PLAN MINUTES ELKHART COUNTY PLAN COMMISSION MEETING HELD ON THE 12TH DAY OF NOVEMBER 2020 AT 9:00 A.M. IN THE MEETING ROOM OF THE DEPARTMENT OF PUBLIC SERVICES BUILDING 4230 ELKHART ROAD, GOSHEN, INDIANA

1. The regular meeting of the Elkhart County Plan Commission was called to order by the Chairman, Roger Miller. The following staff members were present: Chris Godlewski, Plan Director; Jason Auvil, Planning Manager; Mae Kratzer, Planner; Deb Britton, Administrative Manager; and James W. Kolbus, Attorney for the Board.

Roll Call.

Present: Tony Campanello, Steven Edwards, Roger Miller, Steve Warner, Jeff Burbrink, Tom Stump, Frank Lucchese, Philip Barker. **Absent:** Lori Snyder.

2. A motion was made and seconded (*Edwards/Lucchese*) that the minutes of the last regular meeting of the Elkhart County Plan Commission, held on the 8th day of October 2020, be approved as submitted. The motion was carried with a unanimous vote.

3. A motion was made and seconded (*Warner/Edwards*) that the Elkhart County Zoning Ordinance and Elkhart County Subdivision Control Ordinance be accepted as evidence for today's hearings. The motion was carried with a unanimous vote.

4. The application for the vacation of a portion of a north/south unnamed town right-of-way, for Bravo Romeo, LLC, represented by Freedom Builders, on property located 195 ft. north of Walnut St. and 165 ft. east of SR 13, 1,500 ft. north of CR 42, in Clinton Township, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case* #VRW-0747-2020.

Paul Hochstetler, Freedom Builders, 54824 CR 33 Middlebury, was present representing the petitioner. He stated it came to their attention and realization that with the right-of-way on the proposed property, there would be no place a building of that size could be built while meeting the required setbacks. The vacation is currently a grass strip, and he stated using half of it will help meet the setbacks needed. Bravo Romeo, LLC plans on building an office used for tax services on this parcel which they purchased from the Veterinarian clinic next door to the east. It was agreed upon at purchase of the parcel that if approved, they would each take responsibility for half of the right-of-way.

There were no remonstrators present.

A motion was made and seconded (*Miller/Lucchese*) that the public hearing be closed, and the motion was carried with a unanimous vote.

The Board examined said request, and after due consideration and deliberation: **Motion: Action:** Approve, **Moved by** Philip Barker, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Town of Millersburg that this request for the vacation of a portion of a north/south unnamed town right-of-way be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

5. The application for the vacation of north/south and east/west unnamed county right-of-ways, for Teresa Ervin and Brenda S. & Lena F. Banks, on property located on the north side of Wayne St. and east side of Shore Ave., 1,200 ft. north of Old US 33, west of SR 19, in Baugo Township, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case* #VRW-0756-2020.

Teresa Ervin, 56590 Shore Ave, Elkhart, was present as the petitioner. She stated since the county doesn't come and maintain it, she would like to make it hers so she can take care of it.

Pam Banks, 56610 Shore Ave, Elkhart, was present as the petitioner. She stated they also want the vacation behind their house south to Wayne Street so that they too can help maintain it.

Billy Lemons, 56609 Best Ave, Elkhart, was present in remonstrance. He stated that if this alley was vacated that he would not have access to the back of his property which would decrease the value of his property. He was also concerned about access to electric lines which has been needed in the past. His main concern is the ability to get to the back of his property, he stated he has been diligent at keeping his property as well as the portion of the alley against his property mowed and maintained. He believes there are already fences put up illegally on the subject property.

Teresa Ervin spoke in rebuttal. She stated that they have petitions from neighboring land owners, with the exception of Billy Lemons, stating they are in favor of the vacation. [Attached to file as Petitioner Exhibit #1] In response to said fence, she stated that it is not in the property in question but is right at the property line according to the surveyor that was hired.

Pam Banks also spoke in rebuttal. She stated she also maintains a portion of the property in question. She does intend to put up a privacy fence due to the fact that they have pets to keep in as well as grandchildren. She expressed concerned about neighbors pets getting into her yard as well. However, she would like to wait until this alley is vacated to put the fence up in order to incorporate some of that alley into the fenced area.

A motion was made and seconded (*Stump/Campanello*) that the public hearing be closed, and the motion was carried with a unanimous vote.

