

STURBRIDGE CONSERVATION COMMISSION (SCC)

Minutes for Thursday December 1, 2005

MEMBERS PRESENT 7:00 PM

Board Members: D. Barnicle (Chair), E. Goodwin, D. Grehl, and F. Damiano
K. Kippenberger (formerly K. Doyle) for minutes

7:02 PM CPA Update

Provided by E. Goodwin and included discussion of the Heins Farm on the Special Town Meeting Warrant

7:04 PM Zoning Committee Update

F. Damiano not present at last Zoning Committee Meeting, he is to receive the meeting minutes.

7:05 PM Site Walk Update

K. Kippenberger states that she visited the Preserve, 37 South Shore and Empire Village yesterday in the rain. The Preserve had final pavement on Audubon Way, 37 South Shore swale had water in it but entrance was clogged with leaves and the beaver dam at 444 Main Street was being built back up—K. Kippenberger to follow up.

7:08 PM WALK INS

B. Babineau present for 165 Charlton Road—Beaver Dam Removal

- K. Doyle states that the Board of Health issued a Beaver Dam Removal Emergency permit and B. Babineau contacted the Conservation Office.
- B. Babineau stated that he breached and removed 5 to 6 dams by hand on 11/10/05 and 11/11/05. He checks the property every day for beaver activity. He also had 11 beavers trapped and removed by a professional. B. Babineau states that he has contacted a Mass highway Engineer to help with the design of flow devices. K. Kippenberger and B. Babineau go over a previous project plan prepared for the property (DEP File No. 300-554)
- F. Damiano states that removing 6 beaver dams could be problematic—does not want the wetland to be drained.
- B. Babineau states that the water level rose so high that it flowed across R. Penny's business driveway and onto Route 20. Did not want Route 20 to be flooded or ice up—safety concern. B. Babineau stated that he released the dams very slowly, 10-12 inches at a time. D. Barnicle questioned what the stream flow was like during the dam removal. B. Babineau stated that the flow in the stream is good and that a beaver deceiver may need to be installed. Holes can be cut in the pipe so that the pipe does not lift up and out of the stream.
- E. Goodwin states that he voted against the banning of trapping of beavers. He is concerned with the wetlands—does not want the wetland to be impacted. B. Babineau states that the beaver activity is a recent occurrence and in September the stream was not flowing—completely dry.
- E. Goodwin states that no further action on the property should occur. No removal of any more dams, no clearing of vegetation/soil and a beaver deceiver may have to be installed. K. Kippenberger states that an Emergency permit needs to be issued by the SCC for the installation of a beaver deceiver.
- D. Barnicle states that he would like to take a site walk with B. Babineau—show the SCC the locations of the dams. Other SCC members agree.
- B. Babineau states that the dam debris that he removed is stock piled next to the stream area—he pulled out sticks, mud and stones. F. Damiano states that no other clearing activity is allowed.
- SCC decides to conduct a site visit this Sunday 12/4/05 at 8:00AM.

7:28 PM DISCUSSION

Tabled and included:

- Discussion of Zoning and Planning Board Agendas. D. Barnicle states it is a wonderful idea. K. Kippenberger states that all of the Department Heads are starting to meet on a regular basis (monthly) to discuss on going projects etc. It was decided that emailing results of the public hearings would be a great communication procedure. K. Kippenberger states that the permitting software that is on the Special Town Meeting Warrant will also be a great benefit to helping the Departments communicate. Other SCC Members requested that K. Kippenberger forward the (other Boards) agenda results around to each SCC member (not just D. Barnicle). K. Kippenberger agrees.

7:35 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-675. 124 Lane 10, Septic System repair and reconstruction. Green Hill Engineering representing Doug & Tom Vizard

D. Barnicle re-opens the public hearing, M. Farrell from Green Hill Engineering and D. and T. Vizard are present.

SCC Comments—

- K. Kippenberger states that since last hearing the SCC visited the property on 10/22/05. The SCC had no outstanding issues with the project. M. Farrell submitted revised plans showing the well and the cess pool to be crushed and filled.
- SCC Members discuss the cess pool removal/decommissioning process. D. Grehl states that no other disturbance and/or tree removal shall occur as a result of the cess pool decommissioning.
- D. Barnicle states that decommissioning the cess pool is up to the Board of Health—there are regulations and standards.
- K. Kippenberger questions the well installation and the tree clearing associated with that.

