

Town of Lunenburg Conservation Commission

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February 21, 2024, 7:00PM, ZOOM REMOTE Minutes

Roll Call: Mary W., Bob P., Jennifer P., Rich B., Mike L., Chris S., and Sophie D.

Absent: Jeff V.

Call to Order at 7pm

Announcements- Chris S. reported that he attended the last Select Board meeting and the Village of Flat Hill will be sending the Commission an RDA for work on the retention pond.

Minutes of previous meetings – minutes of 2/7/24

Motion: Bob P., Second: Mike L.

To approve the minutes of 2/7/24 as written.

Roll call vote was unanimous to approve.

APPOINTMENT

Hickory Hills Lake Annual Report – John Fortune (50 Hemlock Dr.), representing Hickory Hills Landowners Inc, screen-shared a slide show presentation. He stated per their OOC, DEP # 208-1266, issued 7/25/22, there are 13 conditions that he will discuss.

1.) Survey and Fanwort Removal – They have organized surface monitoring looking for fanwort and other issues. They also have divers removing fanwort and they do Secchi disk measurements. Ten certified divers spent just under 250 hours in the water observing the surface and bottom of the lake. In 2021, they pulled 3,800 plants but that number jumped to 23,000 because they missed a chemical treatment. In 2023, 24,000 plants were pulled and they did a chemical treatment in some big patches. John pointed out the 7 areas of concern for fanwort and noted that there is less area to treat than last year.

2.) Water Quality & Algae Data – Volunteers collect samples and do simple analysis, while complex analysis is done by a certified lab. They check in Spring, Summer, and Fall. John shared a map of the tested areas and the data chart. He noted that when phosphorus goes over .02, you start to get problems and if over .05, you get algae bloom. Last year the numbers for phosphorus and nitrogen got high in front of the dam, 6' down. The Algae Testing in 2023 showed no blue green algae in April and July but a high number in August. Testing in September and October showed significantly lower numbers. Little Hickory had no algae.

3. Drawdown of 48" was done in the Fall 2022 but heavy rain in December brought it back up. In Fall 2023 the drawdown was 47" and again December brought it back up. A 6' siphon in the bottom of the lake is left on to try to pull phosphorus out.

4). Chemical treatment. – In 2023, SOLitude performed all Chemical treatments. Poly-Aluminum Chloride treatment was done at Little Hickory and the Main Lake for algae. Flumioxazin treatment was done in the Main Lake for Fanwort. John shared the map with treatment areas noted and the notes by SOLitude for the treatment.

5.) Stormwater Testing Program was started in 2021, with testing during 3 storms in 2022 and 2 storms in 2023. They have built and maintained “plunge pools” for stormwater controls, as well as worked with the town’s Stormwater task force. John shared the map of the stormwater testing sites. He pointed out the figures for the Lane property and noted the results were all over the .05 figure. He stated the water that is coming through the Lane property to the Mulpus has a high phosphorus content. The numbers in the Mulpus are lower as it gets closer to the lake and 80% of the water coming into the lake comes from the Mulpus. They also noted a phosphorus problem in the area of the old boat cove and there is a high (.121) number coming into Little Hickory. There is a concern about phosphorus coming from the disruption in the soil at the site of the proposed Pond View Commons due to its location in the Mulpus Watershed.

6.) Erosion Control – John noted the addition of 100’ of Coir logs to Lizard Island, that are backfilled with native plants.

7.) Goose Addling – was successful in lowering number of geese, which contributes phosphorus also.

8.) Fishing Data showed higher numbers than past years, showing the health of fish in the lake is good.

9.) Outreach to Residents – John read a list of staff, communications, and events for outreach.

10.) Plans for 2024- They will hire Wendy Gendron as Lake Consultant and have hired a Lake Project Coordinator. They will continue with hand pulling and herbicide treatment for Fanwort and hold a removal day for Purple Loosestrife with NRWA. Aluminum sulfate will be used in Little Hickory and Hemlock Cove. Erosion control, stormwater measures, and goose controls will continue. Long term goals are to maintain a balanced nutrient level, particularly with Phosphorus and Nitrogen, erosion control on islands, beaches and individual properties, and control of invasive weeds.

