

Middleborough Conservation Commission
February 17, 2022

Unless specified everyone was present in the Board of Selectmen Meeting Room at the Middleborough Town Hall: Diane Stewart, Chair; Nancy Ockers, 1st Co-Vice Chair; Melissa Guimont, 2nd Co-Vice Chair; Peter Gately, Jacqueline Jones (7:46PM, via Zoom), and Edward Medeiros. Also present was Phyllis Barbato, Senior Clerk via Zoom, Patricia Cassady, Agent, and Catherine Pipher, Minutes Clerk.

Excused absence: Adam Guaraldi.

Meeting started at 6:48 PM. Diane Stewart 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.

Senior Clerk:

Accounting

A motion was made by Edward Medeiros, to pay Riverhawk Environmental, in the amount of \$1,700.00, for the Picone Farm Phase I environmental site assessment, 2nd by Melissa Guimont. Unanimously voted.

A motion was made by Edward Medeiros, to pay Middleborough Gas & Electric, for the box at Pratt Farm, in the amount of \$ 8.75, 2nd by Peter Gately. Unanimously voted.

A motion was made by Edward Medeiros, to pay Nitsch, in the amount of \$1,200.00, for the peer review of Harding Street, 2nd by Melissa Guimont. Unanimously voted.

A motion was made by Edward Medeiros, to pay Lucas Environmental, in the amount of \$1,150.00, for an ANRAD peer review at Wareham St., 2nd by Melissa Guimont. Unanimously voted.

Town and State Guidance Updates

IT had e-mailed the office about cyber security.

Minutes: 2/3/22

A motion was made by Edward Medeiros, to approve the meeting minutes from February 3, 2022, 2nd by Peter Gately. Unanimously voted.

Request for Group Use

Barbato said she had e-mailed the people that would like to put on the Color Run at Pratt Farm and they told her that the brand they would be using is Chameleon and is environmentally safe. Water and electric will need to be turned on. Stewart said she would like this to be discussed at the March meeting so she can review the brand name Chameleon.

Office Forms and Procedures

Barbato said the Commission was e-mailed about classes that are being held for MACC and Ecological Landscape Alliance. She said if anyone would like to take the classes that are being held, let her know and she will sign them up.

Website

Barbato said she has some new ideas for the website. She said she will e-mail everyone her ideas and they can be discussed at the work meeting.

Conservation Lands:

Pratt Farm

Cassady received an e-mail regarding a girl scout that would like to put up bat boxes. Cassady said she has e-mailed Gerritt Bingham-Maas, to find out the exact location of his bat boxes, and he has not responded back to her yet. Barbato said she would like to get the Stewards involved with volunteers.

Oliver

Stewart said there was an e-mail from Bill Napolitano, about repurposing some of the grant money for the parking lot. Cassady said there was about \$700.00, left over from the parking lot project, and they had a meeting on February 10th and voted to repurpose the money to put up bollards so people do not drive over to the foot bridge. Cassady said Matt Foye will be getting some quotes for this project.

Town Forest

Cassady said she spoke with Phil Benjamin, State Certified Forester and even though he is retiring, he would still like to help out with the Town Forest.

Ja Mar

Cassady said she e-mailed Middleborough Gas & Electric, regarding them helping with mowing the property twice a year. Cassady said they will get back to her next week, when the General Manager is back in the office.

Edward Medeiros recused himself.

Agent:

Ch.61A Thompson and Precinct St.

Cassady said she attended the Board of Selectmen meeting on Monday night and discussed the Ch.61A notice. Cassady said nothing can be done in the time frame that they were given, 120 days. Cassady said she spoke with Edward Medeiros and they discussed Medeiros going through with the Purchase and Sale Agreement, but having an Option Agreement with the Town.

Present was Edward Medeiros, citizen, said this property is about 60-62 acres. Medeiros said the Nature Conservancy was looking to partner with someone, because they are willing to pay half

of the asking price for the property. Medeiros said the restriction would be on about 50-52 acres. Medeiros said the Board of Selectmen would take away their rights to the Ch.61A. Medeiros said he has written up an Option Agreement that states that the Town has 1 year from the time that Medeiros purchases the property to go for the grant, to pay for the 50-52 acres. Medeiros said extensions are available if both parties agree. Medeiros said this is the same option agreement that the Commission had for Ja Mar. Medeiros said he did not want to include how the Town would get the money to pay for the property, is because he wanted them to have options. He said if they could get the piece of land in between these 2 properties (100 acres), Fish and Game will help buy the property. Stewart asked if they would need to pay for the appraisal and Cassidy said yes they would. Medeiros said after speaking with Marea Gabriel, Nature Conservancy, she said that they would get the appraisal. Stewart asked if the Nature Conservancy knows about this plan and Medeiros said they are aware, he sent them a 27 pages memo. Cassidy said KP law will also review this.

