1	TOWN OF SUNAPEE		
2	PLANNING BOARD		
3	JULY 7, 2016		
4 5 6	PRESENT : Peter White, Chair; Donna Davis Larrow, Vice Chair; Richard Osborne; Joseph Furlong; Kurt Markarian; Shane Hastings, ex-officio member; Joseph Butler, Alternate; Randy Clark, Alternate; Michael Marquise, Planner		
7	ABSENT:		
8	See attached sign in sheet		
9	Chairman White called the meeting to order at 7:00 pm.		
10	Chairman White appointed Mr. Clark to sit in for Mr. Markarian.		
11	REVISION TO AGENDA		
12 13 14	Mr. Marquise said that there is a revision to the agenda. Chairman White said that Item 6 on the agenda, the Revegetation and Restoration Plan for Parcel ID: 0126-0028-0000, 84 Garnet Hill Rd will not be presented at the meeting. However, they will be discussing some of the issues related to the case.		
15 16	CONTINUATION: PARCEL ID: 0148-0025-0000: SUBDIVISION / ANNEXATION; LANCE & CHRISTINA HARBOUR, HAMEL RD.		
17 18	Mr. Marquise said that the case was extended to September's meeting and he has not received an update so the case should be continued to the August meeting.		
19 20	Vice Chair Larrow made a motion to continue the case to the next meeting. Mr. Furlong seconded the motion. The motion passed unanimously.		
21	Mr. Markarian arrived and Chairman White appointed Mr. Clark to sit for Mr. Osborne.		
22	PARCEL ID: 0210-0061-0000: MINOR SUBDIVISION: LYNNE BELL TRUST, TROW HILL RD.		
23 24	Robert Bell explained that the minor subdivision would be for 10.2 acres on Trow Hill Rd; one of their neighbor's son's asked if they had 10 acres that they could sell them.		
25 26 27 28 29 30	Mr. Marquise said that the application falls under Section 6.04 of the Subdivision Regulations and it is a minor subdivision so it is applicable for waivers under 6.05-b. The application was filed in advance, fees were paid, notices were posted, and abutters were notified. Mr. Marquise continued that under the 6.04 Regulations, all the requirements are there for review and the items that are eligible for waivers are utility lines, storm water drainage, and water supply facilities. Mr. Marquise said that with those waivers he believes that the application is complete.		
31 32 33	Vice Chair Larrow made a motion to accept the application as complete for Parcel ID: 0210-0061-0000, minor subdivision, Lynne Bell Trust, Trow Hill Rd. Mr. Clark seconded the motion. The motion passed unanimously.		

- 34 Mr. Bell presented the merits of the case.
- 35 Mr. Bell was asked about an easement for the road and explained that it is a driveway. The easement
- 36 for the driveway will be in the deed.
- 37 Chairman White asked and Mr. Marquise confirmed that the lot has the necessary road frontage and the
- 38 minimum lot size for the Zoning District is three acres so it meets those requirements.
- 39 Vice Chair Larrow asked Mr. Bell if he knows what the potential owner will do with the lot. Mr. Bell said
- 40 that he plans on building a house.
- 41 Chairman White asked if the land could be further subdivided. Mr. Marquise said that it could not
- 42 without more road frontage.
- 43 Chairman White asked and Mr. Bell confirmed that the lot will be accessed off the existing gravel drive.
- 44 Mr. Bell was asked who would maintain the road and said that it would be shared maintenance.
- 45 Lynda Tallarico, an abutter of the proposed lot, asked about the driveway as Mr. Bell said that it would
- 46 be shared maintenance but it has not been as her father mowed the land and now she has been mowing
- 47 and maintaining it. The road has been severely eroded and they had spoken with Mr. Bell about helping
- 48 fix it but it has not been done and she wanted to know if it was going to be. Chairman White asked and
- 49 Mr. Bell confirmed that the driveway is on Mr. Bell's property and Ms. Tallarico has the deeded right to
- use the driveway. Mr. Bell said that he has not maintained it as Ms. Tallarico was the only one who used
- it. Chairman White asked what the deed says about maintenance. Ms. Tallarico asked if the deed does
- 52 not have that the maintenance is split what happens with this proposal. Chairman White said that,
- 53 typically, it is the person who has been given the easement or right of way who has to maintain it unless
- 54 it says otherwise in the deed. Rick Bates, Ms. Tallarico's husband, said that if the driveway will go up
- past their house for this new lot and if the house will be used full time the new owners would use it
- 56 more than they do. The road is erosion prone and he is not interested in paying half of the maintenance
- 57 if someone else is going to be using it more. If the new owner's driveway branches off earlier and they
- have to maintain their piece of it, it is fine. Chairman White said that these issues are more related to
- the owners talking to an attorney about their deeds than what the Planning Board can address. Ms.
- 60 Tallarico said that she does not believe that it is written in the deed that it is shared. Chairman White
- said that deeded access has been given to Ms. Tallarico and he'd question if Mr. Bell has the right to
- 62 grant someone else to use that driveway, however, it is not something that the Board can handle as they
- do not get into the legalities of right of ways and deed restrictions. There was further discussion
- 64 regarding this issue.
- 65 Ms. Tallarico said that another question that she has is regarding the closeness of the new building to
- 66 the stone wall and their property. Chairman White said that there are Zoning setbacks that must be
- 67 complied with.
- 68 Ms. Tallarico asked if the utility lines would come across their property as they are currently utility line
- 69 free. Mr. Bell said that is a power company decision. The new owner will be building right up at the top
- of the proposed lot and after the driveway is in the power company will typically go up the driveway.
- 71 Chairman White asked and Ms. Tallarico explained that the existing power goes along the driveway.

