and Spencer seconded to recommend approval of the request to allow the rezoning of twenty acres of property on the west side of Co Rd 81 from an Industrial District to an Urban Expansion District PID # 10-324-2400 Sec 24, Twp 33, Rge 28 (full legal on file) based upon the following considerations::

- A. Is the proposed rezoning consistent with the Comprehensive Plan?
The rezone does comply with the County's Comprehensive Land Use Plan currently identified as Urban Reserve-Residential.
- B. Is the current use of the property a permitted use within the proposed zoning district, or will the rezoning create a non-conforming use?
It will be a conforming use, either residential or commercial.
- C. Will permitted uses within the proposed zoning district be injurious to health or interfere with the comfortable enjoyment of life or property within the vicinity?
No it will not, because it would be much like the development to the north or like the development it abuts to and so there would not be any change.
- D. How will public services (e.g. transportation, schools, parks, and police/fire) be impacted by the proposed rezoning? Will permitted uses within the proposed zoning district adversely impact or overburden existing public service capacity?
There will be no impact and there is no anticipation that anything would be over-burdened.
- E. Is the proposed rezoning located in an area that has the potential to adversely impact natural resources such as surface water, groundwater, or wetlands, or sites identified for rare biological species habitat?
The MN County Biological Survey shows no biodiverse plant communities within one mile of this property therefore there will not be an effect on any of those resources or habitat. The wetland that

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is there is going to be abutted most likely by backyards of houses much like it currently is, and with little impact to the woods.

F. Does the proposed rezoning have the potential to impact ecologically sensitive or historically significant areas?

No, there are no significant impacts.

G. Does the property have sufficient size and physical characteristics to permit a reasonable use under the current zoning district?

If it is changed to residential or commercial, it should fit in that district and is a sufficient size to do so.

H. Any other factors that may be relevant to determining whether the proposed rezoning is appropriate?

There are no other factors to consider, and it does clean up what appears to have been an oversight to begin with.

No further discussion.

The motion carried unanimously and is recommended to the County Board for approval of the rezone.

2. 6:10 PM A public hearing was held at the request of **SAINT CLOUD SOLAR LLC** (Property owner is Shirley A. Andersen – Trustee) for an Interim Use Permit (I.U.P.) for the development and operation of a 5 MW Solar Garden Property Address: 4958 Co Rd 8 SE, St. Cloud Legal Description: PID # 25-030-1400 S1/2 of NE1/4 Ex RLS No 10 (full legal on file) Sec 30, Twp 35, Rge 30 Haven Township 49.66 Acres Ag District

Lawrence proceeded to read the Findings of Fact from Sec 18, Subd 6, Item 4 of the Zoning Ordinance.

Lynn Waytashek presented the following items and reviewed them with the Planning Commission:

BOARD PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Site Plan (Sheet C1.01 – date stamped 6/8/2018)
- C. Landscape & Restoration Plan (Sheet L1 – date stamped 6/8/2018)
- D. Grading & Erosion Control Plan (Sheet C2.01 – date stamped 6/8/2018)
- E. Restoration Plan (Sheet C4.01 – date stamped 6/8/2018)

HAVEN TOWNSHIP COMMENTS (received 7/9/2018): Positive Comment. Following County conditions plus no access from 52nd St SE. Trim dead trees along 52nd and CSAH 8.

STAFF COMMENTS:

- 1. There is an existing overhead power line and easement that runs at an angle through this property. No solar panel are proposed in the easement.
- 2. This proposed solar farm is utilizing an interconnection that will limit the number of poles necessary for connection. They will only need to replace one (1) pole and add one additional pole. The poles

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are located on the east side of CSAH#8 and will not be located on the property where the solar panels are proposed. Xcel Energy will bore under CSAH#8 to connect to the solar garden underground.

3. Existing septic system passed septic compliance.
4. There were solid waste issues on the property but they have been cleaned up and the issue has been resolved.
5. There is an existing Conditional Use Permit on the property which is to remain. In 1999, a CUP was granted for a Home Business in an Accessory Building – Carpet Cleaning – Roto-Rooter. The business is still operating from this site.

PUBLIC WORKS: (David Roedel – 5/30/2018) Clear trees to 50 ft easement line with new landscaping outside 50 ft. Access is limited to existing residential access and one (1) access to solar parcel. Other access to be removed. An access permit is required from the Public Works Dept.

