

Subject to Approval

MADISON PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES June 18, 2020

The Regular Meeting of the Madison Planning and Zoning Commission was conducted Thursday, June 18, 2020, at 7 p.m., remotely, using Zoom Videoconferencing. The public was invited to participate remotely by joining the meeting through a Zoom webinar link password, telephone call-in number, and a webinar identification number. Log-in and call-in details were posted to the Town of Madison website (<https://www.madisonct.org/>) prior to the meeting.

MEMBERS PRESENT

Chairman Ronald Clark, Vice Chairman James Matteson, Secretary Elliott Hitchcock, Thomas Burland, Joseph Bunovsky, Jr., John K. Mathers, Joel Miller, and Giselle Mcdowall.

MEMBERS ABSENT

Brian Richardson and Joseph Bunovsky, Jr.

ALTERNATES PRESENT

Peter Roos, Ron Bodinson and Seonaid Hay.

OTHERS PRESENT

Director of Planning and Economic Development David Anderson and Town Attorney Ira Bloom. The meeting was recorded via Zoom Videoconferencing software for You Tube viewing.

The Regular Meeting of the Madison Planning and Zoning Commission was called to order at approximately 7 p.m. by Chairman Ronald Clark. Chairman Clark seated Alternate Commissioner Seonaid Hay for absent Commissioner Brian Richardson and Alternate Commissioner Peter Roos for absent Commissioner Joseph Bunovsky, Jr. Chairman Clark stated that Town Attorney Ira Bloom, who has been highly recognized in matters of land use and zoning laws and has served the town for 10 years, is joining the meeting to guide the Planning and Zoning Commission's deliberations on the 503 Old Toll Road application, adding that the commissioners are very fortunate to have someone of the caliber of Mr. Bloom assisting them.

Public Hearing Item:

20-06+CSP. 175 Copse Road. Map 47, Lot 6. Owner/Applicant: Debolina, LLC. Special Exception Permit Modification to demolish an existing school building and build a 2-story Community Center with new septic system and grading.

Grove School President Richard Chorney stated that a permit was received to demolish the building, which has been done. Plans are to build a new community center for the school, which is a therapeutic school for children with emotional issues, he stated. The community center is similar to a college model, and the kind of buildings the students live in and work in have a tremendous effect on their self esteem, he stated. There was an architectural contest for the community center; eight architects responded, and drawings were submitted by five, Mr. Chorney stated. Architect Michael Sarano of Friar Architecture was chosen, Mr. Chorney stated. The community center will include a student union with a small diner and a student store; there will also be an area for students to congregate, an art center, an area downstairs to build stage

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craft for the drama program, another section for ceramics, and on the second floor, there will be fine arts, according to Mr. Chorney. There will be significant gallery space for the children to display their works, he stated, and a lot of attention will be paid to sculpture and horticulture. Mr. Chorney thanked the Planning and Zoning Commission for approvals that have allowed the school to construct 14 buildings, throughout the years. Mr. Sarano, principal of Friar Architecture, stated that Architect Maria Kahn is also working for the firm. Ms. Kahn showed drawings of the floor plan, featuring an art room for sculpture, a theatre, a second floor devoted to fine arts and fine arts studios, and an art gallery. The structure totals 8,292 square feet and has a total occupancy of 125, with the upper level having a 48-person occupancy; at its highest point, the building is 31 feet, eight inches in height. The Advisory Committee on Community Appearance (ACCA) reviewed the plans, Mr. Sarano stated. Three dimensional drawings, in color, were also shown to the Planning and Zoning Commission. Professional Engineer and Land Surveyor Thomas A. Stevens stated that in 2018, the Grove School appeared before the commission for a 1,200 square foot addition, but that ground breaking never happened. Now the school is seeking a special exception permit and Coastal Site Plan (CSP) approval to build the community center; approval has been granted by the Inland Wetlands and Watercourses Agency, Mr. Stevens stated. He showed the Planning and Zoning Commission site plan drawings and discussed the engineering aspects of the septic tank, pressure line septic system, mantis leaching field lines, subsurface galleries, pervious pavers, a catch basin, and the reconstruction of two septic systems up by the baseball field, which takes the pressure off of the septic system for the academic building. There are no issues that will affect the wetlands, Mr. Stevens stated. Honeycomb pavers have been chosen for where the bituminous driveway goes, and the fire marshal has stated it will support a fire truck, Mr. Stevens stated, but it will appear as lawn. The community center will be served by existing water, gas, and utilities on site, he stated. John Cunningham of TEC Landscape Design stated that asphalt will be removed, and some of the concrete walkways leading to the community center may be changed; there will be a wetland renovation and removal of invasive species. Fencing will lead to a new entrance to the farm, and native species will be planted, along with the addition of more perennial ground cover; it is a very simple plan, Mr. Cunningham stated. The majority of the work consists of cleaning up the wetland area at the back of the building, removing the invasives, and planting natives, according to Mr. Cunningham. Chairman Clark stated that this is a public hearing, and he asked whether there were any questions from the public; there were none, and no one spoke in favor of or in opposition to the application. ACCA reviewed this plan and enthusiastically endorsed the application, Director of Planning and Economic Development David Anderson stated; the Inland Wetlands and Watercourses Agency approved a regulated inland wetland permit for the application, as well.

