

**Rochester Planning Board
Minutes of February 26, 2019**

Present: Arnold Johnson, Chairman
Gary Florindo, Vice Chairman
Bendrix Bailey, Clerk
Michael Murphy, Associate Clerk
Lee Carr
John DeMaggio

Absent: Chris Silveira

Steven Starrett, Town Planner
Marissa Perez-Dormitzer, Recording Secretary

Chairman Johnson called the meeting to order at 7:02 p.m. in the Town Hall Meeting Room and made everyone aware that the meeting was being televised and recorded via digital audio recorder.

BOARD BUSINESS

Minutes

A motion to approve the minutes of November 13, 2018 was made by Clerk Bailey and seconded by Member Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve the minutes of December 11, 2018 was made by Clerk Bailey and seconded by Member Murphy. **The motion passed by a vote of 5 in favor, 0 opposed, 1 abstained. (5-0-1).**

A motion to approve the minutes of January 8, 2019 was made by Clerk Bailey and seconded by Member Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve the minutes of January 22, 2019 was made by Clerk Bailey and seconded by Member Murphy. **The motion passed by a vote of 5 in favor, 0 opposed, 1 abstained. (5-0-1).**

Mullin Rule

Member Carr signed a Mullin Rule Affidavit for 15 Cranberry Highway Site Plan Review for a meeting missed on January 22, 2019.

Vouchers

A motion to approve a voucher for W.B. Mason in the amount of \$40.28 was made by Clerk Bailey and seconded by Member Carr. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve a voucher for W.B. Mason in the amount of \$193.00 was made by Clerk Bailey and seconded by Member Carr. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

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A motion to approve a voucher for a subscription renewal of the Sentinel in the amount of \$40.62 was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve a voucher from Field Engineering / 15 Cranberry Highway LLC Escrow Account in the amount of \$2,725.00 was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve a voucher from Field Engineering / Borrego Solar / 453 Rounseville Road Solar Project Escrow Account in the amount of \$1,875.00 was made by Associate Clerk Murphy and seconded by Clerk Bailey. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve a voucher from Field Engineering / Connet Woods Escrow Account in the amount of \$1,250.00 was made by Associate Clerk Murphy and seconded by Clerk Bailey. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve a voucher from Field Engineering / Connet Woods Escrow Account in the amount of \$625.00 was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to approve a voucher for mileage reimbursement for Town Planner Starrett in the amount of \$324.80 was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

Contract

The Planning Board agreed to hold off signing the contract for Field Engineering Peer Review for Solar MA / Old Middleboro Road Photovoltaic Special Permit.

Review and Approve 2018 Annual Report

A motion to approve the 2018 Annual Report was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

**Right of First Refusal, Chapter 61A, Notice of Sale: Dexter Lane, Map 6 Lot 11D,
Bruce Maksy, Jr.**

A Purchase and Sale Agreement for the property for the agreed purchase price of \$169,000 and a map was shown to the Planning Board. There was discussion about the map; Town Planner Starrett will speak with Laurell Farinon, the Town Conservation Agent, regarding changes to the map.

A motion to not purchase the land was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

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PUBLIC HEARINGS

1. (Continued from January 22, 2019) A Site Plan Review application received by 15 Cranberry Highway, LLC, 177 Huntington Avenue, Boston, MA 02115 for property located at 15 Cranberry Highway, Rochester, MA 02770, further identified on Assessor's Map 17, Lot 31C. The property owner is Decas Real Estate Trust, 4 Old Forge Road, Carver, MA 02330. The proposed project is for site redevelopment for a day care facility. Building renovations will be limited to the interior of the structure creating a new day care space for the majority of the building and adding an area at the front of the building to be leased to a future tenant. The redevelopment of the 2.22 acre site will include modifying the exiting paved surface and upgrading storm water management. A playground will be constructed just beyond the existing building.

Bob Rogers of G.A.F. Engineering, Shoen and Bonnie Morrison, and Ken Motta were present at the hearing.

Mr. Rogers reviewed the history of the project regarding changes made to the plans based on peer review comments provided by Field Engineering. Final plans were submitted dated February 21, 2019. They changed the bottom grades of the infiltration basin to gain a few feet separation from the septic system. They also removed the diverter pipe and added an earth berm. They ensured a 12 feet lane around the building for ambulance traffic; this resulted in the loss of one parking space.

