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**Town of Bourne
Conservation Commission
Meeting Minutes**

Zoom Meeting Platform
March 3, 2022

2022 MAY -6 PM 1: 00

TOWN CLERK BOURNE

I. Call to Order

Chm. Gray called to order the meeting of the Conservation Commission at 7:00PM on Thursday March 3, 2022, held via Zoom Platform. Chm. Gray explained all reviews, unless otherwise stated are joint reviews. Applications will be processed pursuant to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131 § 40, Article 3.7 of the Town of Bourne Wetlands Protection Bylaw. If the Act or the Bylaw don't mutually apply to the review, it will be indicated at the time of review which instrument of law they will be reviewed under.

Note: The meeting was being held via the Zoom platform, and was being recorded, as noted per the "Recording in Progress" icon that was displayed. The proceeding listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may be discussed, and other items not listed may be discussed due to the limited extent permitted by the Open Meeting Law. All items within the meeting agenda are subject to deliberation and vote(s) by the Conservation Commission.

Members present: Bob Gray, Greg Berman, Peter Holmes, Elise Leduc, Thomas Ligor, Rob Palumbo, Steve Solbo, Paul Szwed

Excused members: None

Others in attendance: Stephanie Fitch, Mike Ball, Bradley Bertolo, "Bill", Bob Bishop, "Bob", Mark Burgess, "daubuchon", Robert Dewar, Mark Dibb, "Donkins, M Forziati, J Ross", Brian Hebb, Cyndy Hurley, "iPhone", "Joseph", "Kat's iPad", Dwight Lueth, Joseph McGurl, Caroline McPherson, "roadrunner express", Michelle Troiano, Matthew Watsky, Craig Winterfeldt, "Y"

Request for Determination:

1. Applicant: William and Marilou Moore
Address: 82 Captains Row, Mashnee Island
Representative: Marsh Matters Environmental
File Number: CC22-01

Proposed sewage disposal system replacement. This project is within 100 feet of a Wetland Resource Area.

Mr. Mike Ball addresses the board and shares his screen. He reviews that the existing cesspool will be replaced with a MicroFAST system. Mr. Ball reviews the wetland resources on the property:

- Coastal Bank, stone revetment
- Coastal Flood Zone, land subject to coastal storm flowage

Mr. Ball reviews additional details of the plan, stating the only thing being proposed is the septic system, and restoration to previous conditions. He addresses the gravel driveway, and confirms that surface will remain pervious. All work is proposed to be done within the Buffer Zone.

Member comment: Mr. Ligor requests clarification as to where the system is proposed to be sited on the plan. Mr. Ball provides requested clarification, stating that the proposed MicroFAST unit will be under the existing driveway, while the leeching system will be in the lawn to the left of the front of the house. He notes the cesspool is currently between the house and the stone revetment, and is proposed to be abandoned and filled with sand. Mr. Ball shows photos of the property and further reviews the proposed location of the new MicroFAST system.

Ms. Fitch states she is happy with this project, with no increase in flow, and the replacement of a cesspool, and sees no issue with the filing. Mrs. Leduc-Fleming questions if there is a plan to handle any sediment that may get tracked into the roadway during construction. Mr. Ball states there is currently no trap rock or alternative material proposed to mitigate this issue. It could be implemented if conditioned by the Commission. Chm. Gray recommends language that could be provided to address this issue. Mr. Berman appreciates the proposed project. No additional member comment.

Public comment: None.

Motion made by Mr. Ligor, and seconded by Mr. Holmes to approve under a Negative Two Determination. **Motion carries 6-0-0. Request for Determination approved, with additional condition to address the sediment mitigation.**

Notice of Intent:

1. Applicant: 39 Phillips Road, LLC
Address: 39 Phillips Road
Representative: JC Engineering, Inc.
File Number: SE7-2189

Chm. Gray recuses himself from this hearing. Mrs. Leduc-Fleming steps in to lead the meeting.

Coastal Dune restoration. This project is within 100 feet of a Wetland Resource Area, and within a V Flood Zone.