Vice Chairman James Matteson made the motion to approve the application, as submitted; it was seconded by Commissioner Peter Roos and unanimously approved.

Vote to approve 175 Copse Road passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Elliott Hitchcock and Commissioners Thomas Burland, John K. Mathers, Giselle Mcdowall, Joel Miller, Roos and Seonaid Hay.

OPPOSED: None.

ABSTAINED: None.

Commissioner Miller made the motion to approve the Coastal Site Plan, finding it meets the goals and policies of the Coastal Management Act; it was seconded by Commissioner

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Mathers, and unanimously approved.

Vote to approve the Coastal Site Plan passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, Roos, and Hay.

OPPOSED: None.

ABSTAINED: None.

REGULAR HEARING ITEM:

20-08. 503 Old Toll Road. Map 143, Lot 20. RU-1 District. Owner: Madison Investment Group LLC. Applicant: Wildwood Behavioral Health, LLC. Special Exception Permit to utilize the existing buildings to provide professional outpatient behavioral health services for adults. The facility will be licensed by the Connecticut Department of Health to provide outpatient programming including individual, group, family and activity therapies for individuals with low to moderate severity psychiatric (including substance abuse) disorders requiring non-hospital, non-medically managed treatment. Treatment services will not include methadone maintenance. Public Hearing Closed. No action taken. Deliberation continued.

Chairman Clark stated that the public hearing was closed at the last meeting, and only the Planning and Zoning Commission is able to participate; the commission can, however, consult with Director of Planning and Economic Development David Anderson and Town Attorney Ira Bloom. Alternate Commissioner Ron Bodinson remains seated for absent Commissioner Brian Richardson, Chairman Clark stated. Alternate Commissioner Peter Roos had recused himself from this application, Chairman Clark stated. Eight commissioners are in deliberation, Chairman Clark stated. Mr. Anderson stated that the Planning and Zoning Commission had asked that the town attorney be invited to provide guidance, adding that Mr. Bloom has a very good understanding of this particular application; he asked that Chairman Clark allow Mr. Bloom to speak, which was granted. Mr. Bloom stated that the law firm has been town attorney for 10 years; Mr. Anderson did provide him with written materials, and he had a chance to look at one of the meetings, which was the second. Mr. Bloom stated that it is difficult to step in, like this, as town attorney, when some of the sessions have not been seen. Mr. Bloom stated that he cannot tell the Planning and Zoning Commission what to do; the Planning and Zoning Commission has to make its own decision. This application falls under Madison Planning and Zoning Regulations Section 5, Rural Districts, and Section 5.2 addresses certain uses in that district which are granted, as of right, Mr. Bloom stated. Section 5.4 addresses uses by special exception permit, with Section 5.4(a) to Section 5.4(h) being the permitted uses, but they do require the special exception permit, according to Mr. Bloom. To approve this application, the commissioners need to make a finding that the proposed use fits into one of those categories in Section 5.4; once that finding is rendered, the Planning and Zoning Commission must then move to the general categories of health, safety, welfare, and the impact on the neighborhood. Commissioners need to determine if the application fits into "a" through "h," then move to the general categories to complete the decision making process. If the Planning and Zoning Commission renders a finding that the application does not fit into the "a" through "h," then it cannot approve this application, Mr. Bloom stated. In Section 5.4, "a" through "h," it really comes down to a discussion of two of the categories, Section 5.4(d), banks, professional, other offices and Section 5.4(g) private hospital, sanatorium, or clinic; even if the commission decides the facility is a clinic, it is in the setback—the 100-foot setback, so it would not be allowed, according to Mr. Bloom. Section 5.4(d) requires an answer of whether this application fits as an

