

BELLINGHAM PLANNING BOARD

P.O. BOX 43

BELLINGHAM, MASSACHUSETTS 02019

ANNE M. MORSE, CHAIRMAN
WILLIAM M. WOZNIAK, VICE CHAIRMAN
ROLAND R. LAPRADE
EDWARD T. MOORE
PAUL CHUPA

MINUTES OF REGULAR MEETING

JANUARY 9, 1997

Meeting commenced at 7:03 p.m. All members were present. Associate Member Richard Dill was also present.

DISCUSSION WITH BUILDING INSPECTOR RE: GOURMET MARKET

Stuart LeClair, Building Inspector is here for a store which is going in at the former Maples Restaurant location. He doesn't think it needs a site plan review but is here to see if the Board thinks it does. The owner Steve Kent is putting in a store, gourmet market.

RL asks if they are changing the footprint.

St. LeClair responds negatively.

Steve Kent explains they will have special meats, deli, produce and gourmet specialty foods. It will be like a small bread and circus and will have a minimal amount of 15 to 20 chairs and will be designed as a gourmet market.

EM notes that it was never opened as a restaurant. Before that it was Clark's office and a dentist office.

AM asks if there will be any substantial change to the lighting.

S. Kent responds there will be no change to the lighting. They will put in two handicapped parking spaces but only need one. He wants to guide the traffic one way for safety.

EM asks where the parking is.

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S. LeClair responds it is all in the back. There are very few in the front - maybe a dozen.

S. Kent indicates there will be a rear entrance as well as a front entrance. Instead of looking like a convenience store, he wants to make it look like a country neighborhood store. He may put in a garage door which is an option to bring produce to the front. He is putting in wooden panels and wooden shutters. The front of the building is all wood. He will have a hand-carved green wood sign in the same colors as the welcome to Bellingham sign. He will have smaller signs for gourmet coffee and bakery produce which covers the brick.

Ron Alcorn, the designer of the signs, states from the audience, that they are cut corner signs in a rustic look to go with the Common.

EM asks how they tell where the entrance is from 126 in relation to the car wash.

WW notes the parking lot is not on the plan.

S. Kent points out the rear entrance.

EM states there are 4 - 5 entrances to get in and out. The building is not an issue. There are two entrances at the car wash and two at Dairy Queen. The two entrances at the restaurant and the car wash were cut in.

S. Kent will have only two ways with one way in and one way out. The Dairy Queen parking lot is separate. The in is the entrance to the car wash.

EM points out that entrance was put there at a later time.

Bruce Lord, Esquire, from the audience, believes the building did have a site plan.

S. Kent states the Realtor did show him a site plan.

PC notes there is a separate parking lot. The problem is the curb cut for the separate entrances.

S. Kent points out that Michael Perry owns the property. It is a 3 parcel lot with the car wash which is separate, this building and the mall.

EM asks how this is different from McDonald's. The Town has a Bylaw about entrances and the distance between them.

WW thinks it was probably one parcel at one time and was separated after the fact.

RL asks when they will look at the parking.

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AM thinks the question is if this person is required to do that.

B. Lord notes that most of the stores have no uses at this time. There is a huge amount of extra parking. This gentleman is first. He doesn't control the whole plaza. This is an appropriate time to allow him to get his business going. The Board could send a letter to the owner indicating that he should come in to discuss the whole parcel.

WW asks about the curb cuts in the front of Mr. Kent's place.

S. Kent will go get the site plan and return later this evening.

OLD COLONIAL PLACE DEVELOPMENT PLAN REVIEW

Clerk reads letter from Donald Nielson, Guerriere & Halnon, dated January 7, 1997, requesting a continuance of the review meeting to January 23, 1997 since the owner, Mr. Broidy, cannot attend the January 9, 1997 meeting.

EM moves to continue Old Colonial Place Development Plan Review to January 23, 1997 at 7:00 p.m. RL seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

81-P SUBMISSION, HARTFORD AVENUE

Bob Lussier presents an 81-P, Form A for Hartford Avenue. The house is already built on an approved subdivision. There were two different subdivisions, one was filed before the other. He has the required frontage and square footage.