- 72 Ms. Tallarico said that another issue is that Giovanni Tallarico, her grandfather, is buried at the top of
- the proposed lot under a pine tree. She didn't know if there was anything to be done about that tree.
- 74 Chairman White said that there is a Cemetery Commission and he thinks that they may want to let them
- and the new owner know about that.
- 76 Chairman White asked and it was confirmed that, currently, Mr. Bell's property surrounds Ms. Tallario's
- 77 property on two sides and a driveway right of way was granted to Ms. Tallarico's property. The
- 78 subdivision of the property includes part of the right of way. Mr. Bell said that the new owners will have
- 79 to grant Ms. Tallarico use of the right of way as it goes with the land. Chairman White said that he
- 80 questions that as the right of way is in the deed, how can the land under it be sold. Mr. Bell said that
- 81 the wording for the right of way will be put into the new deed.
- 82 Ms. Tallarico said that another concern that she had is that someone went onto their property and put
- 83 stakes on their lawn and they are not in the same place that the other surveyor's big pipes with orange
- 84 on them are located. Mr. Bell said that he needs to look at it as it is probably a monument that Clayton
- 85 Platt, the surveyor, put in and are temporary. Mr. Marquise said that surveyor's usually establish a
- 86 traverse, which is where they put their instruments and are what they use in case they need to go back
- 87 to check something and are never on the lines, just usually close to them.
- 88 Chairman White asked Mr. Marquise if he saw any other issues with the application. Mr. Marquise said
- that his first concern is that the current driveway will need some upgrades to it, especially out near the
- Town road. He thinks that an updated driveway permit should be requested by the Board.
- 91 Mr. Marquise said that his second issue was discussed in the peer review as the overall property has an
- 92 Alteration of Terrain (AoT) Permit and the permit does show this property as a lot. The concern was if
- 93 the creation of this lot alters the AoT permit but it appears that everything that is going on now was part
- 94 of the permit and should not effect it. Chairman White asked and Mr. Marquise confirmed that the AoT
- 95 permit was for the entire lot and showed the existing and proposed roads and storm water and this lot
- 96 was part of the original layout as a lot and nothing has changed as it was understood it was going to be
- 97 developed.
- 98 Chairman White asked and Mr. Marquise confirmed that he does think that a new driveway permit is
- 99 needed as the driveway will need some work done to it. Mr. Bell said that it should be moved a little bit
- also. Mr. Marquise said that if it was changed it might give a better site distance.
- 101 Mike Hogan of Keyes Road said that the driveway should not be considered a driveway any longer as it
- 102 will serve three properties so it should be considered a road. Chairman White asked and Mr. Hogan
- 103 explained that it will be serving the main lot, the new lot, and the Tallarico lot. Mr. Hogan said that the
- line on the plan supports that and he thinks that it is clear that it will be an access road to the
- development. Mr. Marquise said that he thinks that it would be a road once further development
- 106 happens. Mr. Hogan said that further development has already happened. Mr. Marquise said that the
- Board has not approved anything and their definition of development is when lots are approved. Mr.
- 108 Marquise said that the balance of the land has access from Route 11 and the driveway would not be a
- third driveway unless there was a building permit that showed the intent that this would be a driveway.
- 110 There was further discussion regarding this matter.