Applicant Comments—

- M. Farrell states that the cess pool will be decommissioned within the Board of Health regulations and the cess will be pumped and filled with sand.
- M. Farrell states that absolute minimal tree clearing will occur with the well installation.
- Property owners confirm that as little as possible trees will be taken down.

SCC Comments—

- SCC members discuss the tree removal and the area of the proposed septic system—wood chips to be put down for stabilization, grass will probably not take in that area (heavily wooded with pine—no herbaceous ground cover/grass exists)
- K. Kippenberger states that the project has clearance from Natural Heritage for endangered species (to be reference in the Order of Conditions)
- E. Goodwin makes a motion to approve the project with a condition to limit the tree clearing and to use stabilization measures. D. Barnicle seconds the motion, all in favor: 4/0.

Hearing closed and an Order of Conditions approving the project is to be issued. Applicant agrees.

7:45 PM – PUBLIC HEARING:

NOI CONTINUED: DEP 300-674. 120 Lane 10, Septic System repair and reconstruction. Green Hill Engineering representing Doug & Annyta Vizard

D. Barnicle re-opens the public hearing, M. Farrell from Green Hill Engineering and D. and T. Vizard are present.

SCC Comments-

- K. Kippenberger states that since last hearing the SCC visited the property on 10/22/05. The SCC has a couple of outstanding issues—concern for the steep slope on the property and if there was a possibility for construction phasing.
- D. Grehl states that she is concerned that the exposed soils would enter the Lake during construction.
- E. Goodwin questions the type of construction equipment to be used on the slope

Applicant Comments-

- M. Farrell states that installation of the sewer line would be quick construction. A small sized excavator would be used, the trench would be dug, the pipe would be laid in the trench and the trench would be immediately backfilled.

SCC Comments-

- D. Barnicle questions the depth of the trench and if a “ditch-witch” could be used
- E. Goodwin questions how the work area will be stabilized after installation.

Applicant Comments-

- M. Farrell states that the depth of the trench will be 2 to 3 feet deep. A ditch-witch would most likely not be stable enough to use on the slope
- M. Farrell states that for stabilization, the trench would be backfilled immediately and woodchips can be used over the exposed soil. Haybale check dams can be installed to slow down any water coming down the slope

SCC Comments-

- D. Grehl questions how many days worth of work
- E. Goodwin states that he would like one of the Conditions to be that after each working day, the area is stabilized
- D. Grehl states that the trench should be installed within the natural valley of the property—need to minimize the tree clearing

Applicant Comments-

- D. Vizard states that there are additional tree that need to come down in the area of the parking—near the septic reserve area

SCC Comments-

- SCC members discuss the additional trees to be cleared
- K. Kippenberger states that the Applicant should mark all areas to be cleared on the plan to make it easier for the Certificate of Compliance
- D. Grehl questions if stumping will occur
- D. Grehl states that the trees should be marked and the SCC can make note of the trees during the erosion control check walk
- SCC discuss the additional trees to be cleared—Applicant states that there is an area of about 20 black birch to be cleared in the area of the septic system
- F. Damiano makes a motion to approve the project with special Conditions: 1. No stumping of extra cleared trees, 2. flag trees to be removed and 3. work area should be stabilized after each working day. D. Barnicle seconds the motion, All in favor: 4/0.

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Hearing closed and an Order of Conditions approving the project is to be issued. Applicant agrees.

D. Vizard questions the SCC what their thoughts are on re-construction of the house. SCC members show concern for the slopes and staying within the same footprint.

8:09 PM – PUBLIC HEARING

NOI CONTINUED: DEP 300-677. 246 Fiske Hill Road—two Single Family Houses. Para Land Surveying representing the property owners (D. Cournoyer, L. George and M. George)

D. Barnicle re-opens the public hearing, R. Para from Para Land Surveying Engineering and C. Sylvestri (abutter) and A. Zumulous (abutter) present.