EM indicates it doesn't meet the lot shape factor.

Clerk notes this is a parcel which she received a phone call from an Attorney Stanley Brooks. Apparently, there were two 81-Ps but the one which was done first was filed after the second one. Clerk has more extensive notes on this at home. P. Herr is aware of the situation because it was discussed with him and he spoke with Attorney Brooks also.

AM would like to refer it to Town Counsel or P. Herr. The Board can't talk about this now without knowing all the facts.

EM refers to the front or side setback. They can't get a special permit for a backlot unless he owns the front lot so he may need a variance.

B. Lussier explains that when he bought the lot, his lawyer did a title search and found it was fine. Now a bank lawyer found problems with the plans which were filed later.

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EM will provide a copy of the 81-P plan to P. Herr at the January 13, 1997 meeting Re: Town streets policy at 7:00 p.m. at the library. Mr. Lussier to return to our next meeting on January 23, 1997 at 7:00 p.m.

PINECREST DEFINITIVE SUBDIVISION TO BE CONTINUED

Clerk reads letter from Attorney John D. Powers on behalf of Mr. Gagnon, dated January 9, 1997, wherein he requests an extension of the time for approval of the amended plan and request for waivers. As a result of conversation with Town Counsel, they are preparing a plan which will allow them to delineate the areas that will show the drainage easements and buffer zone which are to be preserved in their natural state. They are also discussing with Attorney Ambler the specific waivers they are requesting. He requests the hearing be continued for thirty days, time which is necessary to prepare the plan and review any restrictions that need to be imposed on the property with Attorney Ambler.

Roger Gagnon, applicant, presents the \$325 fee and is given a receipt for the fee.

EM moves to continued the Pinecrest Definitive Subdivision to February 13, 1997 at 7:00 p.m. RL seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

Carol Reckertt, abutter, asks if they have delegated who will own the middle area.

R. Gagnon responds that is part of the plan they are drawing up now.

AM notes it will be reviewed by Town Counsel who will be away in January.

R. Gagnon presents an extension request for the timeframe for action to February 27, 1997.

EM moves to approve the extension to February 27, 1997. RL seconds. Unanimous vote of 5.

CONTINUED DISCUSSION RE: GOURMET MARKET

S. Kent returns to the meeting with the site plan which members review.

RL doesn't know what the parking is since they are changing the use.

S. Kent notes the restaurant required more parking.

EM agrees but it was never approved as a restaurant. The Board wants to make him aware that he may lose the entrance and have to use the main entrance.

S. Kent can't have people going all the way around. It defeats of the purpose of him renting the

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front building.

B. Lord refers to Section 1431 (b) which refers to alteration of a parking facility. If they are altering it would require a change.

WW notes there is an illegal curb cut.

B. Lord again suggests sending a letter to the landowner. There is no question the curb cut is illegal. They could put him on notice that he may lose the curb cut.

EM believes the one closest to the car wash is the bad one.

AM indicates that a lot was incorrectly done on this parcel.

S. Kent hopes he doesn't have to pay the consequences.

PC asks when opening day is.

S. Kent responds it is the third week in February 1997.

PC states the Board is not going to close the entrance.

S. Kent did not know the curb cut was illegally put in.

EM believes it would be for the safety of his customers to use the main entrance.

S. Kent explains that when he leased, the property was zoned restaurant/retail use. That's how the owner/lawyer advertised it as restaurant/retail. He was interested in another parcel but chose this one. If he had known about these problems, he wouldn't have leased this property.

AM doesn't think the Board should be holding Mr. Kent up. We will not delay the opening. The Board wants him to know we will deal with it with the owner of the property but it may effect him down the road. That would be a personal matter between Mr. Kent and the owner of the property.

S. Kent is nervous about going forward now and is worried about losing the other entrance. He leased a building with an entrance/exit for retail use.

WW indicates that is between Mr. Kent and his landlord.

S. Kent waited for a new owner and until Clark's name was off the books. He wanted to make sure he did everything right.

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AM suggests the owner come in to talk with the Board.