Ken Motta stated that they have met the requirements of a typical redevelopment project.

Chairman Johnson stated that the Board of Health inspector requested that vegetation above the leaching field be removed. Mr. Rogers responded that the plans incorporate the vegetation removal. Chairman Johnson explained that waiver requests needed to be voted one at a time.

A motion to allow a waiver request for Appendix A.2.6 to not require landscape plantings around the existing detention basin was made by Member Carr and seconded by Clerk Bailey. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to allow a waiver request for Appendix A.4.2.2 to allow a reduction in the property line setback to the existing detention basin from the required 25 feet to 5 feet was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to allow a waiver request for Appendix A.4.2.2 to allow a reduction in the horizontal separation between the existing septic system and the existing detention basin from the required 200 feet to 80 feet was made by Member Carr and seconded by Clerk Bailey. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to allow a waiver request for Appendix A.4.2.2 to allow a reduction in the horizontal separation between the existing detention basin and a bordering vegetated wetland from the required 50 feet to 13 feet was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

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A motion to allow a waiver request for Appendix A.4.6.2 to allow a reduction in the access bench width on the existing detention basin from the required 12 feet to an average of 6 feet was made by Clerk Bailey and seconded by Member Carr. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to allow a waiver request for Appendix A.4.6.4 to allow side slopes less than 4:1 on the existing detention basin containment berm was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to allow a waiver request for Section XVI 1.10.5 to not require a Traffic Study was made by Member Carr and seconded by Clerk Bailey. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to allow a waiver request for XVI 1.10 to not require a Landscape Plan prepared by Registered Landscape Architect was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to close the public hearing was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

Chairman Johnson explained the next steps: the Planning Board will send a draft decision before the next meeting; the draft decision will be discussed at the next meeting; voting will take place at the following meeting which will be the second meeting in March.

2. A Large-Scale Photovoltaic Installation Special Permit application and a Site Plan Review Application received from Pedro Rodriguez, Solar MA Project Management LLC, Series XXXVI, 143 West Street, Suite 201, New Milford, CT 06776 for property located at 0 Old Middleboro Road, Rochester, MA 02770, further identified on Assessor's Map 23, Lots 21, 23, and 31. The property owners are MWH LLC, 405 Washington Street, Braintree, MA 02184 and Diana J. Murphy, Trustee, MidChester Realty Trust, 24 Old Powderhouse Road, Lakeville, MA 02347. The proposed project is for the construction of a Large-Scale Solar Photovoltaic Installation.

Chairman Johnson stated that a letter was received from Seaboard Solar dated February 20, 2019. In the letter, Pedro Rodriguez requested to withdraw the application without prejudice in order to bring the plans up to current standards with the Town's rules and regulations. The letter states they will resubmit the application in the future.

A motion to allow Seaboard Solar to withdraw the application and resubmit at another time was made by Vice Chairman Florindo and seconded by Member Carr. Chairman Johnson suggested that all fees be returned to Seaboard Solar. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

A motion to close the public hearing was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

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3. A Site Plan Review application received from Sophia Darras c/o Attorney Patricia A. McArdle, 44 Main Street, Mattapoisett, MA 02739 for property located at 565 Rounseville Road and 0 Rounseville Road, Rochester, MA 02770, further identified on Assessor's Map 30, Lots 24, 25 and 25D. The property owners are Sophia Giannaros Darras, 79 Walpole Street, Dover, MA 02030 and Patricia M. Bray, Trustee, Union Jack Realty Nominee Trust, P.O. Box 989, Marion, MA 02738. The proposed project involves the removal and abandonment of the existing drainage system, and the installation of a new drainage system that includes new deep sump catch basins, drainage manholes and piping, proprietary treatment structures and sub surface infiltration.

(Member Carr recused himself from the Public Hearing.)

Brian Wallace, from J.C. Engineering, Inc. explained the project includes the removal of the existing drainage system.