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office, and the Planning and Zoning Commission can debate whether it is a clinic or is it not a clinic, but it cannot be passed, if it is found by the commission to be a clinic, because it does not meet the Section 5.4(g) clinic setback requirements in the regulations. The applicant states that it is a medical office, and the commission can discuss whether it fits under the category or not; if the commissioners decide it is not an office, then there really is not any other category it can be, according to Mr. Bloom. The Planning and Zoning Commission needs to make an affirmative finding that it fits as an office or, as the application states, a medical office, weighing that against the statement of need and the description of the activities within the Planning and Zoning Commission application, according to Mr. Bloom. The Planning and Zoning Commission also has the Certificate of Need that has been presented to it, and because it is a part of the record, the commission has to decide whether to give it full weight or no weight at all, according to Mr. Bloom. The commission needs to decide how much weight to give that; it has to decide how impactful it is and the weight to give it, and once that decision is made, the commission can pass the application with reasonable conditions; the one that is available to the commission is the medical office, according to Mr. Bloom. Commissioner Mathers asked whether or not this is a clinic, as the applicant described it as an outpatient psychiatric clinic, and whether having applied to the state for that license does in fact define it as a clinic. The Planning and Zoning Commission has to decide that, based on the information presented in the record, Mr. Bloom stated. Does that license define it as a clinic, whether or not the applicant doesn't call it that, Commissioner Mathers asked. Mr. Bloom stated that he cannot answer that. Mr. Anderson stated that he did some research and found that in looking at the definition of "outpatient clinic, walk-in," he found out that in 1970 the town of Madison Zoning Regulations included Section 5.4(g) in the Rural District. In 2010, walk-in medical clinic was included in the Commercial District to allow for the Middlesex facility, according to Chairman Clark. In terms of public input, Chairman Clark asked how do the commissioners evaluate it, or use it in their deliberations? The commissioners need to listen to the public, take the public input into account, look for the factual, otherwise, the public gives opinions; this is not a referendum guided by the numbers on one side versus the numbers on the other side, according to Mr. Bloom. The commission has to evaluate everything in the public record; public comments have to be taken into account, Mr. Bloom stated. To approve the application, the commission has to make a finding that this is a permitted use, as an office use/medical, and this can be done with conditions; the commission has to conclude whether the application fits in with Section 5.4(d), according to Mr. Anderson. There could possibly be an appeal on one side or another, and the Planning and Zoning Commission wants to make the right decision and frame it, properly, to everyone's benefit, according to Mr. Anderson. Mr. Bloom stated that he would suggest that the commissioners not take a final vote, tonight, but that they ask Mr. Anderson to prepare a draft resolution, on which Mr. Bloom stated that he would be happy to assist. Mr. Bloom stated that he does understand that there could be an appeal; therefore, it is important to have a written resolution that cites the evidence. Chairman Clark asked if the commission could take a straw vote. Mr. Bloom stated that a straw vote could be taken, but ask Mr. Anderson to prepare a resolution which would be reviewed in a public forum, and then take official action from there. Vice Chairman Matteson stated that his first consideration is that he is not convinced that it is not a clinic; he stated that he believes that it is, and he does not see it as a traditional office, like a dentist office. It is an application for a clinic, and the Planning and Zoning Commission cannot move forward, because it does not come under Section 5.4(d) but Section 5.4(g), Vice Chairman Matteson stated. The second consideration is the impact on the neighborhood, Vice Chairman Matteson stated, with the overwhelming number of residents being there; such a facility does have the history of lowering the property values, and in considering this second area, he would not be in favor of the application. Secretary Hitchcock stated that he agreed with Vice Chairman