Waytashek proceeded to recap the Staff's recommended conditions if approved:

1. Building permit required for on-site supply structure if over 200 sq ft in size.
2. Building permit required for installation of solar panels with engineered plans submitted.
3. A Stormwater Erosion Control permit will be required from the County Zoning Dept prior to any grading on the property and prior to a building permit being issued.
4. Must obtain an NPDES permit from the MPCA and provide a copy to the County Zoning Dept prior to commencing construction.
5. Trees along CSAH#8 must be cleared to 50 ft easement line with new landscaping outside 50 ft. Access on CSAH #8 is limited to existing residential access and one (1) access to solar portion of parcel. Other access along CSAH #8 to be removed. An access permit is required from the Public Works Dept. Haven Township will not allow any access onto 52nd St SE. Must trim dead trees along 52nd Street.
6. Property owner shall ensure that MPCA day & night time noise standards are not exceeded at any time.
7. Operational hours allowed during construction of the facility are Monday through Friday 7AM - 7PM.
8. Decommissioning of solar panels and related facilities must occur in the event the IUP expires or is terminated, and/or the solar panels are not in use for twelve (12) consecutive months. Must follow ReneSola PV Solar Generator Facility Decommissioning & Reclamation plan date stamped 5-24-18.
9. Prior to issuance of a building permit for the project, the applicant shall provide financial security in the amount of \$25,000 per MW, in favor of Sherburne County, to guarantee compliance with the decommissioning plan, site restoration and other terms of this Permit upon project termination or termination of this Permit. The financial security shall be in a form acceptable to the County and, at a minimum, shall consist of a cash escrow to be deposited with the County in an amount no less than 50% of the total required financial security, with an initial deposit of 25% of the total amount deposited prior to issuance of the building permit and eight and one-third percent (81/3%) of the total amount deposited annually for three years on or before the anniversary of the issuance of the building permit. The remaining amount of the total financial security shall be provided by way of an irrevocable letter of credit, which shall be in a form acceptable to the County Attorney's Office and provided prior to the issuance of a building permit, and shall meet the following minimum standards (additional standards may be required): the irrevocable letter of credit shall be issued by a federally chartered or State of Minnesota chartered banking institution with an branch office located within Sherburne County; shall be issued in the name of the County of Sherburne; shall be issued in an

initial amount no less than 75% of the total financial security required by this Permit; shall permit the County to draw on the funds upon demand based on the County's determination of non-compliance with the terms of this Permit; shall be for an initial term to be established and shall automatically renew for additional terms unless the bank gives the County at least 60 day written notice of an intent to terminate the credit at the end of a term; shall permit the County to draw upon the letter of credit for the full amount in the event a replacement letter of credit acceptable to the County is not issued at least 30 days prior to the expiration of the existing letter of credit; and shall provide that the letter of credit may not be amended without the written permission of the County.

10. No activities may occur onsite until applicant submits a signed an interconnection agreement as required in Section 17, Subd 17 (1A) of the ordinance and proof that the scope of the project is permitted by the Minnesota Public Utilities Commission.
11. A restricted access privacy perimeter fence and gate with an overall height of 7ft will be installed for safety and security. If the required privacy fence around the perimeter of the facility exceeds 7 ft in height it will require a building permit with engineered plans.
12. The site will be revegetated after construction with a low growth and low maintenance native seed mix not exceeding 18 inches in height. The property will be treated and maintained as needed during the spring and summer months to manage vegetation growth. Property owner will responsible for vegetation control and weed management during the projects operating life.
13. Must install 6 foot high coniferous trees along the northern and eastern parcel lines. The trees must be planted staggered in two (2) rows, no more than 16 feet apart. On the west and south property lines, property owner will be permitted to utilize the existing tree line. All trees along the border of the property, including the existing trees along the west and south border must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis.
14. This IUP is to be valid for 35 years until December 31, 2053. This IUP is valid for Saint Cloud Solar, LLC and Shirley Andersen.
15. Decommissioning of project shall involve removal of the projects components, including without limitation, solar panels, panel trackers, anchors, supports, mounts, inverters, underground electrical components and all underground footings and posts.
16. Signage and emergency contact numbers must be posted at the access driveway to property.
17. The County Planning Commission has made the findings listed in Sect 18, Subd 6(4) of Zoning Ordinance.
18. The applicant shall comply with all federal, state, and local laws and regulations.
19. Applicant shall allow the County to inspect the property during normal business hours.

Lawrence commented that he felt there are usually more than nineteen recommended conditions on these solar farm permits.

Waytashek, said she starts out with a standard format, and then she takes off those conditions that do not apply to a particular permit. It could be that there are no issues with berms etc, which could condense the number of conditions.

Lawrence asked if they are not being required to place pine trees around the perimeter of the property.

Waytashek pointed out that the tree buffer requirements can be found under condition # 13. She noted on the aerial that the west side of the property already has a heavily wooded buffer except for a small area where they may need to plant some trees. The south side is also very heavily wooded except a small area

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where the utility line runs. She said the applicant will be required to put trees along the highway and along the north side where the actual solar farm is going.

Lawrence noted that in the past, if the existing trees were on the property line, there was some question as to who would manage their upkeep.

Waytashek pointed out that Attachment "C" shows the existing tree lines lie within their boundary property lines. She said she was out to the site and reported that the property is heavily wooded along the two sides, however, if the Planning Commission wishes to add a requirement that they plant additional trees, she is fine with that.

Schlingman pointed out that the Township had asked the applicant to clean out the dead trees along 52nd and CSAH 8.

Lawrence asked the applicant to come forward.

Hal Galvin stepped forward and said he resides in Minneapolis and he also introduced Cindy Larson O'Neil, the project manager and the primary contact for this project.