Tony Campanello questioned Staff about the difference between the previous petition and this this petition for the subject property. Mae Kratzer explained that the last petition only included a portion of the alley resulting in denial as Staff wanted to see the entirety of the alley. That is what brought Brenda S. & Lena F. Banks into the petition.

Phillip Barker stated that the remonstrator should not be deprived access to the back of his lot. The board exclaimed they could go along with the original proposal of the vacation but not the new proposed area down to Wayne Street due to property owners not having access to the back of their property. Chris Godlewski suggested that the commission could do a partial approval. After some discussion, it was decided that the motion be for the original petition (indicated in the red hash marks only).

The Board examined said request, and after due consideration and deliberation: Motion:

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Action: Approved, Moved by Tony Campanello, Seconded by Roger Miller that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the vacation of north/south and east/west unnamed county right-of-ways as indicated in red area only and not south to Wayne Street be approved in accordance with the Staff Analysis.

Vote: Motion passed (**summary:** Yes = 7, No = 1, Abstain = 0).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tony Campanello.

No: Tom Stump.

6. The application for the vacation of a portion of a north/south and east/west unnamed county right-of-way, for Roger & Madonna L. Dickson, represented by Lang Feeney & Associates, Inc., on property located north off of Wolf Avenue, 160 ft. west of CR 1, north of old US 33, in Baugo Township, was presented at this time.

Mae Kratzer presented the Staff Report / Staff Analysis, which is attached for review as *Case* #VRW-0792-2020.

Terry Lang, Lang Feeney & Associates, Inc., 715 S. Michigan Street, South Bend, was present as the petitioner. Terry stated he was here previously to vacate the portion behind the home, also immediately adjacent to the current vacation, which was approved by the commissioners a month ago. Being that the homeowners own the lot on both sides of the alley, it results in the alley sitting in the middle of their yard. He stated they are looking to continue vacating the remainder so they can then rebuild the garage that used to sit on this area. The current owners have owned the property for over 18 years, and this alley has never been used during this time.

There were no remonstrators present.

A motion was made and seconded (*Barker/Lucchese*) that the public hearing be closed, and the motion was carried with a unanimous vote.

The Board examined said request, and after due consideration and deliberation: **Motion: Action:** Approved, **Moved by** Roger Miller, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for the vacation of a portion of a north/south and east/west unnamed county right-of-way be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

7. Board of County Commissioners Approvals Following Plan Commission Recommendations

Jason Auvil reported that on October 6, 2020 Wakarusa Town Council approved a zone map change from PUD M-1/M-1 to M-1. He added that on October 19, 2020, the Board of County Commissioners approved that a vacation of a portion of an east/west right-a-way, also approved an addition vacation for a portion of and east/west right-of-way. They approved a zone map change from A-1 to M-1, a zone map change from M-2 to A-1, a zone map change from A-1 to M-1, an amendment to an existing DPUD known as RECYCLING WORKS INDUSTRIAL DPUD, and a zone map change from M-1 to GPUD B-2 known as STAR PROPERTY DG GPUD B-2. Also at the October 19, 2020 Middlebury Town Council approved a zone map change from A-1 to GPUD B-3 known as TACO BELL GPUD, and a zone map change from PUD B-3 to DPUD B-3 submitted as MIDDLEBURY RESTROOM PROJECT DPUD to be known as TRESTLE TERRACE DPUD.

8. Hearing Officer

Chris Godlewski requested that Roger Miller be appointed as November Hearing Officer in Ann's absence.

The Board examined said request, and after due consideration and deliberation: **Motion:** Action: Approve, **Moved by** Tony Campanello, **Seconded by** Steven Edwards that the Advisory Plan Commission approve for Roger Miller to step in as November Hearing Officer. The motion was passed with a unanimous vote.

9. The application for a zone map change from R-1 to DPUD B-1 and for primary approval of a 1-lot minor subdivision to be known as SOLOMON FOWLER MANSION DPUD B-1, for 1868 Vistula Street Properties, LLC, represented by Marbach, Brady & Weaver, Inc., on property located on the south side of Vistula St. (SR 120), 2,200 ft. west of Maple St. (CR 23), common address of 1105 W Vistula Street in Washington Township, zoned R-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case* #RZ-0797-2020.