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

Medeiros said he would like a vote from the Commission to state that it is what the Commission wants. He said he is going to the Board of Selectmen meeting on March 7, 2022.

A motion was made by Peter Gately, to send the Board of Selectmen a letter stating that the Commission is interested in the Option Agreement as presented, conditioned upon KP Law signing off on it, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Abstained, Nancy Ockers Aye, and Diane Stewart Aye. One abstention, the remainder in favor.

Edward Medeiros returned to the meeting.

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Notice of Intent for 165 Plympton Street, Jonathan Stricklin, DEP#220-
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Stewart read the legal ad into the record. Proof of mailing was received.

Present was Jonathan Stricklin. Stricklin said they have had an above ground pool since 2012, and they are looking to put in an in-ground pool for his daughter. He said his 14-year old daughter has a form of dwarfism and the nurses that care for her are not comfortable with placing her inside an above-ground pool. The Philips Foundation has donated the money to put this pool in. The pool will be 15ft.x35ft. and will be about 30ft. from the wetlands. They will be putting up hay bales during construction. Material from digging will be brought off site. The Commission will do a site visit to make sure the erosion controls are up prior to construction. Cassidy said she has been to this site and has helped Stricklin with this filing.

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

There is not a DEP# yet because it was mailed into DEP, so it will take a little longer. Hopefully they will receive a DEP# by the next meeting. The Commission would like the hay bales to be at

least 26ft. away from the wetlands and they would like to make sure that all materials will be taken off site.

A motion was made by Peter Gately, to continue the hearing to March 3, 2022, pending a DEP#, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Notice of Intent for 531 Wareham Street, James Murray, DEP#220-

Stewart read the legal ad into the record. Proof of mailing had been received.

Present were Hannah Davignon and James Murray. She said they would like to expand the yard which is within the 100ft. buffer. Cassady said she went to the site because they had a building permit, and she wanted to make sure they were not in the wetlands. Cassady said their proposed garage is outside of the 100ft. buffer, but she noticed there was some tree cutting within the 100ft. buffer, so this is an After the Fact Notice of Intent. Cassady said she did not see any digging or disturbance to the earth. Davignon said there will not be any more work done on the property. Murray said he would like to put grass in, up to the 50ft. buffer line. Cassady said grass would be fine, but if they want to grade or remove the stumps, they will need to put up erosion controls. Cassady recommends that they put up straw wattles. Gately would like to minimize the use of fertilizers. Medeiros suggested putting erosion controls parallel to wetland flags A-22 through A-27. Stewart said maybe they could add that to the Special Conditions. There is not a DEP # for this property yet.

Stewart asked if anyone from the audience would like to be heard, hearing none.

A motion was made by Edward Medeiros, to continue the hearing to March 3, 2022, pending a DEP#, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Conservation Commissioner Reports – Melissa Guimont and MHS

Guimont said she met with the students and Alan Harris from the YESS Club at the Middleborough High School. She said she spoke to them about what the Commissioners do and what they can do about invasive species on their property. She said she made a slide show about different invasive species, such as bugs, birds, and plants. Guimont said they were very interested in the bird boxes that she has everywhere. She said the wood shop at the school, has built 6 bird boxes. She said she will help Harris put the bird boxes in the ground once the ground thaws. She said she thinks the students will take over monitoring the birds. She hopes someone will help donate poles for the bird boxes.

Stewart recused herself. Ockers chaired.