Lawrence opened the public hearing. There were no comments.

Schlingman moved and Nelson seconded to close the public hearing.

The public hearing was closed.

Schlingman moved and Spencer seconded to recommend approval of the request for an Interim Use Permit (I.U.P.) for the development and operation of a 5 MW Solar Garden with the following nineteen (19) conditions:

- 1. Building permit required for on-site supply structure if over 200 sq ft in size.*
- 2. Building permit required for installation of solar panels with engineered plans submitted.*
- 3. A Stormwater Erosion Control permit will be required from the County Zoning Dept prior to any grading on the property and prior to a building permit being issued.*
- 4. Must obtain an NPDES permit from the MPCA and provide a copy to the County Zoning Dept prior to commencing construction.*
- 5. Trees along CSAH#8 must be cleared to 50 ft easement line with new landscaping outside 50 ft. Access on CSAH #8 is limited to existing residential access and one (1) access to solar portion of parcel. Other access along CSAH #8 to be removed. An access permit is required from the Public Works Dept. Haven Township will not allow any access onto 52nd St SE. Must trim dead trees along 52nd Street.*
- 6. Property owner shall ensure that MPCA day & night time noise standards are not exceeded at any time.*
- 7. Operational hours allowed during construction of the facility are Monday through Friday 7AM - 7PM.*
- 8. Decommissioning of solar panels and related facilities must occur in the event the IUP expires or is terminated, and/or the solar panels are not in use for twelve (12) consecutive months. Must follow ReneSola PV Solar Generator Facility Decommissioning & Reclamation plan date stamped 5-24-18.*

9. *Prior to issuance of a building permit for the project, the applicant shall provide financial security in the amount of \$25,000 per MW, in favor of Sherburne County, to guarantee compliance with the decommissioning plan, site restoration and other terms of this Permit upon project termination or termination of this Permit. The financial security shall be in a form acceptable to the County and, at a minimum, shall consist of a cash escrow to be deposited with the County in an amount no less than 50% of the total required financial security, with an initial deposit of 25% of the total amount deposited prior to issuance of the building permit and eight and one-third percent (81/3%) of the total amount deposited annually for three years on or before the anniversary of the issuance of the building permit. The remaining amount of the total financial security shall be provided by way of an irrevocable letter of credit, which shall be in a form acceptable to the County Attorney's Office and provided prior to the issuance of a building permit, and shall meet the following minimum standards (additional standards may be required): the irrevocable letter of credit shall be issued by a federally chartered or State of Minnesota chartered banking institution with an branch office located within Sherburne County; shall be issued in the name of the County of Sherburne; shall be issued in an initial amount no less than 75% of the total financial security required by this Permit; shall permit the County to draw on the funds upon demand based on the County's determination of non-compliance with the terms of this Permit; shall be for an initial term to be established and shall automatically renew for additional terms unless the bank gives the County at least 60 day written notice of an intent to terminate the credit at the end of a term; shall permit the County to draw upon the letter of credit for the full amount in the event a replacement letter of credit acceptable to the County is not issued at least 30 days prior to the expiration of the existing letter of credit; and shall provide that the letter of credit may not be amended without the written permission of the County.*
10. *No activities may occur onsite until applicant submits a signed an interconnection agreement as required in Section 17, Subd 17 (1A) of the ordinance and proof that the scope of the project is permitted by the Minnesota Public Utilities Commission.*
11. *A restricted access privacy perimeter fence and gate with an overall height of 7ft will be installed for safety and security. If the required privacy fence around the perimeter of the facility exceeds 7 ft in height it will require a building permit with engineered plans.*
12. *The site will be revegetated after construction with a low growth and low maintenance native seed mix not exceeding 18 inches in height. The property will be treated and maintained as needed during the spring and summer months to manage vegetation growth. Property owner will responsible for vegetation control and weed management during the projects operating life.*
13. *Must install 6 foot high coniferous trees along the northern and eastern parcel lines. The trees must be planted staggered in two (2) rows, no more than 16 feet apart. On the west and south property lines, property owner will be permitted to utilize the existing tree line. All trees along the border of the property, including the existing trees along the west and south border must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis.*
14. *This IUP is to be valid for 35 years until December 31, 2053. This IUP is valid for Saint Cloud Solar, LLC and Shirley Andersen.*
15. *Decommissioning of project shall involve removal of the projects components, including without limitation, solar panels, panel trackers, anchors, supports, mounts, inverters, underground electrical components and all underground footings and posts.*
16. *Signage and emergency contact numbers must be posted at the access driveway to property.*
17. *The County Planning Commission has made the findings listed in Sect 18, Subd 6(4) of Zoning Ordinance.*
18. *The applicant shall comply with all federal, state, and local laws and regulations.*

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19. Applicant shall allow the County to inspect the property during normal business hours.

The motion carried unanimously and is recommended to the County Board for approval

Nelson moved and Aubol seconded to adjourn. Motion carried unanimously.

6:28 PM Meeting Adjourned.

Respectfully Submitted by:

Judy Weber, Secretary