RL states the site doesn't need a site plan review but the whole thing does need some kind of review.

S. Kent wouldn't have chosen in Bellingham if he can't have the in and out.

EM reviews the architectural drawings and states the building looks wonderful.

RL doesn't believe it needs a site plan review because they are not altering the parking.

S. Kent saw an old plan which is not the same as what is there now since it is 17 years old and doesn't show the vacuums or the parking.

EM advises Building Inspector Stuart LeClair that this site doesn't need a site plan review. There is no problem with the sign other than that it may need a variance.

S. Kent notes that Parsons Realty was hired by Tommy Clark. Century 21, Dave Consigli is the Realtor now for the new owner.

EM wants to see the original approved site plan to see when the entrances were added.

Clerk will search old Planning Board files to find if there is an old site plan for this parcel.

EM asks what they can do to add an entrance.

S. LeClair states that 126 is a town numbered highway.

B. Lord points out he can go to the Highway Dept. but would have to go to the Selectmen who approve the curb cuts.

WW indicates the car wash entrance was put in when it changed hands. The first curb cut was put in at night. There is also one to the left of his building on the plan. Both curb cuts in the front of his building were put in at night.

B. Lord reports the Selectmen control the curb cuts. They don't require a site plan review.

EM disagrees - it does if it alters parking. There is no problem with occupancy but there are some potential problems with the site.

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SPRING MEADOW DEFINITIVE SUBDIVISION TO BE CONTINUED

Greg Rondeau, applicant, acknowledges this was supposed to be taken care of for this meeting. He had told the Board at the last meeting that two weeks was sufficient. His plans were revised and sent to Amory yesterday. P. Herr has been sent a copy of the plans.

EM moves to continue Spring Meadow Definitive Subdivision to February 13, 1997 at 7:30 p.m. PC seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

Clerk notes that Denis Fraine told Amory not to complete further review until the outstanding Amory bill has been paid. G. Rondeau spoke with D. Fraine and found out he had the wrong address. He will call Tom Sexton, Amory, directly to get a copy of the bill.

Extension for the timeframe is already in place to March 13, 1997.

HIXON FARM ESTATES BOND POSTING

Bill Eagon, Fidelity Financial, purchased the property from Robert Stockton. Yvonne Nadeau did the road. He bought Road B. Roger Gagnon will build the houses. Phase 1 includes lots 8, 9, 10, 11, 12, 13, 14. He already exercised an option to purchase the remaining 7 lots which road will be built in March 1997. He intends to loop the road back in March. The looping was not there with the original bond. He met with DPW Director D. DiMartino who knows they will come back in the spring for the looping. Mr. Eagon suggests they be allowed to obtain building permits for 5 out of 7 lots and not do anything until the spring. He has an agreement with Mr. Stockton. Road B is built. The water loop is the problem. He proposes a bond of \$26,000 to finish up without looping the water. D. DiMartino agreed it would be ideal to loop in the spring. 7 lots on the existing road are finished. He can build 5 and not do anything on the remaining 2 until he is finished.

WW notes that lot 10 needs the easement for water.

B. Eagon has people to buy lot 10.

AM points out that the Board has never allowed anyone to use lots as security.

EM agrees it doesn't work. The Board has to make sure there is enough money to cover the lots.

B. Eagon wants to build the houses. He wants to use two lots for collateral for a \$30,000 job.

AM agrees it is not unreasonable but it is not allowed. Town Counsel would recommend against it.

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B. Eagon wishes he had known about the looping to Road A. What's left to be done is worth \$29,000.

WW suggests he increase the bond and put up another \$37,000 to finish. He could sell all the lots right now and wouldn't have to hold the lots.

AM suggests they could phase the road but the problem is if lot 11 is done.

EM believes the bond has to cover the cul-de-sac.

WW asks how much the bond is to cover Road B?