- 111 Mr. Bell said that he and Mr. Marquise spoke about eventually upgrading the entrance of the driveway
- 112 off Trow Hill Rd.
- Mr. Butler asked about the grade issues with the road that was discussed at a Board meeting last year.
- 114 Mr. Bell said that he would discuss that after this hearing.
- 115 Mr. Osborne arrived but Mr. Clark remained a voting member for the case as Mr. Osborne had not
- 116 heard all the merits.
- 117 Chairman White was asked about the Board getting an update on the remaining acreage as it is not on
- the agenda. Chairman White said that he thinks that it is just a consultation. Mr. Bell said that he will
- be addressing issues that came up during the last conceptual meeting. The three issues were Keyes Rd,
- DOT, and the stone wall. Chairman White said that this is a consultation, which does not need to be
- noticed. Mr. Marquise said that Mr. Bell has had a consultation and a design review so the discussion
- has to be limited to just an update. Chairman White said that there will not be a vote or anything like
- that during the consultation.
- 124 Mr. Butler asked and Ms. Tallarico confirmed that her grandfather's ashes are buried on the proposed
- lot at the base of the large pine tree.
- Mr. Hogan said that he would like to note that the facts on the ground do matter and if the driveway
- was not going to be a planned access to the development he believes that the property line would be
- drawn so that incorporated the entrance to the driveway. When you take all the other facts such as
- huge roads going through the property and lots being cleared, he believes it should be noted. Mr.
- 130 Marquise said that he believes that there is a forum for that, but it needs to be a hearing.
- 131 Mr. Clark asked what is said on the deed regarding the road. Mr. Bell said that it is currently a right of
- way for a driveway. Mr. Bell said that it will be a shared driveway and they will need to discuss the
- maintenance.
- 134 Mr. Butler asked if the driveway currently serves three lots or two. The Board said that the driveway
- only serves one lot as there is not a house on the other lot and they can't presume what Mr. Bell's
- development strategy will be.
- 137 Chairman White said that the plan meets the current requirements and what Mr. Bell does in the future
- must meet the requirements. However, the Board cannot say that they know what he is going to do in
- the future.
- 140 Vice Chair Larrow suggested putting into the motion that this will be a driveway for the two parcels and
- any further development will require a future application. Mr. Marquise said that it states the obvious
- but at least it would be laid out in the motion. Vice Chair Larrow said that if it is in the motion then it is
- 143 part of the record.
- 144 Vice Chair Larrow made a motion to approve the minor subdivision of Parcel ID: 0210-0061-0000 for the
- Lynne Bell Trust on Trow Hill Rd, with the requirement of an updated driveway permit and that the
- driveway is acknowledged to be a driveway for the two parcels, the new lot and the existing lot owned
- by Lynda Tallarico, and any upgrade or further use of the driveway toward a road will require Planning

approval; further, the Board will need an updated map including the correct spelling and the utility lines corrected. Mr. Markarian seconded the motion. The motion passed unanimously.

OTHER BUSINESS

151 PARCEL ID: 0210-0061-0000, LYNNE BELL TRUST, TROW HILL RD.

Mr. Bell said that when he was last before the Board there were three issues: the use of Keyes Rd as a second exit for emergency vehicles; a DOT issue with trying to buy a small piece of land from them; and,

the stone wall that they built.

155 Mr. Bell said that he spoke with Mr. Landry about the stone wall and they decided that the Zoning Board

might be where they start but they do not own the land, the State does. This issue will have to wait

until they clear up the right of way. Mr. Bell continued that they submitted a request a year ago this

month for doing that and they were told it would take about a year. The State's last response to them

was that they might get to it this summer. They are, therefore, on hold with that as well as the stone

160 wall.