Mary asked John if there was a theory on where the phosphorus is coming from at the Lane property, but he replied he does not know if there was activity in the past that could be the cause. Mary noted the Commission has done site walks at the proposed site of the Pond View project and agreed there has been a lot of disturbance there. John asked if they had tested the water in the pond for phosphorus and nitrogen levels and Mary replied that was good question. Bob P. pointed out that the Mulpus has 3 major branches that contribute equally - Marshall Park, Chase Rd near the DPW and in Townsend which flows through a bunch of beaver dams. Bob suggested John sample each branch to check for phosphorus and said it is a mystery where the phosphorus would be coming from at the Lane property since it is all undisturbed woods. He noted there is no phosphorus in lawn fertilizer in Massachusetts and that nitrogen helps the health of the lake. John pointed out that the phosphorus numbers were high at Marshall Park and near Route 13 – even before it flows through the Lane property. Also septic fields could be a concern. Mike L. asked what the lag time is between a test and getting results and also if there is time to retest questionable results. John replied that one issue is they are relying on volunteers for data collection and sometimes miss collections. They will focus more on doing collections and now have the project coordinator to keep on schedule so they can retest quickly if needed. Mary suggested doing duplicate samples so they could retest if they needed. John replied it could be a bottle issue and they should have gone out with another bottle. Bob mentioned that the fork of the Mulpus Brook near Marshall Park, crosses under the road, goes into a swamp/pond, and flows through a culvert that periodically gets plugged up by beavers. The DPW clears the dams and then there is a tremendous flushing of water causing a lot of erosion. Mary pointed out that there was a development with soil disturbance on Holman St. Chris S. noted the fanwort grew 8X the amount when a treatment was missed but the next treatment only went down 1500 and asked whether future treatments would bring it back down. John noted fanwort grows exponentially and can easily take over a lake. The lake is shallow and warm so they will be asking for 7 treatments this year.

NEW PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Derek Failchild & Kathleen Rouleau for a septic tank installation, leaching facility, and associated grading at 21 Birch Island Way – Dan Proctor

(representing the applicants) and Derek Failchild – Dan noted the applicants had a failed Title V and they are proposing a new 1,500 gallon single air treatment tank and a 18' x18' pipe and stone leach field. They have a DEP number and the plan has been approved by Nashoba Board of Health. The property is served by town water. Sophie screen-shared the site plan. Dan stated the proposed tank will go in the same position as the existing tank and the proposed leach field will go where the existing leach field is. There are no other options due to the size of the lot. Part of the driveway over the leach field will become grassy area. Mary asked about the elevation of the leach field and Dan replied it will be elevated less than 1'. She asked for the location of the limit of work and the erosion control barrier. Dan pointed out the erosion barrier and noted that the area around the house is upgradient from the work. He added that there will be no tree removal.

Motion: Bob P., Second: Rich B.

To approve this as presented.

Roll Call Vote was unanimous to approve.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Matthew Grable for repavement of a driveway and repair of existing wall at 255 Prospect St.- Matt Marro, (representing the applicant) and Matthew Grable – Matt screen-shared the site plan and noted the property is a small lot on Lake Whalom. The proposed work is not in the 100' floodplain, which hugs the shoreline. He noted the 30' goes along the front of the house and 50' buffer zone line goes through the road. Matt stated that water runoff comes from Prospect Street and Hollis Road which tops the partial wall in front, banging up against the house. The foundation is a mix of concrete and fieldstone and the excess runoff water is washing out the fieldstone in the foundation, which has no footings. They have ruled out external drains and propose putting in a new wall in front that will be about 2.5'-3' high, to give an even elevation of 518'. They are proposing repaving the driveway, keeping the wall at one end and adding a pipe going out to a 2' x 1.1' riprap splash block. It will drain into a stone and gravel area. Erosion control will go along the shoreline. Mary asked Matt to clarify the details on the splash block and Matt shared a photo of the proposed splash block location. Bob asked if there is a DEP number and any comments. Matt replied they have a number and there were no comments.

Motion: Bob P., Second: Rich B.