Mr. Brad Bertolo addresses the board and shares his screen. He reviews the comments that were received by Natural Heritage that were not available at the previous hearing. He notes a time of year restriction of April 1st to August 31st when no work can be done. This is due to Piping Plover and Least Tern nesting sites. A sieve analysis has been obtained as well. Mr. Bertolo shares photos of the existing conditions, and reviews proposed plans. He also discusses the machinery that will be used. Additional specifics of the plan are reviewed for both the northern groin and the southern groin locations of the proposed project. Mr. Bertolo reviews the concerns previously brought up by the Commission regarding the fiber rolls. He reviews the size and material of the proposed fiber rolls, and confirms they are suited for the type of stabilization needed for the project. He notes that the fiber rolls will biodegrade into a "mulchy material." Mr. Bertolo further discusses the means in which the coir logs will be secured, as well as the reasoning behind why potential alternatives (duck bill anchors) are not being proposed to be used.

Ms. Fitch requests further discussion of the sieve analysis. Mrs. Leduc-Fleming also requests clarification of where the sample for the sieve analysis was obtained. Mr. Bertolo reviews that the samples were taken from sandy parts of the beach during mid-tide, and a part of the existing bank. Mr. Bertolo notes that while the dune is comprised of both cobble and sand material, he does not believe it would be permissible to restore the dune with cobble material, further explaining the rationale behind the sieve analysis, and the proposed use of gravel and sand material. Mrs. Leduc-Fleming requests further clarification of the location of the samples that were taken, more specifically if the samples could have been taken from a reference dune that could have been utilized for the sampling, as opposed to the aforementioned "bank" and "mid-tide beach." Mr. Bertolo clarifies that the sample was obtained from the edge of the dune, what he referred to as the "bank" and also clarifies why the samples were obtained from the "beach." Ms. Fitch questions where the sand material is proposed to be brought in from. Mr. Bertolo states it will come from a local area, and will be sieved to ensure that it is similar in nature to the existing material.

Member comment: Mr. Szwed comments regarding the location of the sample for the sieve analysis, expressing concern whether there is a referenced resource area to match. Mr. Berman discusses the possibility of the sand of the beach being coarser than the natural dune material, and states that it would actually be positive to go with a slightly coarser material. He also expresses concern regarding the proposed anchoring system for the fiber rolls, and requests ownership tags be attached to them. Mr. Berman comments on the drift fence not being noted on the cross section of the plan. He states if it is proposed for the posts to remain at about the same distance and slat width as they currently are, it will likely be okay. Mr. Bertolo explains why this aspect was not noted on the plan, and also discusses the proposed spacing of the posts. Mrs. Leduc-Fleming requests to review the

cross-section of the plan. She questions the sizing of the fiber rolls compared to the face of the dune, as it seems to be noted on the plan that the fiber rolls will account for over half the dune. She expresses concern that the fiber rolls may be taking place of vegetation, and in turn not providing as much long term stabilization for the dune. Mr. Bertolo expresses that there will be plantings within areas with the fiber rolls. Mrs. Leduc-Fleming questions if there is a plan for the home owners to maintain the proposed plantings. Mr. Bertolo states there was irrigation in the area, which will be re-established, or the vegetation will be watered by some other means (lawn sprinkler, by hand).

Ms. Fitch asks the Commission if there may be an alternative that could be provided to the representative to replace the proposed fiber rolls. Mrs. Leduc-Fleming states that a coarser material would be better suited for this area due to the wave energy. Mr. Berman expresses concern regarding the longevity of the dune that is being proposed to be created. Mr. Holmes also expresses concern regarding the longevity of the dune. Mr. Berman appreciates the sand ramps that have been added to the project as well. Mrs. Leduc-Fleming appreciates Mr. Bertolo reaching out to the Town regarding initiating the process for the Access Permit. Mr. Bertolo expresses realization that this will not be a "one and done" project, and is hopeful to get a few years out of the proposed restoration plan.

Public comment: None.