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Mr. Bell said that on the Keyes Rd issue they have failed to reach an agreement with the property

owners on Keyes Rd to use it for the occasional use for emergency vehicles. Mr. Bell explained to the

Board what they a proposing with the plan provided to them. Chairman White asked and Mr. Bell

164 confirmed that he will probably not make the indicated changes until he gets permission from the State

for the Route 11 issues. Mr. Bell said that the State said that they have done all the things that they

needed to do but the last step is getting a value and the Appraisal Department is backed up.

167 Vice Chair Larrow asked and Mr. Bell confirmed that the stone wall is on State land. Ms. Tallarico asked

and Mr. Bell explained that the stone wall is the retaining wall holding up the road that you see from

Route 11. It is 70 ft from the centerline and the regulation says that any structure over 42 inches has to

170 be 75 ft from the centerline. Ms. Tallarico asked if Mr. Bell will need to move the stone wall for 5 ft.

171 Chairman White explained that it will be up to the Zoning Board to decide.

Ms. Tallarico asked and Mr. Bell confirmed that the proposed road will still egress as it does now.

173 Mr. Butler asked if Mr. Bell discussed the grade of the road with the State. Mr. Bell said that part of the

174 road had trouble with water and he rebuilt and raised that section so that it lessened the pitch. He has

not had Mr. Platt check to see if it meets the Town's grade requirements.

176 Mr. Butler asked if the proposed emergency road would be gravel. Mr. Bell said that is what he is

proposing and it he would be maintaining the road and Ms. Tallarico would be granted an additional

easement on the new road.

179 Chairman White asked about the red dot indicated on the plan. Mr. Bell explained that it is temporary

power to the communication tower in a pine tree on the top of Trow Hill for the Fire and Police. There

181 was further discussion regarding this tower.

182 Robert Philbrick of 94 Trow Hill Rd said that he was surprised to hear that the driveway being discussed

183 will be moved 60 ft, which is further away from the lot that was just created. Mr. Bell said that it would

be close to the stone wall.

185 **OTHER BUSINESS** 186 PARCEL ID: 0126-0028-0000: REVEGETATION & RESTORATION PLAN. 84 GARNET HILL RD, DOUG 187 SANDERS. 188 Chairman White said that there was a meeting with the owner of the property and other 189 representatives of the owner, himself, Mr. Landry, and Selectman Gottling before this hearing to discuss 190 this matter and it was determined that it does not need to be heard by the Board. 191 Mr. Marquise said that there was a building permit taken out for this property which was approved as 192 well as a DES Shoreland Permit, and a Land Disturbance Permit. The work was done and there was 193 cutting, clearing, and excavation. At some point there was a concern about the number of trees taken 194 out and Mr. Landry and DES have looked at it. DES' recommendation were just a few minor 195 adjustments. Mr. Landry had more serious concerns with local regulations and suggested that they 196 come before the Board as it fell under the Cutting and Clearing Regulations, which talks about cutting 197 within the Natural Woodland Buffer of more than five (5) trees having a diameter of six (6) inches or 198 more at a point 4.5 feet above existing ground and removal of large areas of vegetation over one 199 thousand (1,000) square feet within the Natural Woodland Buffer. Mr. Marquise continued that at the 200 meeting it was determined that there were more than five (5) trees removed, but when it came down to 201 dates and permits given, none had happened within a calendar year. There were six (6) to ten (10) trees 202 that came down during a storm last September. Permits were given at the end of 2015 for four (4) more 203 trees, and permits were given at the end of 2016 for five (5) more trees. Mr. Marquise said that it did 204 not seem to trigger anything with the Planning Board based on those permits. Also, in the rules there 205 are fairly generous exemption of clearing allowed around the house up to 20 ft and that threshold was 206 met. They did discuss this further and they may not have met the Town's basal area requirements and 207 they will need to go before Mr. Landry and the Selectmen to show how they will get back to the nine (9) 208 square feet of basal area and how they will have a well distributed stand. 209 Chairman White asked and Mr. Osborne confirmed that there were quite a few trees that were knocked 210 down on the lot during the microburst last year. It seems like they were sheared off and laying down on 211 the lot for quite a while. Mr. Marquise said that there were nine (9) other trees that were permitted to 212 be taken down since then. 213 Chairman White asked if when they got the permit in 2015 to take down the four (4) trees if they did it 214 then or if they waited until 2016 to remove them. Mr. Marquise said that they did it all in December of 215 last year and then cut five (5) more trees when they did the construction. 216 Chairman White asked if all the tree cutting meets the State requirements. Mr. Marquise said that what 217 he understands is that the State has a points system and there are still trees on the property, they just 218 have to meet the number of points that the State requires. There is an area up by the house that the 219 State has asked them to revegetate. Mr. Marquise continued that the State was not concerned as they 220 meet the 50% basal area with the exemptions for clearing around the house. They may not meet the 221 Town's requirement for nine (9) square feet of basal area and that will require some replanting; they