To approve the Notice of Intent with a Standard Order of Conditions.

Roll Call Vote was unanimous to approve.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Request for Determination by William Bernard to cut a maintenance path for access to Lake Shirley Dam at 25 Fire Road 19- Bill Bernard (DPW Director) reported that in a recent inspection of the Lake Shirley Dam, there was some erosion noted downstream where the stone slabs are located. He needs to bring some stone in and will need to have a way to get in. He would like to cut a path through the woods, clearing downed trees and underbrush, so he can get a tracked machine in to do the work. Mary and Jenny did a site visit and Mary noted there were some flagged wetlands, as well as beaver activity in the area. Bill replied that the wetlands flagging was done for the new house being built next to the dam. Sophie screen-shared the nearmap for the site and Bill indicated the proposed path. He noted that Fire Road 19 is a private way. Bob stated that the town should be able to access town property to do maintenance on the dam. Mary screen-shared a map and said she would want to document if the cart path would involve a wetlands crossing. The Commissioners discussed and agreed the town should have access for maintenance of the dam, but they do need to follow rules regarding any flagged areas. Bill pointed out that the project would be within 200' of the Catacunemaug Brook and it would need to be a NOI -not an RDA. He added it was his understanding that land was deeded to the town by the Lake Shirley Improvement Corporation so someone could apply for

state money to repair the dam and the town may have deeded rights to access their property off Fire Rd 19, which he will look into.

Motion: Rich B., Second: Bob P.

For a positive determination on this application and recommend a Notice of Intent filing.

Roll Call Vote was unanimous to approve.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Request for Determination by Matthew & Carly Penniman for connection of an existing dwelling to a municipal sewer service at 636 Massachusetts Ave. – Greg Roy (Dillis & Roy), representing the applicant, screen-shared the site plan. He noted that they have flagged the wetlands and indicated the location of the flags on the site plan, as well as the 30', 50' and 100' buffer limits. The proposed project is to connect the existing structure to the municipal sewer system. Currently, the site is serviced by a septic system behind the house which will be abandoned when they connect to sewer. The line to the sewer will come out from the front of the house and connect to the terminal manhole on Mass Ave. They have reviewed the project with Bill Bernard (DPW Director) and filed with the Mass DOT for a utility access permit within the state right-a-way, which they have already received. Greg stated that they filed for an RDA because it will not involve any construction, it will take 2-3 days and the location of the sewer line connection is greater than 50' away from the jurisdictional area. He noted the placement of the erosion control barrier along the driveway, where it could be staked and prevent any silt from washing across the driveway into the down gradient. Greg also pointed out the stockpile area for material from the trench.

Motion: Bob P., Second: Chris S.

For a negative determination.

Roll Call Vote was unanimous to approve.

CONTINUED PUBLIC HEARINGS

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on an Abbreviated Notice of Resource Area Delineation by Kevin O'Brien at 390 Howard Street. (DEP 208-1304) (Continued from 2/7/24 to 2/21/24) – Matt Marro and Kevin O'Brien – Matt reported that he, Mr. O'Brien, Sophie, and the Planning Consultant met. He added that Sophie was going to look at bids and scope. They had a proposal from EcoTec, which is no longer a conflict of interest. Matt screen-shared a map of the whole lot and noted the delineated wetlands have been relocated by survey. The third party will go out to recertify the wetlands delineation. The quote from Mr. Allen at EcoTec was for that scope and any vernal pools that are discovered, will be noted. Matt added that the area on the lower right corner is marked on the DEP website as a potential vernal pool. If they do any work in this area, it will be revisited. The town can regulate it as a vernal pool because the state has listed it as a potential vernal pool. Matt stated that the applicant is willing to pay for the third party review, per Mr. Allen's quote. Mary asked Matt what the difference was in scope between EcoTec and the other quotes. Matt replied that Oxbow's high quote involved looking at the entire area for a vernal pool and certifying it. Mr. Allen's proposal said they would look over all the wetlands on the site and if they find a vernal pool, they will note it. Bob stated that before they move forward, he would want to be sure EcoTec was aware that the area had been heavily disturbed since 2008 and the disturbance has the potential to greatly increase the work. Bob added that he thinks some of the wetlands that were delineated in 2008 have since been disturbed. Some wetlands may have been destroyed or relocated and new ones created. He wants EcoTec to know what they are getting into so they will not come back later asking for money to complete the job. Mary suggested if they proceed, they could make it contingent on Sophie or Bob contacting EcoTec about Bob's concerns. Bob stated it should be Sophie or Mr. Harris involved. Matt screen-shared a schematic photo and pointed out the wetlands, as well as work areas. He suggested that Sophie could send EcoTec the 2 schematics that he has sent her for comparison. Matt pointed out that Mr.