Matteson's view of it being a clinic, and he would not be in favor of the application. Commissioner Miller stated that based on all of the information the applicant has provided in the statement of use in the application, he is not convinced that it does not fit the office definition; he thinks it could be an office at that location, but with conditions. Commissioner McDowall stated that these are great services that Dr. Michael Hinkley and his group provides, however applying for a licensed clinic is not an approved use, so she is not in favor of it. Commissioner Burland stated that this appears to be a professional office, based on what they describe will be going on there; it does not fit as a clinic. In terms of the neighbors' considerations, Commissioner Burland stated that he thinks the commission can go a long way in addressing those concerns about what can and cannot go on at the facility. Commissioners need to think of the greater good that these services provide; they are a critical need in all communities, and in Madison, too, according to Commissioner Burland. The application fits in with the allowable uses, and putting conditions on what can happen at the facility would allay the neighbors' fears, according to Commissioner Burland. Commissioner Mathers stated that this sounds to him more like a professional office with professional services, based on what Dr. Hinkley had to say; the neighbors have very valid concerns, but he agrees with Commissioner Burland that this application falls under Section 5.4(d), and that is a permissible use. The fact that Dr. Hinkley is willing to have those conditions applied, validates him, according to Commissioner Mathers. Commissioner Bodinson stated that the term clinic is a label a state agency entered in 1970, and Madison's own zoning regulations entered that change in 1970. Commissioner Bodinson stated that he thinks the commissioners have to look at the substance of it; Dr. Hinkley is moving one medical office to another medical office that fits the town's zoning laws. If it comes down to determining whether it is a clinic or a medical office, Commissioner Bodinson stated that he weighs in favor of the medical office. Chairman Clark stated that these types of services are important, indeed, but they do not have to be at this location; it is a clinic, no matter how it is sliced or diced. In his mind, it is not an office; it is a clinic—office is a stretch, Chairman Clark stated. Chairman Clark stated that he does not believe the applicant submitted the Certificate of Need—it was a neighbor attorney. Chairman Clark stated it is 4-4, if his math is correct, and he asked Mr. Anderson if that is right. That's correct, Mr. Anderson stated. Discussion centered on how to move forward, in light of the absent commissioner. Mr. Bloom stated that he has no idea who the gentleman is, but the meeting was scheduled for this evening, and this gentleman could not make it; it is 4-4, which would not pass the application, and this last person has not had the benefit of this discussion; a possibility would be to have that person listen to the tape and then return. The commissioners would have to go through this discussion, again, in two weeks, with that person involved with that discussion, according to Mr. Bloom. Mr. Anderson stated that he needs a clear direction as to what resolution he would be drafting. Mr. Bloom stated that he still believes the commission will need a resolution; if it is 4-4 it does not pass, with some of the reasons being incorporated into the resolution as to the reasoning, which would be that in this case, there was not a majority in favor of granting this application, based on its use. Chairman Clark stated that there is a possibility that this commissioner might be bombarded with telephone calls, unfairly, because he is not here, tonight. The record is closed, and commissioners do not talk to anyone about these applications outside of these meetings, Chairman Clark stated; he would hate to see pressure put on this individual, to the point where he does not appear, or he abstains from voting. Vice Chairman Matteson stated that he believes that this is absolutely a service that is needed by the community, but it should be in a commercial zone. Commissioner Burland stated that, he suggests, in not knowing what the composition of the next meeting would be, that two resolutions could be made—one that supports and justifies a non-approval and one that would approve the application with conditions; that would give the neighbors closure and give the doctor closure. Mr. Bloom stated that that may be a way to deal with this, tonight,