Mr. Wallace stated that under existing conditions the drainage works with a series of catch basins along the perimeter of the site that are connected to manholes and piping. All the stormwater discharges into one manhole and then into bordering vegetative wetland. They are proposing to improve the water quality and drainage. Their plan includes replacing some of the catch basins with deep sump catch basins, new manholes and HDPE piping. Referring to a diagram, Mr. Wallace explained there are two "treatment trains." One side is a series of catch basins along the edge of the pavement. They will be resurfacing so the water can drain toward the catch basins. They are also proposing a Cape Cod berm. The water will go to a stormceptor to be treated and then it will run through a subsurface infiltration system to the manhole. On the other side, a swale will collect the water which will go to another catch basin. From there it will go to another stormceptor and then to the same manhole. The water will discharge into the wetland through an existing 27 inch round concrete pipe. They are proposing to cut the discharge pipe to provide room for rip rap.

Mr. Wallace stated that based on peer review comments, they will be changing the swale to catch basins. Ken Motta explained that they found a plan from the Board of Health showing the main water service into the building is along the area of the proposed swale.

Chairman Johnson asked who owns the lot where the leaching field is located. Mr. Wallace stated that it's owned by Sophia Darras. Chairman Johnson stated that the property is in the Groundwater Protection District and will require a permit.

A motion to continue the public hearing to March 26, 2019 was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained. (5-0-0).**

(Member Carr resumed his role in the meeting.)

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4. (Continued from January 8, 2019) Special Residential Development Special Permit application, Application for Work on Scenic Highway (Route 105) and a Groundwater Protection District Special Permit application received from REpurpose Properties, LLC, 55 Main Street, Buzzards Bay, MA 02532 for property located at Rounseville Road, Rochester, MA 02770, further identified on Assessor's Map 30, Lots 24, 25B, & 25C. The property owner of record is Gibbs V. & Patricia M. Bray, Trustees, 21 Pawkechatt Way, P.O. Box 989, Marion, MA 02738. The applicant's representative is John L. Churchill, Jr. of JC Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538. The proposed development is an age-restricted community with 22 duplex units, a common building and associated roadways, buildings, and utilities.

Brian Wallace, of J.C. Engineering, Inc., stated they are considering removing one entrance into the subdivision closest to Plumb Corner Plaza. This was a result of discussion with the Town Historical Commission. The development would then have one entrance and one exit.

Mike LaCava of REpurpose Properties explained the Historical Commission's concerns about avoiding having the property look like a subdivision. They will reposition some of the houses to face the street. If the entrance is removed as proposed, it could be a vegetated area that blends the properties together.

The Planning Board discussed that the proposed entrance and exit worked well at the Pines at Hathaway Pond. Chairman Johnson mentioned that REpurpose Properties was reserving a portion of the property at the front for commercial development and asked if the same entrance and exit will be used for the businesses. John Churchill, of J.C. Engineering, Inc., stated that tying the commercial property in to the same entrance is not likely. The Planning Board supported the proposed plan for the entrance and exit.

A motion to continue the public hearing to March 26, 2019 was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

Connet Woods

Gerard Lorusso and Stephen Meltzer of Edgewood Development Company LLC were present to discuss the extension of Forbes Road in Connet Woods. Chairman Johnson stated that the road has been paved and the developers have estimated a bond amount of \$141,000 to complete the road. Ken Motta verified the bond amount. Chairman Johnson referred to a diagram on the Samsung Flip. The bond has been delivered to the Town; they are asking for lot releases. Ken Motta confirmed the binder is down and there are no sidewalks on that section. Mr. Lorusso stated the utilities are not in place.

Vice Chairman Florindo asked if the utilities will go along the road or if they'll be cut across the road. Mr. Lorusso stated the crossings were placed before they blacktopped. Mr. Lorusso added that the plans from the utility company have to be resubmitted because too much time has passed.

A motion to release lots 57A, 57B, 58, 59, 60, 61, and 62 was made by Clerk Bailey and seconded by Member Carr. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

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Chairman Johnson suggested setting a time for an update on the punch list of things to do for the first meeting in April.

Mr. Lorusso stated that the punch list included pond work, loaming and seeding which couldn't be done in the winter. Mr. Meltzer stated that the work will take a day and a half or two days to complete. The discussion about the roadway continued while referring to a map on the Samsung Flip. Chairman Johnson mentioned there was more work to do than the original punch list including sidewalks and berm issues on the through road. He suggested that Ken Motta create a punch list of items to be done for the discussion at the meeting in April. Chairman Johnson explained that originally the sidewalk followed the tree line in the plan. However, there were issues with the drainage and the Board gave flexibility on the location of the sidewalk to help improve drainage.