Allen is a soil scientist also. Rich B. suggested accepting the quote from EcoTec and recommending them as a 3rd party reviewer. Now staff can follow-up on the quotes and initiate the paperwork for the 53G funding and fund the account. Then the town will hire and pay the 3rd party reviewer, and work with the applicant's agent to verify all the details of the application. Their report will be presented to the Commission for review and continuation of the application.

Motion: Bob P., Second: Rich B.

To approve the use of EcoTec, contingent upon staff confirming that EcoTec is aware of the disturbance that has taken place on the property when they formed the quote.

Roll Call Vote was unanimous to approve. (Jenny not eligible to vote on this.)

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Stefan McSweeny for the construction of a single family home and associated site work at 255 Sunny Hill Road. (DEP 208-1320). (Continued from 1/17/24 to 2/21/24) – Mary stated that the applicant requested to continue to 3/6/24.

Motion: Bob P., Second: Mike L.

To continue the hearing to 3/6/24.

Roll Call Vote was unanimous to approve.

Ken Paton asked to make a comment but the Commissioners noted that he could not do so since neither the applicant nor his agent were present. Ken did state his frustration at attending multiple meetings that the applicant/agent did not show. Bob stated that it is not unusual for hearings to be continued for a long time. He added that the applicant asked to continue until they got a DEP number, which they now have but they are still continuing.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Steve Powell for the construction of a single family home and associated site work at 171 Arbor Street. (DEP 208-1308) (Continued from 2/7/24 to 2/21/24).

Motion: Mike L., Second: Chris S.

To continue the hearing to 3/6/24.

Roll Call Vote was unanimous to approve.

Pursuant to MGL ch 131, s 40 as amended and the Town of Lunenburg Wetlands Protection and Municipal Bylaws a public hearing on a Notice of Intent by Timric Realty Trust for construction of a single family home and septic tank at 20 Kilburn St-Lot 2. (DEP 208-1316) (Continued from 2/7/24 to 2/21/24). Greg Roy (Dillis & Roy), representing the applicant, screen-shared the revised site plan. He noted that this is one of 3 building lots under 20 Kilburn St. Lot 1 was previously approved by the Commission as a negative determination and Lot 3 was approved as an Order of Conditions. Greg stated they submitted a cover letter with the revised plan dated 2/15/24. The cover letter listed the Commission's comments along with their plan revisions. The revisions note: 1.) The construction of the force main through the wetland area will be completed within 7 calendar days and the restoration will be completed in 7 calendar days after the placement of the force main and sleeve. 2.) The contractor will notify the Commission prior to beginning work within the wetland area and submit a construction schedule for all work in that area. 3.) The boulder spacing has been tightened up to 25' apart. 4.) Limit of work noted on plan. 5.) Prior to construction, they will do an inventory of wetland shrubs and following construction, they will replant the same species at a 1 to 1 ratio. Greg added that there are no trees proposed to be removed. In regard to smaller wetland plants, they will be translocating the soil and overseeding with New England wetland mix.

Motion: Chris S., Second: Mike L.

To approve as proposed with a Standard Order of Conditions.

Roll Call Vote was unanimous to approve.

Greg thanked the Commission and apologized for any inconvenience caused to the Commission or public. He also commented that the City of Worcester announces any continued hearings at the beginning of the meetings and in other towns, the office calls to verify attendance for hearings prior to setting the agenda. Mary welcomed the suggestions. Bob and Rich B. noted that they still have to open the hearings and then continue to a date certain. Mary stated it was an excellent idea to move the continued hearings to the beginning of the meeting.