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**Notice of Intent for Woods Pond, Mary Capostagno, (SOLitude Lake Management)
DEP#220-1521**

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

Present was Jeffery Castellani, via Zoom. Castellani said the purpose of this is to do some restoration to the beach area. He said this will be a 200sq.ft. x 200sq.ft area. He said they will be removing some vegetation and roots systems. He said they will be using a hydro rake to control the vegetation. He said this machine will scoop up the vegetation and its root system and bring it to the surface. Each scoop will be brought to shore and placed behind either straw wattles or straw bales. He said the material will then be brought to a compost area. Castellani said that once the pond has been restored in that area, they will put down a matting after the swim season. The matting prevents sunlight from germinating seeds and having plants grow. He said that this machine will pull the vegetation out instead of cutting it. Guimont asked if when they pull out the vegetation, will they check for animals. Castellani said usually the animals escape before the material is brought to the surface. He also said that this will take 4 days and will be done in May. He said usually May is the best time because they stay away from hibernation and spawning. Medeiros asked how long will this clean-up last. Castellani said you will not see anything for a couple of years. They will also have the mats down, which will prevent growth. He said they will probably come back every 3-4 years. Medeiros asked who is disposing of the material. Castellani said that his client is contracting a local landscaper. Gately asked about the mat that they are using. Castellani said the mat is placed in the pond during the off-season and taken out during the swim season. He said they are made out of something similar to the black landscape liner. He said DEP approves this mat. Cassady said they have had problems with bacteria/algae in the past.

Ockers asked if anyone from the public would like to be heard.

Ed Santiago, abutter, via Zoom said he has been there for 10 years and the algae is out of control. He would like something to be done about this. He said he is willing to help financially.

Deb Smusz, via Zoom said she was wondering if she could get contact information, for Jeffery Castellani, because she would like to have help with doing the same thing at Tispaquin Pond. Castellani said his cell phone number was 774-402-4846.

Sheila Onges, abutter, via Zoom said she is not part of the Woods Pond Condo Association. She said they are the only ones on one side of Woods Pond, and they would like to have something done with their water front as well. She asked if they would need to file their own Notice of Intent or if they could piggy back on theirs. Cassady said they would need to file a separate Notice of Intent.

Santiago said he is willing to put out financial aid, because it should not just be one section of the pond because it will take over. Cassady said they would need to file a separate Notice of Intent.

A motion was made by Edward Medeiros, to close the hearing, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

A motion was made by Edward Medeiros, to issue a Standard Order of Conditions, with 1 Special Condition, that weeds are to be disposed of properly, and within 7 days of removal, 2nd by Peter Gately. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, and Nancy Ockers Aye. Unanimously voted.

Continuation of Notice of Intent for Lot 3 River Street, LEX Development (Zenith Consulting Eng.) DEP#220-1523

Stewart returned to the meeting.

Present was Nyles Zager, Zenith Consulting, and Tim Hashem, owner. Zager said the only outstanding issue was that they had not gone before the Planning Board for the Form A application. He said that the Form A has been completed and approved since the last meeting. Medeiros said where this is 5 lots there should have been a stormwater management plan. Zager said they did a stormwater report for lots 3 & 4. Lots 1 & 2 were approved without the stormwater reports. Zager said that most of the water on site stayed on site. He said any lots moving forward will have stormwater reports. Hashem said they did roof drains and basins on the two properties. Stewart said that they should change the Standard Order of Conditions to reflect the stormwater management plan for 5 or more lots.

Stewart asked if anyone from the audience would like to be heard, hearing none.

A motion was made by Edward Medeiros, to close the hearing, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to issue a Standard Order of Conditions, for Lot 3 River Street, DEP#220-1523, 2nd by Melissa Guimont. Roll call vote: Peter Gately Abstained, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Nay, Nancy Ockers Abstained, and Diane Stewart Aye. Two abstentions, one Nay, and the remainder in favor.

Continuation of Notice of Intent for Lot 4 River Street, LEX Development (Zenith Consulting Eng.) DEP#220-1524

Stewart said they were waiting for the Form A for this lot. Present was Nyles Zager, Zenith Consulting Engineers, and Tim Hashem, Owner. Zager said this is the same as Lot 3 River Street. He said there was a stormwater report done for this lot as well, dated December 21, 2021.

Stewart asked if anyone from the audience would like to be heard, hearing none.

A motion was made by Edward Medeiros, to close the hearing, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to issue a Standard Order of Conditions, for Lot 4 River Street, DEP#220-1524, 2nd by Melissa Guimont. Roll call vote: Peter Gately Abstained, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Nay, Nancy Ockers Abstained, and Diane Stewart Aye. Two abstentions, one Nay, and the remainder in favor.

Continuation of Abbreviated Notice of Resource Area Delineation for 691 Wareham St. Sachem Construction, (Zenith Consulting Eng.) DEP#220-1526

Present was Nyles Zager, Zenith Consulting, and Boaz McMahon.