Motion made by Mr. Holmes, and seconded by Mr. Ligor to close the hearing.
Motion carries 5-0-1. Hearing is closed.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1, 2, 3, 7, 8, 9, 10, 12, 14, 15, 18, 19, 27, 28, 29

Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:

5, 6, 7

Additional Special Conditions:

- i. All conditions included in the Natural Heritage and Endangered Species Program letter, dated February 18, 2022 for File Number 13-32-395*
- ii. Any conditions set forth by the Town of Bourne Select Board in a temporary Construction Access Easement*
- iii. Coir rolls must be removed and properly disposed of if ripped out of place*
- iv. Sand must be sourced locally and matches sieve analysis*

v. *I.D. tags to be included on coir logs*

Motion made by Mr. Ligor, and seconded by Mr. Szwed to move the Draft Order of Conditions to final. **Motion carries 5-0-1. Order of Conditions is issued.**

Chm. Gray rejoins the meeting.

2. Applicant: Brian Hebb

Address: 117 Phillips Road, Sagamore Beach

Representative: Shorefront Consulting

File Number: SE7-2192

Proposed reconstruction of the existing single-family dwelling. This project is within 100 feet of a Wetland Resource Area and within a V Flood Zone.

Mr. Mark Burgess addresses the board and reviews the proposed plan. The existing dwelling is 123 feet landward from Mean High Water, built in 1971. The average erosion rate noted by SZM Shoreline Transects that goes through the middle of the site is about three inches per year. The proposed dwelling and deck are planned to extend eight feet further seaward. Mr. Burgess notes that this distance is consistent with other dwellings along Phillips Road. A modest increase in the footprint of the home is proposed from 960ft² to 1280ft². This proposed project will remove 960ft² of hardscape, as the proposed dwelling will be constructed on piles. The driveway material is proposed to be pervious as well. The 200ft² area of driveway that is currently shell is proposed to be planted. This will mitigate for a new area of driveway proposed to be added in a different location on the property. Proposed grading and replanting of the site is discussed. Mr. Burgess addresses one mistake found on the original floorplan. Four bedrooms were proposed to be included in the new dwelling, and the existing septic system is only a three-bedroom system. A revised floor plan has been submitted with the fourth bedroom being converted into office space, making the dwelling a three-bedroom house.

Ms. Fitch shares photos from a site visit that was conducted. She notes while the footprint of the dwelling is proposed to remain the same, there is a significant proposed increase in habitable space. She believes the project meets the performance standards of a dune, does well removing impervious surfaces, and allows for the sand on the dune to move. She expresses concern regarding moving the dwelling seaward eight feet. Ms. Fitch also questions if the Commission would express concern regarding roof runoff.

Member comment: Mrs. Leduc-Fleming comments that the Wetland Resource Areas are not appropriately defined on the plan. Ms. Fitch provides clarification, and states that adding setbacks and labels to the plan was discussed with the representative. Mrs. Leduc-Fleming expresses concern regarding the movement of the dwelling seaward, and states she would not be comfortable moving forward

with the current plan due to the aforementioned concerns. Chm. Gray requests clarification of the elevation of the proposed deck over the dune. Mr. Burgess provides requested clarification, stating that the proposed to be about three to four feet above the dune. Mr. Hebb provides correction, stating that the proposed deck will be about 11 feet above the dune at elevation 22. Mr. Burgess believes with the additional height of the proposed deck will provide additional light to the vegetation, but that area is in currently in the shade most of the time. He provides the option to plant shade tolerant grasses in that area. Recommended labeling of the Resource Areas on the plan are discussed between the board and the representative. Mr. Hebb discusses the proposed new location of the dwelling being further seaward, and provides the option of moving the dwelling toward the road four or five feet. Mrs. Leduc-Fleming questions the possibility of making the dwelling four feet smaller on the seaward side of the property. Mr. Hebb responds, stating that he would be amenable to moving the septic if necessary in order to keep the footprint the same size. Chm. Gray turns the attention to the walkway, which is proposed to remain. He suggests the option of raising the walkway, as well as adding ½ inch spacing in the decking to allow for light to get to the area below it. Mr. Hebb states he is not opposed to this suggestion. Mr. Berman states that it would be preferred to have the dwelling as far landward as possible. He also notes that the entire area is barrier beach. He appreciates the removal of impervious surface from underneath the house, but expresses concern regarding the impervious surface proposed for roof, as well as roof runoff. No additional member comment.