B. Eagon responds it is \$29,336.

Y. Nadeau states the \$30,000 is for the water.

EM explains that only lots which are bonded are to be released. He refers to DPW Director's letter, dated December 10, 1996 that it not be deadended for more than 4 - 5 lots. They can't do the whole road. It could end up that it might never get done. They could put up the \$29,000 and only take 4 - 5 lots. The loop keeps it from being deadended.

WW states it also assures the quality of the water.

B. Eagon points out that D. DiMartino agreed it is deterioration of water quality over time.

EM suggests Mr. Eagon come in with a document saying he will not build more.

B. Eagon agrees to preparing a document which agrees the work will be done before occupancy permits.

EM suggests Mr. Eagon have his attorney draw up the document and have Town Counsel agree to it.

WW suggests he put the pipe in dry.

Y. Nadeau could have put the line in one month ago but was told he didn't have to.

AM agrees they need to give the Board something in writing. One lot is not adequate assurance to the Board.

B. Eagon reviews that the Board wants a letter relative to lot 10, a \$29,000 bond and a guarantee that they lots are not going anywhere.

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Clerk requests a copy of the signed covenant which was recorded at the Registry of Deeds. Mr. Eagon will provide a copy.

Discussion continued to January 23, 1997 at 7:55 p.m.

BALD HILL ESTATES BOND REDUCTION REQUEST

Bruce Lord, Esquire, on behalf of Burton Rhodes, explains they are seeking reduction of the bond for Bald Hill Estates. Donald DiMartino was looking at the wrong plan. The correct plan is dated April 14, 1988 and superseded the approved Definitive Subdivision plan. At some point after this was approved, an easement for the water line looped in was provided. The builder and neighbors came in to the Planning Board. They were told it was waived. He provides 3 letters from neighbors attesting to the waiver. The water line was supposed to be installed prior to the issuance of building permits but it was waived. Mr. Rhodes would like to finish off the road which will cost an additional \$18,000 to \$20,000.

AM is concerned about the issue of water quality.

Burt Rhodes believes the waiver should be in the minutes of the Board.

EM remembers waiving the second means of egress but can't imagine why the Board would have waived the water looping.

B. Rhodes wouldn't have turned the land over to the people since there would have been no benefit for him to do it.

B. Lord notes the only issue is the water line.

AM is concerned about the \$1,000 bond amount indicated for topsoil and seeding since it doesn't seem appropriate.

B. Rhodes explains that the Town of Bellingham DPW had the wrong plan and went in and told his workers to put the sidewalk on the wrong side when he was in Canada. The people put their sprinkler systems in on his land.

AM notes the sidewalks are 18" higher in Mr. Farese's front yard. Gravel which was put down on the wrong side for sidewalks can't be left like that. It all has to be taken out, loamed and seeded.

B. Lord refers to D. DiMartino's recommendation of a \$33,000 bond.

EM agrees so long as the \$33,000 includes enough to complete the water loop.

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Rick Herrick, property owner presents photos of the properties of residents front yards.

EM understands the problem was the plans with the town. There were two approved subdivision. The first was unbuildable.

AM asks why the town was building the sidewalk.

B. Lord indicates they are not. D. DiMartino had the wrong plan which he obtained from Clerk. He sent the workers to the other side.

AM agrees that the neighbors have big concerns.

WW asks if the bond amount segregated the water main amount.

B. Lord responds negatively, it is not designated and includes the water main amount.

AM states there are a lot of issues there. Can they slope the property somehow?

WW moves to reduce the bond to \$33,170.58 per D. DiMartino's request. RL seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC). Clerk to send letter to reduce bond to Town Treasurer. The remaining bond is not to be released until it is all fixed.

R. Herrick refers to the drainage issue.

CENTRE RUN PRELIMINARY SUBDIVISION

Neil Roche, Esquire, on behalf of applicant, Tom DiPlacido, presents the \$250 preliminary fee. He has represented Mr. DiPlacido who is a former member of the Wrentham Planning Board for the past 5 years. Mr. DiPlacido built a subdivision in Franklin entitled Acorn Woods for 60 lots which is 50% complete. He is one of the better developers. He has an agreement to purchase the 16 acre property. They received P. Herr's comments and D. DiMartino's comments. Don Nielson, Guerriere & Halnon, will present the plan.