NEW BUSINESS:

Topics unknown 48 hours in advance of meeting – Update on Earth Day – Mary reported she has been talking to Colleen Shapiro (Parks) about doing some type of event. She added that she cannot be as active as last year but welcomed involvement from others.

Town website improvements/changes – Bob sent the Commissioners an email with proposed changes to the website. He noted that the staff have been asking to have more information about the application process added to the website. Bob asked for a vote to authorize him and anyone else interested to meet with Kara who does the website. He wants to discuss restructuring the website and adding information about the forms and application process. Chris S. asked what happened to the website and Bob replied they used to have a landing page that talked about the Commission, as well as its Mission. From there you could go to the Wetlands Applications page or to the Land Use page, where you could find trail maps, land use regulations and grant information. When they went to the new website format, everything is now on one page and there is misinformation on it. Half of the links are missing and Mary noted she could not find the regulations on it. Bob said that Heather told him that they cannot have multiple pages. He noted that there is nothing that states the land use regulations for the properties or stating the properties are maintained by the Commission. Chris noted that they could add links to the blue rectangle on the page. The Commission discussed how to add headers to separate land use from wetlands information. Mary also asked to add information on the Pollinator Habitat.

Motion: Rich B., Second: Mike L.

That Bob Pease be our representative on behalf of the Commission, in talking to the town and the resources managing this webpage and advocate that he be our representative, to make the changes he is proposing.

Roll Call Vote was unanimous to approve.

Discussion of in person meetings- Mary reported that she had reached out to Heidi and Heather regarding the issues with managing the waiting room feature on Zoom. It was suggested by Michael Ray Jeffreys that the Commission should move towards in-person or hybrid meetings. Bob stated that he thought the public would be poorly served if they went to in-person meetings since the meetings are very long for residents to sit through in person. Also, they look at a lot of plans which would not be easy for everyone to see in person and some topics attract large groups which would not fit any room available. With Zoom, every meeting is recorded for all to see and members can participate even when out of town. Rich B. agreed with Bob and noted that there has been greater participation because they are Zoom meetings. He would not be in favor of hybrid meetings unless the technology improves and is in place at the meeting rooms. Chris asked why the state would be able to mandate in-person meetings and Mary replied that they can as part of Open Meeting Law but the current extension for remote meetings is until March 2025. Chris, Mike, and Jenny were not in favor of in person meetings for the reasons previously mentioned. Mary stated she is very comfortable with Zoom and said the town should make it easier for people to volunteer to be on the commissions. She added that Zoom encourages more public participation-even if they are out of town. Rich B. suggested as a rebuttal to the Select Board, that until such time as the facilities are available for virtual/hybrid meetings, they will serve the public better as a virtual board. Bob noted that Heather is working on a handbook for boards and commissions, with a section on remote meetings. He added that at least one member of the Select Board feels strongly that

they should meet in person. Mary questioned who would be responsible for setting up the hybrid meeting and whether that would fall on office staff. Sophie replied that she understood when she was hired that the meetings were remote and that was a factor in accepting the position.

OLD BUSINESS:

Update on Title Searches – Bob stated that he sent everyone the results from the Town Attorney on the 3 title searches. The first is a swamp surrounded by the Cowdrey property which turns out to be 2 properties-one probably owned by the town already and the other needs more probate work done. At a future meeting, Bob will ask for authorization to have the assessor aggregate the parcels; then at a town meeting, have the town put the parcel it owns under the care and control of the Conservation Commission. Also, to take a vote to have the Town Attorney do the probate research to eventually take the other parcel by tax title. The other 2 properties would give access to land locked parcels and come close to the Fairbanks gift. One parcel is known as 0 Turnpike Rd and the Select Board was thinking of putting a retention pond there, to handle some of the stormwater on Flat Hill Road. Bob asked the Commission for authorization to meet with Heather to find out the next steps, and where they are in regard to what the Select Board is doing. Mary questioned if there was a problem with building a retention pond on conservation property and Bob replied he believes they cannot, but if the town builds the retention pond first, then they can turn it over to Conservation. Chris asked if anyone had heard of adverse possession, where if the property has been used for recreation for a period of time, the town may be able take it. Bob noted he had helped someone acquire a small piece of land, but you still have to know who owns it.