Chris Marbach of Marbach, Brady, & Weaver Inc., 3220 Southview Drive, Elkhart, was present representing the petitioner. He stated the land owners have spent the last 4 years renovating the facility with new electric, heat, and kitchen upgrades. They have done so in a way that kept the historical method of the building. In pictures provided,/*Attached to file as Petitioner Exhibit #1*/ it also shows they have done this on the outside as well. For example pavers were placed outside for patio which would have been a historic way of doing this and also provides the best drainage. He stated the facility is large enough to accommodate a large array of events. It has five bedrooms, a luxurious barn, a big back yard, and a lot of parking. One concern they have come across is parking for a large wedding or party. In response to that, they have worked out an agreement with the Bristol Church of the Nazarene for extra parking on these occasions. He stated the property is connected so they could shuttle guests to and from the church on a golf cart. He concluded by saying it is on SR 120 and is within the city of Bristol with common hours of 8 am-5 pm with special events being concluded by 11 pm. This will bring people into the area and will allow people to come into Bristol and utilize and amenities of the town.

Ron Norman, 8 Shore Manor Drive, Bristol, was present in favor. He stated the previous owners gave this property a hug, but the current home owners have gone above and beyond in helping to beautify this home. He hopes that it will provide revenue and help support some small businesses in Bristol, as well as attract a new restaurant or facility to the town. He was grateful that everything during the process of renovation was done professionally and courteously and has no doubt that this will spill over into how they run their business going forward.

Greg Hall, 109 S. 23rd Street, Goshen, was present in favor. Mr. Hall is an elder at the Bristol

Church of the Nazarene, in which the overflow parking will take place. Land was purchased from the church, and they have a good relationship with current land owners. There are gates and fences in place, and they feel confident going forward with this venue.

Linda Schrock, 1 Shore Manor Drive, Bristol, was present in favor. She stated the current owners have improved the external appearance. The retaining wall was not in good shape when they purchased the property. However, they have repaired all of it while keeping the beauty of the home. She believes this will be a good investment for Bristol.

Chris Knight, 1003 W. Vistula Street, Bristol, was present in remonstrance. She explained that they have spent thousands of dollars renovating their house in preparations to retire, and they have concerns that this will bring the value down significantly. One of the great features when they purchased their home was the large quiet backyard, and they fear they will now have to put up with a big party every Saturday. She stated they share about 600 adjoining feet with the property in question. Her husband has spoken to multiple realtors that have, in turn, told them that the value of their home will indeed go down. She also talked about concern with traffic, stating that their driveway is less than 20 feet away from this properties driveway which poses some traffic and congestion concerns.

Jason Auvil reported that the Plan Commission received a letter from Christopher T. Pottratz, Attorney from Warrick & Boyn, LLP, representing Hillary Garth and Chris Knight, 1003 W. Vistula Street Bristol, IN. [Attached to file as Remonstrator Exhibit #1] This letter stated their concerns and that if the Plan Commission does recommend approval, that it does so subject to more screening and barrier in place to reduce light, noise, and partygoers from wandering.

Chris Marbach spoke in rebuttal. He stated that it seems like the two main concerns would be the noise and the party situation. He wondered if the benefit of having the venue and economic boost to the Town of Bristol would out weigh the inconvenience of noise and evening parties. Since there is nothing booked right now, there is nothing to show how often these bigger parties would occur. This venue not only includes weddings but also could potentially be family reunions or corporate business meetings during the day. This is on the historical registry and he thinks that keeping everything upscale and keeping the neighbors happy will be to their benefit and something the property owners will want to do. The use of a historical property as an event center happens often and is always very successful.

The Board asked what the requirement for barriers is in this case. Jason Auvil reported the property has a chain-link fence all around the exterior. He explained that this would be a Class 1 buffer which has a standard width of 10-15 feet along with trees and bushes. This is a significant buffer for this type of zone, however additional buffers requirements could be added by the Town of Bristol.

A motion was made and seconded (*Campanello /Edwards*) that the public hearing be closed, and the motion was carried with a unanimous vote. (Campanello/Edwards)

The Board examined said request, and after due consideration and deliberation: **Motion:** Action: Approve, Moved by Tony Campanello, Seconded by Steven Edwards that the Advisory Plan Commission recommend to the Town of Bristol that this request for a zone map change from R-1 to DPUD B-1 and for primary approval of a 1-lot minor subdivision to be known as SOLOMON FOWLER MANSION DPUD B-1 be approved in accordance with the Staff Analysis. Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

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Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

10. The application for a zone map change from A-1/R-1 to DPUD A-1 and for primary approval of a 1-lot minor subdivision to be known as CULBERTSON DPUD, for John J. Culbertson represented by Abonmarche Consultants, on property located on the north side of CR 8, 2,450 ft. east of CR 19, common address of 20613 CR 8 in Washington Township, zoned A-1/R-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case* #DPUD-0601-2020.