D. Nielson points out the locus map at the intersection of Center Street and Pulaski Blvd. The middle of the site has 2 lots which were cleared of earth and stripped of trees. They are talking about the land which loops around the two homes. It is downgrade at the crest of the hill and isolated wetland. The site is divided at the zone line. It is suburban at Pulaski Blvd. And agricultural 40/80,000 square foot. Two lots in the front are 40,000. The rest is 80,000 with 200 frontage. All around are 80,000 square foot lots. The site has a lot of terrain changes with grade elevation at 215 and terminates at the cul-de-sac. They will have a detention pond with a drainage easement. The water line is shown on the plan. Comments to loop were received from D. DiMartino. Elevation is up and down at 215 - 240 - 220 - 210 with a lot of hills and kettle

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holes. They want to try to concentrate the drainage in one pond instead of 2 - 3 ponds with a catch basin drainage manhole system. There is a prominent gas easement on the site with two big pipes on lot 6. It is so close to the surface that it is mounded and very sensitive.

EM asks how they can get in and dig cellar holes?

D. Nielson responds that is something they have to contend with.

T. DiPlacido went with an excavator for observation. A New England Gas Transmission employee was servicing the line. One gas line is high pressure and is pretty old at 40 - 50 years old. The gas employee was very concerned about trucks driving over the line even with street pads. They are trying to stay away from it.

EM thinks that lot 6 may be unbuildable.

N. Roche believes that comes up in P. Herr's comments.

Brief discussion Re: Rivers Act and what it encompasses.

N. Roche states the River's Act doesn't contend on this site.

D. Nielson points out they are 1,200' from the river. The Rivers Act has to do with rivers and banks. The tributaries function different from the rivers. It has to do with rivers which flow all year round and can't dry up. He assumes the Peters River flows all year round. If it dries up for one day, it doesn't come under the Rivers Act. Peters River is 1,200' right of the site. The Rivers Act covers rivers 200' from the bank, not the wetlands.

EM asks if they will loop the road and the water line.

D. Nielson can try to loop the water. He thinks he can make the lot shape factor work. Looping the road would require another 400' of road with driving over the gas easement.

EM asks if they can put a road on a gas easement?

D. Nielson replies it can be done if they bring the road up 4 - 5' and do special things to it. Lot 7 and 8 has earth removal which is existing. Because of the grades and bringing the water down 10' - 20' they will be asking for a waiver beyond 7' or they will have to put in a couple more detention ponds.

EM states the Board will weigh that against maintenance and fewer detention ponds.

D. Nielson states it goes up hill and back down so they will have a deep drain which goes down.

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EM asks if granting the waiver would eliminate that.

D. Nielson responds affirmatively. They are dedicated to the water loop but not the street.

EM would like to look at the intersection and how close they are to Center Street.

D. Nielson notes they have another isolated wetland low point there.

WW asks where the pipeline comes out at Pulaski Blvd.

D. Nielson responds it is to the right of the green house between the ranch and the green home. A road would have to come up 4 - 5 feet because of the gas easement.

T. DiPlacido explains the site is heavily wooded with large pines. A roadway would devastate the woodlands which look nicer without a road going through them.

EM thinks that if they go out to Center Street, they wouldn't have to put a cul-de-sac in and would clear the gas line.

D. Nielson states they would lose lot 5 if they went that way because it won't meet the Board's Regulations.

WW suggests they could come through and go to Center Street by coming across.

EM reads DPW Director Donald DiMartino's letter, dated December 26, 1996 wherein he states that hydrants must be no more than 500 feet apart and the water main should be looped back to Pulaski Blvd.

T. DiPlacido would rather put in another detention pond instead of another 500' of road.

EM indicates that there are 6 lots out front which are 81-P lots.

T. DiPlacido states there is an existing house on one. There are 4 brothers and sisters who own this land. Most of it is owned by all 4 but one parcel is owned by one sister who has a different interest.

EM indicates the two front lots should have their driveway on the new street and not on Pulaski Blvd. Frontage can be on Pulaski but the driveway should go to the side street. The Board did the same thing on Rawson Farm.