creating a resolution of approval, with conditions, and a resolution of denial, with reasons, and the commission will have, hopefully, a full complement of members at that time. After further discussion, Mr. Bloom stated that the commissioners could submit thoughts and ideas to Mr. Anderson, and to no one else. Based on what has been sent to Mr. Anderson, a draft would be prepared, and then two resolutions would be presented. Mr. Bloom stated that Mr. Anderson could incorporate everything that has been submitted, take all of the suggestions and list them. The next meeting is July 2, 2020. Mr. Anderson asked if he should be trying to have the missing commissioner watch the videotape of the meeting and also have him email his suggestions, and Mr. Bloom stated in the affirmative.

Commissioner Burland made the motion to continue the application to July 2, 2020; it was seconded by Commissioner Miller and unanimously approved.

Vote to continue the application to July 2, 2020, passed, 8-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, and Bodinson.

OPPOSED: None.

ABSTAINED: None.

20-09CSP. 16 Holly Park Road. Map 15, Lot 83. R-2 District. Owner: Jane Porterfield; Applicant: Michael Donofrio. Coastal Site Plan Review for rebuilding of a deck, and a walkway.

Builder Keith D'Angelo, representing Applicant Michael Donofrio, stated that work has begun on raising the house, along with the renovations. Plans are to connect the ocean side of the porch to the east porch; the house had to be raised five feet, and in doing that, seven steps had to be added, according to Mr. D'Angelo. This application represents achieving practicality—the wraparound porch is beautiful, but it does not connect, according to Mr. D'Angelo; proposed is a three and one half foot catwalk, or connector, supported with diagonal supports, and it does not take away from the beauty of this design. Director of Planning and Economic Development David Anderson stated that there is a seawall, and the proposal does create the need for approval of a Coastal Site Plan, however he does not think that the deck connection will have an impact on the coastal resource. There is a flood and erosion control structure between the connection and the coastal resource, so there is no impact, according to Mr. Anderson.

Commissioner Mathers made the motion to approve the Coastal Site Plan, finding it consistent with the goals and policies of the Coastal Management Act; it was seconded by Secretary Hitchcock and unanimously approved.

Vote to approve the Coastal Site Plan, passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, Roos and Hay.

OPPOSED: None.

ABSTAINED: None.

Vice Chairman Matteson made the motion to add William Plunkett to the agenda for a discussion on an outdoor movie theater program; it was seconded by Commissioner Mcdowall and unanimously approved.

Vote to add William Plunkett and outdoor movie theater discussion to the agenda passed, 9-0-0.

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IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, Roos and Hay.

OPPOSED: None.

ABSTAINED: None.

William Plunkett stated that he is trying to find ways to bring more activities into downtown; he owns a parcel of land south of his restaurant, Moxie. He stated that he has zoning approval for a tent, but he has kept the restaurant closed, due to not feeling comfortable with the current circumstances. He stated that he would like to have an outdoor movie shown on the lawn on his parcel, weather permitting, at least once a week, with the first showing featuring *Elf*. Up to 60 guests would be allowed on the site, and circles, six feet apart, would be painted on the lawn to indicate seating arrangements, in order to comply with the emergency public health declaration that has been made, due to the Coronavirus. Plans are to sell hamburgers and hotdogs inside Moxie, but popcorn could be provided for free during the movie; beer and wine could also be available for sale to adults. Mr. Plunkett described the movie night as very low impact, starting at dusk and ending about two hours later. The movie viewing area could be cordoned off with roping, and guests wishing to watch the film could each receive a free ticket; bathrooms would be available inside the restaurant, according to Mr. Plunkett. Chairman Clark raised a concern about crowd control on the areas outside of the movie viewing section—in the streets and on the sidewalks, particularly if teenagers and children are skateboarding, riding bicycles, or begin running around. Commissioner Roos stated that he guardedly supports the idea, and he thinks it is worth a try, but if there are a lot of complaints, then shut it down, especially if social distancing fails, in the process of viewing the movie. Mr. Plunkett stated that if it does not go well, he will not do it; he does not want to hear any complaints. Commissioner Hay stated that she wants to have a report from the health director to ensure social distancing, and Mr. Anderson stated that he could ask that it be provided. After much discussion, it was agreed that Mr. Plunkett would be allowed to conduct three movie events, which would then be analyzed, based on feedback received. Mr. Plunkett stated that he is in the process of making two applications to the Planning and Zoning Commission for his outdoor movie events.