Motion: Mary W., Second: Mike L.

To authorize Bob and Chris to talk to the Town Manager and/or Town Attorney on the Commission's behalf.

Roll Call Vote was unanimous to approve.

Update if any on encroachment issues at:

950 Chase Road & 315 Lancaster Ave. – no update

Administrative Determination:

Extension Request Permits:

960 Mass Ave- Sophie noted this was a mistake and she had no documentation.

Northfield & Chase Rd – Sophie stated this is a forest management plan and Bob said this was just a communication to extend the forest management plan for the Raino property.

Lake Shirley OOC extension request- Sophie noted that they had to file a form and she screen-shared the request letter. Rich B. stated that they just needed to send the request letter and that the form states they can only grant a 3 year extension. Mary noted that the letter only asks for a 3 year extension.

Motion: Bob P., Second: Chris S.

To extend the Order of Conditions for 3 years. Roll Call Vote was unanimous to approve.

Rich B. clarified the extension would be to Fall 2027.

Notice of Project Change:

Certificates of Compliance:

176 Elmwood Rd – site walk -no update

Holman St Lots 3 & 4 – no update

ENFORCEMENT:

Violations (Enforcement Actions and Hearings)

780 Northfield Road- culvert – Sophie reported she is working on it but there were a couple things on the form that she was hesitant about. She will send it out to the Commissioners for comment.

205 Sunset (Beers lot)

10 Massachusetts Avenue

1168 Mass Ave Rear

Mary noted there is another property on Hickory Hills Lake and Sophie noticed some violations. She advised them to file an RDA but they have not done so yet. Bob suggested adding **141 Hemlock** to the list of enforcements and violations they are tracking. He noted that they had cut down a bunch of trees without permission because they were no staff in the office, so they will need to file a retroactive RDA.

Emergency Certification:

Open Space and Land Use:

Grants Update (LCC sponsored, award year 2023)- Mary and Bob are waiting to figure out how to raise RFQs for the parking area planning drawings. Bob said he will work on it after the website.

Grants Update (LSR sponsored, award year 2022) -Mary noted they have done several projects and are close to being able to order the ATV, which will allow the Snow Riders to do more projects year around. She asked Polaris for an updated Buy America certificate to be reviewed by the Mass Trails administrator.

Conservation Land Improvement – Bob reported that he went out today to cut the new trail on the Lane property where it dead ends at someone's property and it now joins up with the other trails.

Hollis Road Residence:

Update – Maintenance Work – Mike L. spoke to Chris Ruth and reported Nick Morrison is still on the lookout for some nice used kitchen cabinets for the house. Chris asked for permission to work on a budget number for upgrading the cabinets, counters, and associated plumbing/electrical, so he can present it to the Commission. That way he could have an amount to add to the cabinets and will keep it under the \$10K limit. This year they are hoping to finish up the house painting project.

Committee Reports – Any Update

Open Space Committee – Mary reported they met with the town for a site walk at the Lake Shirley property that they recommended to be conveyed to Parks. She noted that the parcel at 0 Reservoir Road had an existing encroachment, where a resident had paved adjacent to Stump Cove on the town property. The Selectmen were surprised to see the encroachment and the resident still had a lot of possessions parked there.

Stormwater – Jenny will attend her first meeting on 2/22.

Public Comment: Chris screen-shared a GIS map, noting 781R Page St and said it is listed for sale on Redfin for \$49K. The Commission discussed the ownership of the parcels in that area and possibilities of access to other lots.

Mary noted that Ashleigh has put in her 2 week notice and her last day will be 2/29/24. She wished Ashleigh all the best and thanked her for holding things together while they looked for an administrator.

Motion: Mike L., Second: Chris S.

To Adjourn at 11:03 pm.

Roll Call Vote was unanimous to approve.

Respectfully submitted,

Jane L. Ranley
Minutes Clerk