Crystal Welsh, Abonmarche Consultants Inc., 1009 S. Ninth Street, Goshen was present representing the petitioner. She stated that when the homeowners came in for a pool permit, the county was surprised to see it had been allowed to develop in this way. There are a cluster of homes used for rentals at the front of the property that didn't set up as a subdivision. Therefore, the Staff suggested moving forward with a DPUD, and we are in agreement with that. The intention was to separate the main home from the rental units. However, that could not be done because the septic system for some of those units would have been on the opposite parcel. It was decided to leave it as one big parcel.

There were no remonstrators present.

A motion was made and seconded (*Miller/Stump*) that the public hearing be closed, and the motion was carried with a unanimous vote.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Tom Stump, **Seconded by** Steven Edwards that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1/R-1 to DPUD A-1 and for primary approval of a 1-lot minor subdivision to be known as CULBERTSON DPUD be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

11. The application for a zone map change from A-1 to DPUD A-1 and for primary approval of a 3-lot minor subdivision to be known as MCAFOOS COUNTY ROAD 19 A-1 DPUD, for Scott S. & Anita L. McAfoos, represented by B. Doriot & Associates, Inc., on property located on the west side of CR 19, 1,100 ft. south of CR 126, common address of 60709 CR 19 in Jefferson Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case* #DPUD-0788-2020.

Charles Bussard, B. Doriot & Associates, P.O. Box 465, New Paris, was present representing the petitioner. He explained that this is to accommodate a new home-site on a third parcel with the existing drive being used for this home. All homes are separated with a row of pines.

There were no remonstrators present.

A motion was made and seconded (*Edwards/ Campanello*) that the public hearing be closed, and the motion was carried with a unanimous vote.

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The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, Moved by Tom Stump, Seconded by Philip Barker that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to DPUD A-1 and for primary approval of a 3-lot minor subdivision to be known as MCAFOOS COUNTY ROAD 19 A-1 DPUD be approved in accordance with the Staff Analysis. Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

12. The application for a zone map change from A-1 to DPUD A-1 and for primary approval of a 2-lot minor subdivision to be known as WABASH RR CROSSING MINOR SUBDIVISION PHASE II, for Marion & Susan K. Bontrager, represented by B. Doriot & Associates, Inc., on property located on the north side of CR 42, 2,640 ft. east of SR 13, common address of 11513 CR 42 in Clinton Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case* #DPUD-0791-2020.

Charles Bussard, B. Doriot & Associates, PO Box 465, New Paris, was present representing the petitioner. The Board asked if the railroad between lots had been vacated. In addressing said railroad, Mr. Bussard stated the railroad bed has been abandoned and the center line of said railroad bed is now the dividing line between lots. He explained that Lot 1 will serve a new home-site and Lot 2 will continue to serve as agricultural needs.

There were no remonstrators present.

A motion was made and seconded (*Miller/Stump*) that the public hearing be closed, and the motion was carried with a unanimous vote.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Steven Edwards, **Seconded by** Tom Stump that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for a zone map change from A-1 to DPUD A-1 and for primary approval of a 2-lot minor subdivision to be known as WABASH RR CROSSING MINOR SUBDIVISION PHASE II be approved in accordance with the Staff Analysis.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

** Miller steps down and recuses himself**

13. The application for primary approval of a 1-lot minor subdivision to be known as BUCK MINOR, for Friends of the Pumpkin Vine (buyer) and David & Wanda J. Buck, Husband & Wife (seller), represented by Abonmarche Consultants, on property located on the west side of CR 35, 1,340 ft. north of CR 20, common address of 58741 CR 35 in Middlebury Township, zoned A-1, was presented at this time.

Jason Auvil presented the Staff Report / Staff Analysis, which is attached for review as *Case* #MI-0599-2020.

Crystal Welsh, Abonmarche Consultants, Inc., 1009 S. Ninth Street, Goshen, was present

representing the petitioner. She stated that she believes they have met all the requirements and believes this is appropriate subdivision.