SCC Comments—

- K. Kippenberger summarizes the project to the SCC. K. Kippenberger and D. Grehl visited the site on 11/30/05 with R. Para. K. Kippenberger states that the property has areas of surface hydrology that is not flagged as wetland. The property has old cart paths/logging roads and the ruts in the roads channelize the groundwater from the high point of the property to the lower area. K. Kippenberger recommends that additional culverts/swales be added to the plan in the areas of hydrology.
- K. Kippenberger states that the Riverfront conservation area previously approved by the SCC is not part of this application. K. Kippenberger states that at the previous hearing for this project the SCC requested clearer plans to be submitted.
- E. Goodwin questions if the conservation easement could be signed off on
- F. Damiano questions if the plans are clearer?
- E. Goodwin states that the wetlands need to be protected, the SCC denied the project before because the wetlands were not protected.

Applicant Comments-

- R. Para states that there are two lots for two houses, a 2 ½ acre lot and a 5 acre lot. R. Para discusses proposed land subdivision and access of the property off Route 20 and Fiske Hill.
- R. Para states that a curb cut was issued in 2002 for 83 feet of frontage off Route 20

SCC Comments-

- SCC discuss the access to the property, E. Goodwin does not recall the curb cut approval
- K. Kippenberger reviews the phasing of the project—three phases for construction, the third phase pending Zoning approval or re-purchasing the land from Mass Highway
- K. Kippenberger questions gravel verses paved driveway
- E. Goodwin states that the plan is incomplete, he cannot approve a phased project where construction may or may not happen. Cannot approve a “What If” plan
- D. Grehl questions why not get Zoning approval first
- E. Goodwin questions if this is an ANR plan?
- F. Damiano states that the project must be a net benefit to the wetland
- D. Barnicle states that he moves to postpone the hearing to January. SCC members are not satisfied with the plan. F. Damiano seconds the motion
- D. Barnicle states that the plan must be clearer, elevations and contours. He recommends that the Applicant feel out the Zoning Board, the project has already been rejected.
- F. Damiano states that he needs to see in detail how the wetlands will benefit.
- All in favor of continuing the hearing to January: 4/0

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- Discussion: E. Goodwin states he will not approve phased plans. The Conservation easement documents must be brought to the SCC. R. Para states that if only one house is allowed, then the Conservation Easement will not happen.

Hearing continued to 1/19/06 at 7:50 pm pending additional information and clearer plans. Applicant agrees.

8:40 PM – PUBLIC HEARING

ANRAD CONTINUED: DEP 300-663. 271 Cedar Street, wetland delineation approval. Gale Associates, Inc. representing Khan Realty Trust

D. Barnicle re-opens the public hearing, representative from Gale Associates and Khan Realty present.

SCC Comments—

- K. Kippenberger summarizes for the SCC the outstanding issues. Revised plans and additional requested information was submitted in a timely manner. K. Kippenberger recommends approving the wetland delineation as revised with the following Conditions: 1. Certify Vernal Pools in spring 2006 2. Stream crossing is brought to crossing standards during Notice of Intent, 3. wetland restoration may need to be evaluated at wetland crossing 4. Bank of perennial stream is delineation and Riverfront Area is accurate for Notice of Intent
- D. Barnicle states that the crossing is not stable.
- E. Goodwin states that if the crossing is not to be used in the Notice of Intent then it should be restored completely. E. Goodwin states that the SCC allowed only one wetland crossing on the property—not two
- SCC discuss the perennial stream crossing
- SCC discuss the vernal pool protection, members of the SCC want to be notified of the vernal pool investigation/certification field visits

Applicant Comments—

- Khan Realty representatives states that they want to work with the SCC and will listen to their concerns

SCC Comments—

- F. Damiano makes a motion that the SCC approves the Notice of Resource Delineation with Conditions. D. Grehl seconds the motion. All in favor: 4/0.

Hearing closed, Notice of Resource Area Delineation to be issued with conditions as discussed. Applicant agrees.

8:55 PM – PUBLIC HEARING

4 RDA CONTINUED: SCC 05-29 through SCC 05-32 and 2 NOIs CONTINUED: DEP 300-672 and 300-673 at 209 Main Street (Single Family Houses on Lots 1 through 6). Jalbert Engineering representing Rom's Restaurant

D. Barnicle re-opens the public hearing, L. Jalbert and D. Roberts from Jalbert Engineering, Inc and abutters are present (C. Blanchard and see Sign In Sheet).