Cassady received 3 quotes for peer reviews:

- | | |
|------------------------|------------|
| 1. Ecosystem Solutions | \$1,785.00 |
| 2. ECR | \$1,750.00 |
| 3. Lucas Environmental | \$1,600.00 |

Zager said he does not have a preference but he has worked with Ecosystem before, and he likes their work. McMahon agreed that Ecosystem is ok with him.

A motion was made by Edward Medeiros, to hire Ecosystem for the peer review for 691 Wareham Street, for \$1,785.00, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

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

A motion was made by Edward Medeiros, to continue the hearing to March 3, 2022, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Continuation of Abbreviated Notice of Resource Area Delineation for 177 & 187 East Grove Street, HIP VI Enterprises, LLC, Goddard Consulting, DEP#220-1518

A letter from Ecosystem was received stating that they will need more time to do the peer review.

A motion was made by Edward Medeiros, to authorize an additional amount of \$1,260.00, to be paid by the applicant for the peer review, 2nd by Peter Gately. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

A motion was made by Edward Medeiros, to continue the hearing to March 3, 2022, 2nd by Melissa Guimont. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Discussion regarding Oak Point, Hydraulic Spill/Oil Spill

Present was Eric Hurt, General Manager, of Home Town. Hurt said he received a call in December from the on-call line, that a resident saw a sheen running down. He said he called their contractor Jeff, and they both went down to the site to meet with the residents. Hurt said he tried to divert the spill as best as they could for the moment. Hurts told Jeff to get some Speedy Dry, because they did not have any on site. Hurts said when he came in on Monday he noticed that the Speedy Dry was put down and needed to be cleaned up. He said Captain Reed reached out to Peter for a site visit. After the meeting, Captain Reed spoke with Hurt, and they discussed what they could've done differently. Stewart asked if there is currently an Operation and Maintenance Plan. Hurt said no, but he could certainly put one in place. He said this area has been used as a staging area for snow removal and storage of machines. Hurt said they should not be working on the machinery in the parking lot unless it is an emergency. Hurt said they will be moving all maintenance vehicles off of the property, when they are not being used. He said he has now picked up Speedy Dry for the future so it will be on site at all times. He said they need to be more vigilant and looking to put safe guards in place. Stewart asked if he could put these ideas in writing and the Commission would review it. She would like a policy in place for the contractors, residents, and others that take care of the property. He said he would draft something up by March 10, 2022, and they will discuss it at the March 17, 2022, meeting. Gately also suggested using oil absorbent pads, because they are smaller to store.

There was another complaint about a gas tank that had a broken hose and they submitted pictures. Medeiros said gas/oil tanks should be 100ft. from the wetlands and the hose the hose needs to be replaced. Guimont said she would like the policy to state that there will be annual maintenance on all of the equipment and machinery. She said she would like the contractors to sign contracts stating that they have read the policy, to prevent something like this from happening again.

Stewart asked if anyone from the public would like to be heard.

Gerard Boissoneault, 806 Crystal Way, said that there were two different incidences. On January 2nd they had the hydraulic fluid spill, and on February 3rd they had the fuel tank leak. He said there was a sheen throughout the parking lot again, which he believes is diesel fuel. He said the fuel tank is at the top of the hill and everything runs downhill towards the drain. He also stated that there were still dump trucks on the property. Hurt said they have asked the contractor to remove all of their vehicles. He said he is concerned with what will continue to happen in the parking lot area. He said they put the back loader behind the club house now.

Paula Fay, said she would like clarification on where the maintenance vehicles are going to be stored. She said where they are stored now, seemed to be near the wetlands and a brook. She

stated that if there are storm vehicles, they should only be on site 24 hours prior to a storm, not constantly.

Hurt said he would like to have the Commissioners come out and give their input. Cassidy said she will go on a site visit and discuss this further.

Diane Fay, 8309 Oak Point Drive, said she would like to see Cassidy work with Hurt on the plan. She said they should not have plows in the visitors parking.

Ockers said they have to maintain a lot, and they might want to look into a shed or a maintenance building. He said he has been with Oak Point for 6 years and he is trying to work with what he has.