Borrego Solar Rounseville/Mendell Road Solar Project

Chairman Johnson explained that since the last Planning Board meeting, Borrego Solar completed the flag test on the screening. It passed with one exception, at the end closest to the office trailers. After discussion with Town Planner Starrett and Ken Motta, Borrego Solar decided to excavate material to drop down the level. The excavation has started.

Steve Long, of Borrego Solar, clarified that it's a visual test. The error was at a dip in the fence. This time staff have visually tested while the grading is taking place.

Chairman Johnson stated they installed the racking on the Rounseville Road side to the limits of the 100 year flood plain. Ken Motta inspected the racks and they passed inspection. They have now started to install the panels on the racks. There was discussion about the backflow of water near Mendell Road. The berms were removed as recommended by the Planning Board. They also added an infiltration trench. However, due to the frozen ground they are having problems with infiltration. Mr. Long stated they are creating a depression in the area that failed the flag test. They will also create a berm to detain the water, as pointed out on a diagram of the project. The new construction will finish on Friday; however they won't know if it works until it rains. Chairman Johnson stated that Ken Motta hasn't received any calculations to verify that it will work as expected. Mr. Long responded that it's being done as a temporary construction measure. Similar situations have happened at other Borrego Solar sites in Massachusetts due to the winter weather. They have had to create temporary ponding areas due to frozen ground and rain. They have 50 MW under construction in Massachusetts and have had to do this on other sites.

Chairman Johnson stated the 100 year flood plain isn't containing the water. Mr. Long explained that the site is planned to be vegetated. Once the vegetation is completed, then the system will work correctly. Chairman Johnson asked about a permanent solution and continued that frozen ground is common in New England and grass doesn't take up water in the winter. Mr. Long stated that slowing the rate of runoff is the biggest way to reduce total runoff from the site. Grass will slow the rate of runoff.

Mr. Long stated that they are seeking approval to add panels in the area toward Mendell Road in the 100 year flood plain. Chairman Johnson stated there is a risk they will have to be removed.

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Chairman Johnson asked if the loam has been scraped that washed in the sediment. Mr. Long responded that it will be scraped before they seed. However, they won't scrape all the loam because it will be dusty in the summer without it.

Chairman Johnson stated the 100 year flood plain was already in existence before the project began. It included 8 acres of forest that up-took a lot of water. Mr. Motta suggested establishing a monitoring point comparing the hydrologic conditions pre-development and post development.

Mr. Long stated the flag test will be redone on Thursday. He said the site will pass the test and asked whether racking and panels can be put up in the area near Mendell Road. Mr. Starrett showed photos of the site illustrating the hydrologic problems on the Samsung Flip. The photos show that the water hasn't flowed onto Mendell Road.

There was further discussion about the dip in the fence that caused the failed test. Mr. Long clarified that the dip in the fence follows grade. There was also discussion about residents complaining about the appearance of the fence.

(Associate Clerk Murphy left the meeting at 8:23 p.m.)

Vice Chairman Florindo suggested allowing Borrego Solar to install the racking. He continued that they are responsible to correct any flooding in the road.

Mr. Long stated that the Town won't sign off until the area is 70 to 80% vegetated. Chairman Johnson added that they won't sign off until there is a significant rainfall event after the area is 70 to 80% vegetated. This will show that the proposed plans work to manage the water. The Town has a bond for 5 years.

Member DeMaggio stated concern about installations being turned on before the project receives approval from the Planning Board. Chairman Johnson stated that in future decisions they will add that the final electrical permit cannot be issued until the Planning Board approves the project. Ken Motta stated he agreed with Vice Chairman Florindo about installing racking in the 100 year flood plain. Chairman Johnson stated that Borrego Solar could not install the racking until after the flag test.