Public comment: None.

Continued to March 17, 2022, with consent of the board and the representative.

3. Applicant: William Macuch
Address: 27 Old Damn Road, Bourne
Representative: Bracken Engineering, Inc.
File Number: SE7-2193

Chm. Gray recuses himself from the meeting for hearings 3-5 noted on the agenda. Mrs. Leduc-Fleming steps in to lead the meeting.

Proposed project includes the construction of a detached garage structure with all associate landscaping, grading, utilities, and appurtenances. This project is within an AE Flood Zone.

Mr. Rob Dewar addresses the board and shares his screen. He reviews the details of the proposed plan. A three-bay detached garage is proposed to be constructed. Mr. Dewar discusses proposed grading. He reviews the plan for storm water mitigation. He reviews the only Resource Area on the property is land subject to coastal storm flowage. He reviews parts of the plan proposed for mitigation of potential flooding.

Ms. Fitch comments, noting that the property is also within the Back River ACEC, in addition to the AE Flood Zone. She would recommend mitigation planting in addition to the proposed rain garden/swale included on the plan.

Member comment: Mr. Ligor questions if there are photos available of the proposed site. Mr. Dewar brings up photos from Google Street View to review. He notes there would be some tree clearing. He is willing to further discuss the option of mitigation plantings. Mr. Ligor questions how many trees are proposed to be removed for construction of the structure. Mr. Dewar states that information is not known at this present time. Mr. Ligor expresses concern regarding the amount of existing pavement, and the potential for the applicant to propose more pavement. Mr. Dewar confirms there is no proposed increase in the amount of driveway surface. No additional member comment.

Public comment: None.

Motion made by Mr. Ligor, and seconded by Mr. Holmes to close the hearing.
Motion carries 5-0-1. Hearing is closed.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1, 2, 3, 4, 7, 10, 12, 14, 15, 18, 19, 27, 28

Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:

5, 6, 7, 8

Motion made by Mr. Ligor, and seconded by Mr. Holmes to move the Draft Order of Conditions to final. **Motion carries 5-0-1. Order of Conditions is issued.**

4. Applicant: Christina Winterfeldt
Address: 4 Kennebec Ave, Pocasset
Representative: Bracken Engineering, Inc.
File Number: SE7-2194

Raze and rebuild of a single-family dwelling, raze of two sheds, and installation of a Title V septic system. This project is within a V Flood Zone, and 100 feet of a Wetland Resource Area.

Mr. Rob Dewar addresses the board and shares his screen. He reviews the Wetland Resource Areas delineated on the plan. The property is currently serviced by a cesspool, which will be removed, and replaced by a micro-fast system. The new dwelling is proposed to have three bedrooms, in concurrence

with the proposed three-bedroom septic system. Mr. Dewar reviews the plan for infiltration of roof runoff through a proposed drywell. He also reviews the rationale behind the location for the proposed structures, as the lot is 3,235 ft². The house is proposed to be raised above the flood line. Sediment controls are discussed, as well as the plan for revegetation of any disturbed areas.

Ms. Fitch appreciates the removal of a cesspool. She expresses desire to decrease the nitrogen loading further, but due to the size of the SAS, this would be limited. She overall believes this is a good project.

Member comment: Mr. Berman also appreciates the removal of the cesspool.

Public comment: Mr. Dwight Lueth, a direct abutter to the property, expresses concern regarding the location of the proposed septic tanks for the property. He is planning on replacing his septic system in the next few years, and was instructed that a proposed leeching field on his property would need to go quite close to the proposed tanks of this project. Mr. Dewar reviews this information on the plan, and notes that the location of this project's drywell may need to be taken into consideration at the time of Mr. Lueth's project due to Title V requirements. No additional public comment specifically regarding conservation concerns.