Discussion regarding 681 Wareham Street

Present was Floyd Andrews, owner. Andrews said that he has a letter from the divorce judge that he needs to sell the property. He said he is putting the property up for sale and will disclose that there are conservation issues. Andrews said whoever wants to build on the property, will need to go to Conservation to build anyways because it is so close to the wetlands. He said the silt fence is up, vehicles have been removed, the property is listed, and he states that there are conservation issues. Cassidy said when they sell the property, they can issue another Enforcement Order. Stewart asked if Cassidy can send a letter asking KP Law/Dan Murray if they can hold back money. Cassidy said they cannot hold funds back. Ockers said they wanted the peer review because they did not know where the wetlands were because they brought in so much fill.

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

Agent:

FY 2023 Budget

Cassidy said she sent a letter to the Town Manager, requesting more hours for Pipher. The Town Manager stated in an e-mail that Cassidy and Stewart settled for 19 hours. Stewart said they did take the hours because it was more than what she had before, but the office needs more hours. There is a town meeting for the budget on February 28, 2022, at 6:15PM. Stewart and Guimont said that they will be attending.

415 Plymouth St.-Picone Farm

Cassidy said the contract with Real Worth and Appraising Consultants, was signed and sent to them. She said they did receive some funding to help with the cost of the appraisal, from the Taunton River Stewardship Council. Some of the other money to help with the cost of the appraisal was voted on at October's Town Meeting. \$1,000.00 was from the Town and \$1,600.00 was from the Taunton River Stewardship Council. Cassidy said the environmental site assessment has been completed. Cassidy said there was some discussion about doing test holes where oil tanks have been removed, and she is waiting for a quote to see how much it would cost. Cassidy said the Board of Selectmen's, right of first refusal, there is a Purchase and Sale

agreement will be discussed at the town meeting on February 28th. Part of the Purchase and Sale agreement, is for the Picone's to be able to stay in the house for up to 1 year after the closing. Cassidy said she expects the closing to happen in October. The title exam was done through someone in Dan Murray's office.

0 & 535 Wareham St.

Cassidy said they are progressing with these properties. She received new plans for the restoration from Prime Engineering. They wanted to know if the Commission is ok with the new plans so they can withdraw their appeal to DEP.

Edward Medeiros recused himself.

A motion was made by Melissa Guimont, to accept the revised plans dated February 7, 2022, into the record, 2nd by Peter Gately. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Soule Homestead

Edward Medeiros returned to the meeting.

Cassidy said she received an e-mail from the Environmental Police regarding another area. Cassidy said she will go out for a site visit. Cassidy said Dan Badger is no longer going for the Director position.

55 Plymouth St. – Emergency Cert.

Cassidy said they will be filing a Notice of Intent. The Emergency Certificate they had has expired, and they would like a new Emergency Certificate until they file. Cassidy said she expects the notice in the next couple of weeks.

A motion was made by Melissa Guimont, to issue an Emergency Certificate with an end date of March 17, 2022, 2nd by Edward Medeiros. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Conservation Commissioner Reports:

CPC

Ockers said they met last night and voted to recommend a bunch of projects. She said they are giving more money to the Friends of Middleborough Cemeteries, restoring the area of the Nemasket Hills Cemetery/Chapel, 8 Station Street, Everett Square (low income and ADA), engineering study for the river-walk, and some more roof projects with the Housing Authority. Ockers said there was discussion about keeping money back for Ch.61A projects. Ockers said there was a faster way to get money other than bonding and they called it band, which will give you access to money in 30-60 days.

Mail/Correspondence

There were South Coast Rail Updates.

There was an e-mail regarding a 1st Amendment Auditor at the Police Station.

There was information regarding Oliver Mill Phase III.

Update regarding 85 Plymouth St. and it is not favorable for a well.

There was a construction update regarding MASS DOT.

There was information from DEP regarding the Mass. In-Lieu Program.

There was a memo regarding 691 Wareham Street.

There was a memo regarding 58 Pebblebrook Drive.

There was a memo regarding 108 Wareham Street.

There is an Open Space meeting on March 9, 2022, at 6:30PM.

A motion was made by Edward Medeiros, to adjourn at 9:51PM, 2nd by Nancy Ockers. Roll call vote: Peter Gately Aye, Melissa Guimont Aye, Jacqueline Jones Aye, Edward Medeiros Aye, Nancy Ockers Aye, and Diane Stewart Aye. Unanimously voted.

Respectfully Submitted By:

Catherine Pipher
Minutes Clerk

DATE APPROVED: March 17, 2022