SCC Comments—

- K. Kippenberger gives a quick summary of the project and what has occurred since the last hearing: a Notice of Intent was filed for the Utility easement to be constructed on Lots 3, 4, 5 and 6 to service Lots 4, 5, and 6. Stormwater documentation and revised plans were submitted to the SCC Office. SCC Members

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visited the property and noted that an intermittent stream was on Lot 1. K. Kippenberger walked the property on 10/26/05 with D. Roberts and she believes that there is a drainage easement maintained by the Town on Lot 1. Water is coming from a catch basin and is not a natural stream. There are defined banks near the road, but then the water dissipates into the woods. K. Kippenberger thinks the area should be protected as a drainage easement, the water path cannot be disturbed, but is not a stream.

Lot 1 Discussion

Applicant Comments —

- D. Roberts states that the grading has been minimized and that the work is close to the roadway. The foundation drains day light in the rear of the property in order to meet the proper elevations.
- L. Jalbert states that the drainage is channelized on Lot 1 by the DPW, it is an easement for the Town.
- D. Roberts states that the ANR plan showing the easement will be/is Registered on the property deed.

SCC Comments—

- D. Barnicle states that the sheet flow should not be disturbed. There are numerous tree “tip ups” because of the amount of water there year round.
- E. Goodwin states that the house on Lot 1 is within the 100-foot buffer zone to the wetland across the street
- F. Damiano states that there is a road between the wetland and the house.
- D. Barnicle states that he is concerned the runoff from the driveway will enter the wetland across the street
- F. Damiano questions if the house could be located further back and out of the 100-foot buffer zone
- K. Kippenberger states that if the house is located further from the road, then there will be more impervious area for the driveway

Lot 2 Discussion

Applicant Comments —

- D. Roberts states that the swales/grading between Lot 2 and Lot 3 have been corrected at the request of the SCC.
- C. Blanchard (abutter) questions what happens when someone buys the lot, how do we know the plans will not change
- L. Jalbert states that the Building Inspector will only accept the referenced plans on the Conservation Permit. The Conservation Permit will have to reflect the right plans.

Lot 3 Discussion

SCC Comments—

- K. Kippenberger states that the RDA for Lot 3 is only for the work associated with the house. The work associated with the utility easement (located in the 100-foot buffer zone) is to be reviewed under a separate Notice of Intent Application (hearing to follow).
- F. Damiano states that he has no issues with the house construction on Lot 3

Lot 4 Discussion

SCC Comments—

- K. Kippenberger states that this Lot has a Notice of Intent filing, work within the 100-foot buffer zone. There is also a drainage easement on the Lot connected to a catch basin off Route 131. K. Kippenberger did not walk this Lot, only walked Lot 1.
- D. Barnicle questions the need for permanent markers at the drainage easement(s).
- SCC members discuss the drainage easements.
- E. Goodwin states he is not in favor of permanent monuments at the easements.
- D. Grehl questions where the sheet flow is coming from.

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- K. Kippenberger questions when construction will occur for the project, all lots at once or separately. The construction for the utility easement should occur first, so the houses would be able to have necessary utilities.
- D. Grehl questions if water from the driveway will enter the drainage area

Applicant Comments —

- L. Jalbert states there is a 12-inch culvert from road drainage.
- G. Roscioli (Relater representing the Applicant) states that house construction will occur as the houses are sold off.

Lot 5 Discussion

SCC Comments—

- K. Kippenberger questions the tree clearing width for the perimeter drain outlets—knows it was a concern of one of the SCC members

Applicant Comments —

- D. Roberts states that a backhoe is needed to bury the pipe, the width of the clearing is about 15-feet.

Lot 6 Discussion

SCC Comments—

- K. Kippenberger states that this RDA was a courtesy filing, no work associated with the house is within the 200-foot buffer zone
- E. Goodwin states that he would like the wetland delineation as shown on the Overall plan be compared to the wetland delineation from the “Spaho” project (DEP File No. 300-583)

Applicant Comments —

- D. Roberts states that the rock wall on the property will remain as much as possible

Discussion continued to next public hearing, as it is related. Applicant agrees.