T. DiPlacido has no problem with that.

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WW asks about lot 4 going out to Muron Street.

D. Nielson notes there is an old gravel pit back there.

WW asks if they have looked at the land there?

T. DiPlacido walked the perimeter with the owner of the land. All houses surround the property. Rhodes owns on the side and there are houses on Center Street.

D. Nielson didn't bring the topo maps to show the houses. He has the Assessor's map.

EM suggests they explore the possibility of sewerage it.

D. Nielson replies there is too much grade difference. They have a perc rate of 2 minutes per inch. Sewer is too far away.

T. DiPlacido would tie into the sewer if he could economically.

D. Nielson indicates that septic systems are not a big issue for this site. Mr. DiPlacido does his own construction.

EM asks how they will do the water loop.

T. DiPlacido will talk to the Riquer's to see if he can run it parallel with the gas line. This is an 8 lot subdivision with 6 lots which front with Form A's. There will be 1300 feet of road with the 8 lots with a 200' frontage loop. He wouldn't connect the road because he would lose a lot and economically it wouldn't work.

EM thinks since they are digging the water line, they could put a road in right on top of it.

PC could understand doing that if this was a big subdivision.

AM asks about the visibility for site distance.

D. Nielson responds it is 350' one way and 750' the other way. There is a hill at Pulaski in front of Locust.

WW thinks there would be a problem with the site distance if the road connected there.

D. Nielson agrees at Pulaski Blvd., it would be just over the crest. He asks for direction. They can do the water loop but if the Board mandates the road connects, this subdivision won't happen. They would like to leave the road as it is shown.

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EM points out this is not just 8 lots. It is really 14 lots. The Planning Board Consultant recommends the Board not take action tonight. He moves to continued to January 23, 1997 at 9:30 p.m. RL seconds. Unanimous vote of 5 (AM, WW, RL, EM and PC).

MINUTES ACCEPTANCE

RL moves to accept the minutes of November 21, 1996. PC seconds. Unanimous vote of 5.

EM will read the December 19, 1996 minutes since RL was absent.

GENERAL BUSINESS

At the Board's request, Clerk phoned Milford Town Counsel Gerry Moody who is handling the Deer Run litigation on behalf of the Town. Attorney Moody forwarded a letter advising that the Yasick vs. Planning Board of Bellingham case has been dismissed after he filed a Motion to Dismiss. Judgement of Dismissal entered on December 23, 1996, a copy of which he enclosed. The Plaintiffs have 30 days to file an appeal.

Clerk distributed copies of the Rizzo Associates Traffic Report relative to the Charles River Center which is scheduled for the January 23, 1997 meeting. Board received the Final Environmental Impact Report for the Charles River Center. Clerk to request two additional copies - one for Town Clerk and one to be placed on file at the Library for the public's preview. P. Herr was also sent a copy.

WW reviews Notice of Request for a Building Permit from the Executive Office of Transportation and Construction for the Charles River Center with accompanying plans which delineate the railroad location. There is a response sheet which must be returned by January 20, 1997 if the town sees any potential transportation use for the parcel. Clerk to fax paperwork to P. Herr tomorrow and EM will provide P. Herr with the two plans at the January 13, 1997 meeting.

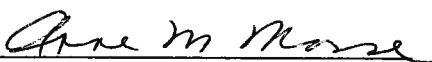
Members sign Clerk's pay voucher and invoice for office expense reimbursements and telephone reimbursement for \$47.33.

Board received a response from Attorney Ambler relative to the Pine Meadow bond indicating that the bond is an asset in the bankruptcy of Mr. DaPrato, the developer and as a result there is a stay on any action that the Town may take against the bond. Clerk to forward a copy of Attorney Ambler's letter to Jeff Faneuff, resident of Brittany Road and advise him we will keep him apprised.

Meeting adjourned at 10:25 p.m.

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Anne M. Morse, Chairman


William M. Wozniak, Vice Chairman


Roland R. LaPrade


Edward T. Moore


Paul Chupa