Chairman Johnson clarified the required testing of the site by Ken Motta. He explained there are inspections for the 3 sections of the project. As previously discussed, one section passed the rack inspection and the solar panels are being installed. Once the panels are finished being installed, Ken Motta will recheck before the panels are connected. In the middle section, the Planning Board is allowing Borrego Solar to install the racking. Before the panels are installed, Ken Motta will do an inspection. On Thursday, Ken Motta will conduct the flag test in the upper section. If it passes, the racking can be added.

Town Planner Starrett stated there is a gap in the fence that was opened up for a pad. He had asked the staff to put in a tarp. The tarp in the fence has ripped off. Mr. Long will speak with the manager. It will be replaced by Thursday.

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IGS Solar (formerly Melink) Snipatuit Road

Chairman Johnson stated that the fence is down in the back of the property and several trees blew over. Town Planner Starrett explained someone cut the chain link fence; the bottom of the fence is not connected. A portion of the fence around 100 feet long is affected. Approximately 12 small trees have blown over. IGS Solar said they couldn't fix the trees until spring. Chairman Johnson added they sent IGS Solar a letter stating they would revoke the bond, but there was no response. He spoke with Town Counsel Bailey who advised the Chairman that the Planning Board can vote to take the bond. Town Counsel requested Town Planner, Steve Starrett notify IGS Solar by certified mail and give 14 days' notice. If the work isn't done, the bond can be taken and a lien would be placed on the property. Then a contractor can be brought in to do the work.

A motion to take the bond to effect the necessary repairs was made by Clerk Bailey and seconded by Vice Chair Florindo. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

Draft of Marijuana Bylaw

Chairman Johnson explained that some suggestions from the last meeting had been passed on to Town Counsel. In the most recent version of the bylaw dated February 21, 2019, the references to medical marijuana were removed because of the overlay district. The Planning Board had also suggested changing the distance from a marijuana establishment to any "pre-existing public or private school, daycare, or any establishment where children commonly congregate" from 500 feet to 1,000 feet. Town Counsel Bailey didn't think the Attorney General would allow the change. Chairman Johnson also clarified that the state measures the 500 feet from property line to property line. Clerk Bailey noted that the bylaw doesn't allow for outside cultivation. It is of concern because Rochester is a farming community. The Planning Board will ask Town Counsel Bailey to look at the bylaw regarding outside cultivation particularly Section E., subsection 4 ("Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which establishment is located. No outside storage is permitted.") and the definition of Recreational Marijuana Establishment ("RME"). Chairman Johnson added that a special meeting may be needed due to timing.

Draft of Smart Growth Zoning Bylaw

Chairman Johnson explained that the zoning article is regarding the 40R project at the old R.F. Morse and Son site. The language is proposed by the attorney. Rochester Crossroads is hoping it can be included in the annual Town Meeting. They will have to submit the bylaw with their application to DHCD.

Chairman Johnson stated typically the Planning Board is the special permit granting authority as well as the enforcement authority. In the proposed bylaw, the Planning Board is the permitting authority; however, the building inspector is the enforcing authority. Chairman Johnson suggested that the Planning Board should be the enforcing authority. He also stated there needs to be a monitoring agent or committee. Several years ago, the Town had a housing opportunity partnership committee. If that committee were reactivated, it could take on that responsibility.

A motion to refer the Smart Growth Zoning Bylaw to the Board of Selectman for their hearing was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

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Update on Trailside Estates

Town Planner Starrett stated that Chairman Johnson and himself met with the builder of Trailside Estates. The project will be starting up again and Chairman Johnson recommends a site visit for the Planning Board. It's a 9 phase plan. The property includes duplexes, single units, and a club house. There are approximately 60 total units. Chairman Johnson explained the project hasn't made progress since 2008. The biggest hurdle is that the Conservation Commission permit expired; the permit from the Planning Board from 10 years ago is still valid.

Compensation for Planning Board Chairman

Clerk Bailey stated that compensation for the Planning Board Chairman could be included in the budget submitted to the Finance Committee. The Finance Committee will either recommend or not recommend. Then it will become part of the Town Meeting warrant items. Salaries for Town official are allowed for in MA General Laws. There was discussion about whether the salary would come out of the Planning Board budget. Town Planner Starrett will seek clarification.

Adjournment

A motion to adjourn at 9:18 p.m. was made by Member DeMaggio and seconded by Clerk Bailey. **The motion was passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Arnold Johnson, Chairman