Motion made by Mr. Ligor, and seconded by Mr. Szwed to close the hearing.
Motion carries 5-0-1. Hearing is closed.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1, 2, 3, 4, 5, 7, 10, 12, 14, 15, 18, 19, 24, 27, 28, 29

Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:

5, 6, 7, 9

Motion made by Mr. Holmes, and seconded by Mr. Ligor to move the Draft Order of Conditions to final. **Motion carries 5-0-1. Order of Conditions is issued.**

Mr. Palumbo joins the meeting. Seven board members now present.

5. Applicant: Michael Kenny
Address: 3 Red Brook Pond Drive, Cataumet
Representative: Bracken Engineering, Inc.
File Number: SE7-2185

The construction of a single-family dwelling, Title V septic system, and all associated landscaping, grading, utilities, and appurtenances. This project is

within 100 feet of a Wetland Resource Area, AE Flood Zone, and within 200 feet of a Riverfront.

Mr. Dewar addresses the board and shares his screen. He reviews the site, noting it is currently vacant, with proposed construction of a four-bedroom home, with garage. A MicroFAST septic tank is being proposed for this property. Mitigation plan for storm water runoff is discussed. Mr. Dewar reviews the comments made by the Commission at the last hearing, and the amendments made to the plan:

- Pervious material is proposed for the driveway
- Five foot native vegetation buffer strip has been added between the lawn and the edge of clearing

Additional proposed clearing and mitigation are discussed.

Ms. Fitch and Mrs. Leduc-Fleming appreciate the amendments to the plan. Ms. Fitch questions what is proposed to be the part of the 50 foot Buffer Zone that is not noted to be vegetative plantings. Mr. Dewar states that this is proposed to be loamed and seeded.

Member comment: Mr. Ligor questions if there will be a naturally vegetated area for the swans in the area to nest. Mr. Berman requests clarification whether the swans are native, or invasive. It is determined that the swans are invasive Mute swans. It is reviewed on the plan where the swans will be, and the property is outside of the area where the swans would be.

Public comment: Mr. William Donkin questions if there an architectural plan available for the home. Mr. Dewar responds, stating that he would be willing to connect the applicant with the public member, but that level of detail is not required for the Conservation Commission. Mr. John Ross expresses concern regarding the amount of trees that are proposed to be removed. Mr. Dewar reviews the mitigation plan for proposed tree removal, and also comments that effort is made to remove the least amount of trees as possible. Discussion ensues regarding the dumping that has been being done on the property. If approved, removal of the landscape debris from the site will be required per the Order of Conditions as an Additional Special Condition. Mr. Donkin questions what type of material would be brought into the site where the house is proposed to be built. Mr. Dewar responds, stating it would be dense grade for structural areas, or clean fill for grading.

Additional member comment: Mr. Holmes requests confirmation that the Building Inspector for the Town of Bourne states this is a buildable lot. Mr. Dewar confirms the lot is listed as a buildable lot. Mr. Berman questions if the level of dumping and fill on the site may have affected the location of any Coastal Bank in the area. The plan is reviewed, and the Coastal Bank delineation is noted to be well outside of the range of any visible fill, and the visible fill is noted to be outside of the Flood Zone.

No additional member or public comment.

Motion made by Mr. Ligor, and seconded by Mr. Holmes to close the hearing.
Motion carries 6-0-1. Hearing is closed.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1, 2, 3, 5, 7, 10, 11, 12, 14, 15, 16, 17, 18, 19, 24, 27, 28, 29

Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:

2, 3, 4, 5, 6, 7, 9

Additional Special Conditions

- i. All previously dumped landscaping debris must be cleared from the property and appropriately disposed of at the landfill or other compost collection site prior to the start of construction*
- ii. Construction cannot take place during swan nesting season (April-May)*

Motion made by Mr. Ligor, and seconded by Mr. Holmes to move the Draft Order of Conditions to final. **Motion carries 6-0-1. Order of Conditions is issued.**

Chm. Gray rejoins the meeting.

Commission Discussion: Order of Conditions for DEP File Number SE7-2171, 96 Megansett Road, Cataumet. (Public hearing for this application was closed February 17, 2022, and not open for public comment during this hearing.)

Ms. Fitch reads a draft letter compiled by the Conservation Commission dated 03/03/22, addressing discussions held at public hearings regarding File Number SE7-2171, as well as the decisions made by the Commission regarding the project.