9:25 PM – PUBLIC HEARING

NOI: DEP 300-685 at 209 Main Street. Water and Sewer Utility Right-of-Way to service Lots 4, 5, and 6 (related to SCC 05-29 through SCC 05-32 and DEP 300-672 and 300-673). Jalbert Engineering representing Rom’s Restaurant

D. Barnicle opens the public hearing, L. Jalbert and D. Roberts from Jalbert Engineering, Inc and abutters are present (C. Blanchard and see Sign In Sheet). K. Kippenberger receives the proper notification requirements (abutter green cards and newspaper advertisement).

SCC Comments—

- K. Kippenberger states that a Notice of Intent was filed just for the utility easement on Lots 3, 4, 5, and 6 since the work is within the 100-foot buffer zone. The sewer extension was previously approved by the Board of Selectman and the water line was also recently approved by the Board of Selectman. The utility easement is to be a 30-foot wide easement with the water and sewer mains running parallel. Installation of one utility main is to occur at once.

Applicant Comments —

- C. Blanchard (abutter) questions if the sewer main was approved by Greg Morse of the DPW.

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- L. Jalbert states that the sewer and water was approved by Greg Morse, the sewer is a 1 ½ inch line and the water is a 2-inch line.

SCC Comments—

- SCC Members state that they have no other issues with the project, house construction and utility installation.
- E. Goodwin wants K. Kippenberger to double check the wetland delineation to see if it is consistent with the previous delineation done on property.
- SCC Members state that they will take a vote on 12/8/05 pending an accurate wetland delineation.

Applicant Comments —

D. Roberts states that the wetland delineation is the same as the “Spaho” project. There should be no issues.

Public hearings for the 6 Lots and the Utility easement at 209 Main Street is continued to 12/8/05 at 7:25 PM pending research of the wetland delineation. Applicant agrees.

9:40 PM OTHER BUSINESS

1) 126 Clarke Road—DEP 300-416: Proposed Cell Tower. Violations

- K. Kippenberger states that she and D. Barnicle visited the property on 11/22/05 and noted numerous violations and silt entering the wetland (K. Kippenberger refers to photographs). K. Kippenberger states that on 11/22/05 she sent an email to the Applicant’s representative (V. Drouin of Green Mountain Communications and B. Lucia of WET Inc.) documenting the violations and requesting that the Applicant submit a full report prior to 12/1/05 (for discussion this evening at the hearing) and that all work ceases until erosion control measures are corrected (this email was copied to all SCC Members). V. Drouin responded via email on 11/23/05 stating that the SCC should receive a full report from B. Lucia. He is available for 12/1/05 and all issues with stabilizing the slope will be completed on Friday
- K. Kippenberger states that the project has started and the access roadway has been installed through the wetland crossing. She stated that she requested (at the pre-construction meeting in July 2005) weekly monitoring reports during wetland construction and received none. She also stated that monthly monitoring reports are to be submitted to the SCC as stated in the Order of Conditions, and the office has not received one report.
- K. Kippenberger stated that she has yet to receive a written response to the 11/22/05 violation email. However, B. Lucia contacted the office at 1:00PM this afternoon (12/1/05) via telephone stating that no one could attend tonight’s meeting, however a report is to be submitted today. All work has ceased on the property except for stabilization. All concerns regarding winter stabilization will be submitted prior to December 8, 2005 hearing.
- D. Barnicle states that there is no reason to be ignored, unacceptable.
- D. Grehl agrees, unacceptable that there is no response. Response should have been submitted prior to tonight’s meeting for review.
- D. Barnicle states that the SCC gave the Applicant a chance to correct the situation between 11/22/05 and 12/1/05 and the SCC was ignored. SCC needs to issue a formal Enforcement Order with fines to start if no report submitted by 12Noon on 12/5/05.
- K. Kippenberger states that may not be reasonable. D. Barnicle states that the SCC gave the Applicant a chance and the SCC was ignored—unacceptable.
- E. Goodwin states that he needs to visit the site prior to issuing a formal Enforcement Order.
- D. Barnicle states that the site was a mess, a photograph was included in the 11/22/05 email.

- D. Barnicle makes a motion to issue an Enforcement Order requiring the report to be submitted by 12/5/05 12Noon or fines will start. D. Grehl seconds the motion, In favor: 3/1 Abstained (E. Goodwin needs to see property).