Doug VonGunten, 58664 St. Mary's Lane, Goshen, was present in favor. He stated he was present representing the Friends of the Pumpkin Vine Board. He stated he doesn't have more to add but wanted to express that as a Board Representative, he is here in support of this.

There were no remonstrators present.

A motion was made and seconded (*Stump/Edwards*) that the public hearing be closed, and the motion was carried with a unanimous vote.

The Board examined said request, and after due consideration and deliberation:

Motion: Action: Approve, **Moved by** Jeff Burbrink, **Seconded by** Tony Campanello that the Advisory Plan Commission recommend to the Board of County Commissioners that this request for primary approval of a 1-lot minor subdivision to be known as BUCK MINOR be approved in accordance with the Staff Analysis.

Vote: Motion passed (summary: Yes = 7, No = 0).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

****Roger Miller returns****

Public Meeting Items

14. Elroy Drive Industrial Park TIF District

Craig Buche, Yoder, Ainley, Ulmer, & Buckingham, LLP, 130 N. Main Street, Goshen, was present representing the Redevelopment Commission for the Town of Middlebury and Elkhart County Redevelopment Commission. He requested to talk about this item along with the other TIF District at the same time as they are related. He did state that he understood that they would need have separate action as far as voting. The role of the Plan Commission would be to determine whether the expansion on these TIF Districts comply with or are consistent with the Comprehensive Plan for the area. The Town of Middlebury has been working on these two TIF Districts for a Public Works improvement project on the south and southwest side of the town. They are located south of US 20 as well as on both sides of SR 13. The plan is that this area will be developed with road construction after utility improvements of water and sewer are installed. He continued explaining that the plan would be to allow that area to develop for both employment development as well as mixed residential. He stated that as the project is looking to expand these two TIF Districts, they are to look along the corridor from SR 13 west along US 20 to the western edge of the Town of Middlebury as well as just west of CR 35 to CR 33. Mr. Buche also explained that the town has estimated approximately \$6 million dollars for this project. They are looking at a combination of funding from SRF (State Revolving Fund), water utility on bond issue, both TIF Districts contributing, and from the town itself. These projects will take approximately 2 years to be completed which is looking to be completed before the State project of widening US 20 from SR 15 to SR 13. He stated that if there are any questions from the Redevelopment standpoint that Natasha Kauffman is present to answer any questions there might be. In regards to the Elroy Drive Industrial Park TIF District, this District was originally created south of US 20 and east of SR 13, it has now been expanded on the west side of SR 13 to pick up some of the JAYCO facilities. This project is then to expand along US 20 and pick up targeted properties primarily on the south side US 20 adding those to the TIF District as vacant parcels

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which are likely to continue to develop for commercial or industrial purposes. The request is for the Plan Commission to determine that the expansion of the TIF District and Amendatory Declaratory Resolution is consistent with the Comprehension Plans.

Motion: Action: Approve, **Moved by** Tony Campanello, **Seconded by** Frank Lucchese for the Written Order to approve the Amendment to the Elroy Drive Industrial Park TIF District pursuant to the requirements of Indiana Code Section 36-7-14-16.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

15. *Middlebury Southeast TIF District*

Craig Buche, Yoder, Ainley, Ulmer, & Buckingham, LLP, 130 N. Main Street, Goshen, was present representing the Redevelopment Commission for the Town of Middlebury and Elkhart County Redevelopment Commission. He explained that this TIF District picks up the area west of CR 35 and south of US 20 over to CR 33. Part of this would be outside the Town of Middlebury. He stated that they would be looking for approval for the Written Order on this TIF District as well.

Motion: Action: Approve, **Moved by** Steve Warner, **Seconded by** Steven Edwards for the Written Order to approve the Amendment to the Middlebury Southeast TIF District pursuant to the requirements of Indiana Code Section 36-7-14-16.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Frank Lucchese, Jeff Burbrink, Philip Barker, Roger Miller, Steve Warner, Steven Edwards, Tom Stump, Tony Campanello.

16. Board of County Commissioners Approvals Following Plan Commission Recommendations

It should be noted that this was heard previously as item #7 on page 3.

17. Hearing Officer Appointment

It should be noted that this was heard previously as item #8 on page 4.

17. A motion was made and seconded (*Lucchese /Edwards*) that the meeting be adjourned. The motion was carried with a unanimous vote, and the meeting was adjourned at 10:23 a.m.

Respectfully submitted,

Ilona Roberts, Recording Secretary

Roger Miller, Chairman