Public hearing dates for this File Number:

- October 7, 2021
- October 25, 2021
- November 4, 2021
- November 18, 2021
- December 2, 2021
- December 16, 2021
- February 17, 2022

Member comment: Mr. Ligor notes the Coastal Bank on the property is subject to protection under Article 3.7 of the Town of Bourne Wetlands Protection Bylaw, as well as B.W.R. 1.04. He expresses concern regarding removal of trees, destruction of plant life, and excavation soil, sand, gravel that would take place while digging for the pool. Mr. Holmes expresses disagreement with the installation of the pool and patio due potential effects on the Coastal Bank addressed in the draft letter. Mrs. Leduc-Fleming agrees with language of the aforementioned letter. Mr. Berman suggests amending a part of the letter that references 310 C.M.R. 10.36, as he believes the Bourne Bylaw may not need to tie in with the State Wetlands Protection Act. Mr. Szwed believes the draft letter captures his sentiments regarding the project. Mr. Palumbo does not believe the pool and patio would have an adverse effect on the Coastal Bank, and states he would approve the project as it was presented.

Discussion ensues among members regarding Mr. Berman's recommended amendment, as well as additional recommended amendments. Amendments are made to the draft letter.

Mr. Ligor leaves the meeting. Six board members remain.

Draft Order of Conditions:

All General Conditions as well as Special Conditions pursuant to Chapter 131 § 40 include:

1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21, 26, 27, 28, 29

Special Conditions pertaining to Article 3.7 of the Bourne Wetlands Protection Bylaw:

4, 5, 6, 7, 9

Additional Special Conditions, also noted in the document dated 03/03/22:

- i. No coastal engineering structure, such as a bulkhead, revetment, or seawall, shall be permitted on an eroding bank, or land subject to coastal storm flowage at any time in the future, to protect the project allowed by this Order of Conditions*
- ii. This Order of Conditions is not effective until the Restrictive Covenant for the 1.12 acre Conservation Restriction Area parcel has been recorded at the Registry of Deeds*
- iii. The proposed vista pruning corridor cannot reduce the leaf canopy to less than 90% of the existing crown cover. No mowing or removal of understory brush is permitted.*
- iv. No lawn or grading is permitted within the 100 foot Riparian Zone*

"Per 310 C.M.R. 10.05.6B, the Order of Conditions shall impose such conditions as are necessary to meet the performance standards set forth in 310

CMR 10.21-10.60 for the protection of those areas found to be significant to one or more of the interests identified in M.G.L. Chapter 131 40.”

Motion made by Mr. Berman, and seconded by Mrs. Leduc-Fleming to move the Draft Order of Conditions, which has been reviewed by, discussed amongst, and edited by Commission members, to final. **Motion carries 5-1-0. Order of Conditions is issued.**

The document drafted with the conclusions made by the Commission, dated 03/03/22, will be attached to the Order of Conditions.

Approval of Meeting Minutes:

- February 17, 2022
 - Motion made by Mrs. Leduc-Fleming, and seconded by Mr. Holmes to approve the minutes, with one correction requested. **Motion carries 6-0-0. Minutes are approved.**

Vote to Excuse Absent Members:

- Not applicable, no members were absent

Report of the Conservation Agent:

- Ms. Fitch notes that the Bourne Board of Health has rescinded the recommendation to hold all public meetings remotely. Gov. Baker has extended the remote meeting provision to July 15, 2022. Discussion ensues among members regarding timeline to return to in person meetings at the Community Building. May 19, 2022 date agreed upon among members to return to in person meetings. Chm. Gray informs the board that the Shore and Harbor Committee met on February 16, 2022, and reviewed the amended dock regulations. A letter has been issued by the Shore and Harbor Committee supporting the changes. Discussion ensues among members to select a date to review the amendments with the Shore and Harbor Committee. April 7, 2022 agreed upon among members.

II. Adjournment

Motion made by Mr. Palumbo, and seconded by Mrs. Leduc-Fleming to adjourn the meeting. **Motion carries 6-0-0. Meeting adjourned at 10:09PM.**