(Report sent to Town Hall around 8:00PM via fax on 12/1/05—all SCC members were conducting meeting at the time, Report received the morning of 12/2/05. Enforcement Order sent out Friday 12/2/05 morning requesting discussion on 12/8/05. See files).

2) Outdoor World Campground (19 Mashapaug Road) represented by Fuss & O'Neil

- Phillip present from Fuss & O'Neil and Resorts USA representative
- K. Kippenberger provides the SCC a summary of the 11/29/05 letter submitted to the SCC requesting to remove the sediment and restore the roadway. Fuss & O'Neil submitted paperwork that shows the roadway on the plan for the septic system approval (Order of Conditions) in the 1990's—Fuss & O'Neil states that the roadway is “de-facto”.
- Phillip states that the Applicant is requesting improvements within a existing feature that was present prior to Outdoor World purchasing the property
- SCC Members discuss the roadway to be restored. D. Barnicle suggests that the Applicant restores the roadway and armors the roadway. It is an existing structure that can be fixed and improved in case the dam breaks again.
- E. Goodwin questions where the road is? The wetland is not shown on the historic plan and there is no way in telling where the road is in accordance to the wetland.
- F. Damiano states that because they submitted plans with the roadway being shown, the SCC should not question it. Fuss & O'Neil states that there are boulders lining the outer limit of the roadway. E. Goodwin states that the Applicant should put on the plan where the road is going to be restored to. K. Kippenberger states that it is obvious where the roadway was when looking at the area, the wetland is vegetated and then there are camp sites, the roadway was in between the wetland and the camp sites.
- F. Damiano makes a motion that the SCC takes a vote on putting the roadway back to where it was. D. Barnicle seconds the motion. Discussion of the motion: F. Damiano states that work will occur within the 25-foot buffer zone, but to restore something already existing. D. Barnicle states that the roadway should be armored. D. Barnicle questions if it is possible to locate the roadway in the field with flags or stakes.
- K. Kippenberger states that Outdoor World and Fuss & O'Neil have been working with the SCC from the beginning. The SCC always receives responses in a timely manner and Outdoor World has complied with all of the SCC requests up to this point. K. Kippenberger appreciates the effort so far.
- F. Damiano moves to Amend his motion: F. Damiano makes a motion to allow Outdoor World to restore the roadway while removing silt from the wetland. F. Damiano requests that K. Kippenberger reads Fuss & O'Neil's 11/29/05 letter for the motion. All in favor: 3/1 objection (E. Goodwin).
- Discussion: SCC members request to be notified of the erosion control installation. D. Barnicle states that the organic base must be protected during silt removal. Resorts USA representative states that the removal is to be done prior to the Holidays. Fuss & O'Neil states that the Notice of Intent is to be submitted by the end of February 2006. Fuss & O'Neil states that Scott Mendell is the contractor (information was submitted to SCC via email) for the work, 70% of his work has been within wetlands. Photographs are to be submitted with the reports.
- SCC discuss the dam on property. Fuss & O'Neil is in the process of working with the state to determine the jurisdiction of the dam and the re-design of the dam for flooding etc.

OTHER BUSINESS

Tabled and included:

- 446 Main Street—Empire Village DEP 300-480 Discussion: K. Kippenberger inform the SCC that the beaver dam was removed by hand and the water is starting to regain flow in the stream bed. G. Cormier is to submit flow device plans to the SCC for review and approval.
- Brook Hill Development Open Space: K. Kippenberger states that the SCC should take a vote an approve the Open Space Document as written. Then the Board of Selectman will sign the document and then the SCC can sign. E. Goodwin makes a motion to approve the Open Space document as written. F. Damiano seconds the motion, All in favor: 4/0.
- Budget discussion: SCC members state that the budget should remain the same but increase the publication line item to purchase more reading materials.
- Dan Szumilas Gift Account: SCC members request the K. Kippenberger write a response stating that the SCC just obtained a grant to manage a parcel of Town owned land and that the SCC is working on utilizing the funds.

SIGN PERMITS

- Determination for SCC # 05-39: Proposed Sanctuary at 8 Eagle Avenue. Jalbert Engineering representing New Life Fellowship
- Request for Extension: DEP 300-504, 304 & 306 Leadmine Road

Motion to adjourn: 11:25 PM