Marquise said that the land owner was at the meeting and he is doesn't seem to have any qualms about doing the work.

also may not meet the Town's well distributed requirement so they will need to revegetate. Mr.

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- 225 Chairman White asked if revegetation will be blueberry bushes. Mr. Marquise said that it can be that,
- 226 however, they do need to meet the basal area of trees so they need to have at least two (2) inch or
- greater diameter trees planted to get back up to the nine (9) square feet. They can fill holes with bushes
- and shrubs but they still need to plant some trees.
- 229 Chairman White said that he deals with a lot of Shoreland development and what he was shown is
- 230 something that he never imagined that they would try, nor get away with if they wanted to try. He was
- very taken back by the amount of work and the amount of cutting that went on. Mr. Marquise said that
- 232 it was all permissible. There needs to be a Board conversation about the five (5) trees in a calendar year
- as what that means is in a thirteen (13) month period of time fifteen (15) trees can be cut. Chairman
- 234 White said that there is a caveat that owners are supposed to leave a well distributed stand of trees.
- 235 Mr. Marquise said that there needs to be a well distributed basal area of nine (9) square feet. The well
- 236 distributed stand applies to vegetation. Chairman White asked how the nine (9) square feet of basal
- area can be regulated. Mr. Marquise explained that a two (2) foot diameter tree equates to three (3)
- 238 square feet of basal area; two (2) inch diameter trees does not add up fast.
- 239 Mr. Butler asked and Mr. Marquise explained that there were concerns about the lot based on the
- visible nature of losing that many trees; there are still some trees and vegetation on the lot. Mr.
- Osborne said that there is a big dead tree and he doesn't know why they left that tree. Mr. Butler asked
- and Mr. Marquise said that they did not pull the stumps.
- 243 Chairman White said that Mr. Landry was quite concerned about this and when they spoke it did not
- seem as though they complied with the Shoreland Permit. Mr. Marquise said that it is his understanding
- that there were only minor deviations from the Shoreland Permit application. Chairman White asked
- and Mr. Marquise confirmed that they needed to submit a revegetation plan to DES for a small area.
- 247 Chairman White asked if Mr. Marquise is talking about the 50 ft buffer zone or the unaltered area. Mr.
- 248 Marquise said that it is the unaltered area; within the 50 ft buffer zone they have kept the 50 points.
- 249 Chairman White asked and Mr. Marquise confirmed that they have 100 ft of Shoreland. Chairman
- 250 White explained how the points are calculated. There was further discussion regarding this matter.
- 251 Mr. Furlong asked and Mr. Marquise explained that none of the trees that were taken down in the
- 252 microburst were counted against them, the same way that putting the building in and getting 20 ft
- around that adds to the number that can be cut as well as 20 ft around the driveway. There was further
- 254 discussion regarding this issue as well as allowances for cutting.
- 255 There was a discussion about the required basal area and how it is calculated.
- 256 Daniel Schneider asked who approves the revegetation plan if the Planning Board does not. Mr.
- 257 Marquise said that the Board of Selectmen do. Selectman Gottling asked if when the plan goes to the
- 258 Board of Selectmen if anyone from the Planning Board would go to the meeting to explain it to them.
- 259 Mr. Marguise said that he thinks Mr. Landry would be the person to make the recommendation to the
- Board as it is going through Zoning. Mr. Butler asked and Mr. Marquise confirmed that Mr. Landry
- would oversee the work until it was completed.
- 262 June Fichter of LSPA asked who will design the revegetation plan. One reason for the regulations is to
- 263 protect the Lake and stop runoff so if this home owner is in arrears relative to the Town's regulations,