Commissioner Mathers made a motion that the Planning and Zoning Commission allow the applicant to conduct three events, at which point, the Planning and Zoning Commission will analyze the feedback it receives and approve from there. Commissioner Miller seconded the motion, and it was unanimously approved.

Vote to allow the applicant to have three events, requiring analysis, upon completion, passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, Roos and Hay.

OPPOSED: None.

ABSTAINED: None.

Approval of Minutes: Regular Meeting, May 21, 2020 ~ Planning Meeting, June 4, 2020

Regular Meeting, May 21, 2020:

Commissioner Mathers made the motion to approve the May 21, 2020 minutes as amended, with the following changes, two amendments on Page 7 and one amendment on Page 8, Page 7. Madison Planning and Zoning Commission, Regular Meeting, June 18, 2020

revising to read, with the revisions in italics: **Page 7, Robin Phillips, of 880 Boston Post Road, introduced himself on behalf of 11 neighbors along Boston Post Road and East Wharf Road. He stated that he does not believe there is anyone in this town who does not think that redevelopment of the General's Residence is necessary,** however, there are five concerns they raised to the developers, and the developers agreed to the suggestions offered by the neighbors, therefore, they support the application. Chairman Clark asked if some of those neighbors are abutters to this property, and Mr. Phillips stated that they are, indeed. **Page 7,** suggestions offered by the neighbors, therefore, they support the application. Chairman Clark asked if some of those neighbors are abutters to this property, and Mr. Phillips stated that they are, indeed. Matthew Bennett of 917 Boston Post Road stated that he is among six neighbors who affirm their support for the project, because it will significantly improve the property, and it is fortunate to have the developers' commitment, along with the talent they have brought forth in the form of the engineer and landscaper. While they would love to see the General's Residence preserved in its present form, that is not possible, *Mr. Bennett stated.* (Deleting, Mr. Phillips stated.) **Page 8, Secretary Hitchcock made the motion to accept Special Exception Permit Modification, with the conditions listed by Director of Planning and Economic Development David Anderson; it was seconded by Commissioner Roos and approved.** (Deleting the word, unanimously, and changing it to read, *and approved.*) Commissioner Burland seconded Commissioner Mathers's motion, and it was unanimously approved.

Vote to approve the May 21, 2020 minutes as amended passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, Roos, and Hay.

OPPOSED: None.

ABSTAINED: None.

Planning Meeting, June 4, 2020:

Commissioner Roos made the motion to approve the June 4, 2020 minutes as submitted; it was seconded by Chairman Clark and unanimously approved.

Vote to approve the June 4, 2020 minutes passed, 9-0-0.

IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock and Commissioners Burland, Mathers, Mcdowall, Miller, Roos, and Hay.

OPPOSED: None.

ABSTAINED: None.

Remarks: Commission Chair ~ Chairman Clark thanked everyone and apologized for having to continue the Old Toll Road application; he also thanked Town Attorney Ira Bloom for attending the meeting.

Town Planner ~ Mr. Anderson announced that Commissioner Ron Bodinson had to leave the meeting before it adjourned.

Adjournment

Commissioner Hay made the motion to adjourn at 9:53 p.m.; it was seconded by Secretary Hitchcock and unanimously approved.

Vote to adjourn at 9:53 p.m. passed, 9-0-0.

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IN FAVOR: Chairman Clark, Vice Chairman Matteson, Secretary Hitchcock, and Commissioners Mathers, Miller, Burland, Mcdowall, Roos, and Hay.

OPPOSED: None.

ABSTAINED: None.

Respectfully submitted,
Marlene H. Kennedy, clerk