- 264 would they need to hire an arborist or a forester to design the system for replacement vegetation that 265 would take up the same function as the trees and vegetation that were removed. Chairman White said 266 that it would probably be done by a landscape architect. Mr. Marquise said that there was a landscape 267 architect at the meeting with the owner. Selectman Gottling asked if there is a Town arborist. Mr. 268 Marquise said that he believes that Anita Blakeman only does the tree stumpage but the Selectman 269 could have someone that they could use as a resource to look at the plan. Mr. Landry will be looking at the plan as well to see if it meets the basal area. Selectman Gottling said that it would be nice to be sure 270 271 that there is sufficient information that the correction happens.
- Chairman White asked if there was any determination at the meeting that there is a violation. Mr.
 Marquise said that the landscape architect is going to do the calculations and bring it to Mr. Landry
 along with a plan as to how to get the basal area back to the nine (9) square feet if needed.
- 275 Chairman White asked if there was a survey done for the Shoreland Permit. Mr. Marquise said that the 276 survey that was done in October showed all the trees that were in place at the time. He did not see the 277 permit to see what was going to be taken out. There was further discussion regarding this issue.
- Chairman White said that it sounds as though they also violated the State's unaltered requirement
 within the 150 ft buffer. Mr. Marquise said that the State did say that they needed to make some minor
 changes within that buffer.
- Chairman White asked and Mr. Marquise said that there was no timeline given, though he will keep talking to Mr. Landry about it as it is an outstanding violation. Chairman White said that it sounds like other than the nine (9) square foot basal area, what was done is permissible. Mr. Marquise said that it met the State regulations for the 50 points, though they did need to fix the unaltered area; it may not meet all the Town regulations. Mr. Landry could issue a cease and desist for the construction if they do not comply with the Zoning.
- Mr. Butler asked about the Zoning Regulations and Mr. Marquise said that the Planning Board creates the Zoning Regulations. There was further discussion regarding this matter.
- Selectman Gottling said that she thinks that the regulation should be changed so that a certain number of trees can only be cut within a twelve (12) month period, not a calendar year. Another thing she things should be added is that if there is a blow down of big trees those should be counted towards the trees that can be removed.
- Vice Chair Larrow asked how many trees were lost during the storm. Mr. Marquise said that between six (6) and ten (10) and then the ten (10) more. Mr. Marquise said that Mr. Landry said there were nineteen (19) fresh stumps. Mr. Butler asked the average size trees that were lost. Mr. Osborne said that there were some big trees that blew down as a year or two before the lot had been cleaned up so it was more open than it was before.
- 298 Chairman White asked and Mr. Marquise said that the Board should probably talk about the tree cutting 299 regulations again at the September meeting to discuss Zoning amendments. The Board also needs to 300 discuss the new accessory dwelling unit law.

301 302 303	Chairman White said that he would like to get an update on this situation at the August Board meeting. Mr. Marquise said that they will discuss the situation at the peer review meeting and he will get an update for the Board.		
304 305 306 307	Nancy Marashio of the Lake Sunapee Protective Association commended the seriousness of which the Board is taking restoration as they are setting a nice precedence for the watershed. The Town may want to look at the regulations in terms of restoration as well. There was further discussion regarding this matter.		
308	MISCELLANEOUS		
309 310	Chairman White said that at the next Zoning Board meeting there is a property owner who is looking for four (4) variances on a property.		
311 312	There was a discussion regarding a property on Mary's Rd that is being renovated that never had to go to the Planning Board and the trees that have been removed.		
313	There was a brief discussion regarding the Master Plan proposed traffic common for Route 11.		
314	Changes to the Minutes from the June 2, 2016 meeting:		
315 316	Vice Chair Larrow made a motion to accept the minutes. Mr. Butler seconded the motion. The motion passed with six in favor and one abstention.		
317	The meeting was adjourned at 8:45 pm.		
318	Respectfully submitted,		
319	Melissa Pollari		
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322	Planning Board		
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324	Peter White, Chairman	Donna Davis Larrow, Vice Chair	
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326	Kurt Markarian	Richard Osborne	
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328	Joseph Furlong	Joseph Butler	
329 330	Shane Hastings, ex-officio member	Pandy Clark, Alternate Member	
JJU	Share Hastings, ex-difficio membel	Randy Clark, Alternate Member	