

**PLANNING & ZONING COMMISSION**  
**December 13, 2010 Meeting**

Commission Members Present: Alan Gannuscio, Vincent Zimnoch, Anthony Scarfo and  
Alternate Jim Szepanski

Town Staff Present: Town Engineer Dana Steele and  
Town Planning Consultant Michael O'Leary

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Chairman Gannuscio called the meeting to order at 7:10 pm.

Commission roll call was taken.

Chairman Gannuscio seated Mr. Szepanski for Commissioner Brown for all of the evening's proceedings.

**MINUTES:**

**Chairman Gannuscio referred to the November 8, 2010 meeting minutes and asked the Commission members and staff for any comments or corrections. They had none. Mr. Gannuscio moved to approve the November 8, 2010 meeting minutes, as published. Mr. Szepanski seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

**PUBLIC HEARINGS:**

- a. Continued public hearing on the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive.**

George Johannesen from Allied Engineering was present.

Chairman Gannuscio asked Mr. Zimnoch to read the rules for conducting a public hearing. Mr. Zimnoch then did so.

Chairman Gannuscio questioned when the acceptance time for the site plan application had begun. Mr. O'Leary stated that it had begun when the application had been accepted at the August 9, 2010 meeting. He went on to say that the application had been scheduled for a public hearing on September 13, 2010. The discussion continued and both Mr. Gannuscio and Mr. O'Leary agreed that the end of the two 65 day periods in which they had to act on the application would be December 17, 2010. Chairman Gannuscio commented that they were running out of time.

Chairman Gannuscio asked Mr. Johannesen if there was a revised site plan. Mr. Johannesen replied that there was. Chairman Gannuscio stated that he had not seen the revised site plan. He then asked if the Town Engineer has seen it. Mr. Johannesen replied that the Town Engineer had not seen the revised site plan.

Mr. Johannesen stated that he had spoken with Ms. Rodriguez, Town Planning Coordinator and Assistant Zoning and Wetlands Officer, about the timeframe. He went on to say that he had asked Ms. Rodriguez if he should attend the meeting that evening to give a brief presentation regarding the changes to the plan. Mr. Johannesen pointed out that he had not received the survey until the Friday before the meeting and, therefore, he had not had time to get all the changes made and the revised plan submitted prior to the evening's meeting. He explained that Ms. Rodriguez had told him that as long as the hearing remained open they would still be within the proper timeframe for the January meeting. Chairman Gannuscio pointed out that they would have to close the public hearing that evening and would then have 35 days in which to make their decision on it. Mr. O'Leary stated that it was a site plan application, not a special permit application. He then explained that a special permit application usually required a public hearing which gave them 35 days to keep the hearing open and that once the hearing was closed they would have 65 days in which to make a decision. Mr. O'Leary reiterated that the application in question was a site plan application that the Commission had decided to hold a public hearing on. He went on to say that in the past the Commission had been advised by the Town Attorney that they were required to adhere to the site plan timeframe that was set forth in State law (65 days from receipt of the application in which to make a decision). Mr. O'Leary noted that a 65 day extension was allowed and had already been granted. He then commented that the companion special permit application had its own timeframes.

Chairman Gannuscio reiterated that they only had until December 17, 2010 to make their decision.

Mr. Johannesen commented that he had been somewhat misled and then stated that rather than making a presentation and closing the hearing that evening he would prefer to withdraw the application without prejudice to resubmit. He then asked if he could do so. Chairman Gannuscio replied that he could withdraw the application. He then asked Mr. Johannesen if he also wanted to withdraw the special permit application as well. Mr. Johannesen replied that he did. Mr. Gannuscio recommended that any reapplication would not require another fee to be paid.

**Chairman Gannuscio moved to accept the withdrawal, without prejudice, of the site plan review application of Jin Hospitality, LLC for the property located at 4 Loten Drive and that any reapplication be made without the requirement of payment of any fee. Mr. Scarfo seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

**b. Continued public hearing on the special use permit/liquor permit application of Jin Hospitality, LLC for the property located at 4 Loten Drive.**

**Chairman Gannuscio moved to accept the withdrawal, without prejudice, of the special use permit/liquor permit application of Jin Hospitality, LLC for the property located at 4 Loten Drive and that any reapplication be made without the requirement of payment of any fee. Mr. Szepanski seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

A member of the general public addressed the Commission and stated that he was a neighbor of the property in question and then asked if the abutting properties would be notified when a new application was submitted. Chairman Gannuscio replied that there was no requirement in the Regulations that they notify abutting properties. He went on to say that anyone could contact the Building Office to see if a new application was submitted.

Another member of the general public addressed the Commission and pointed out that all of the members of the general public in attendance that evening had been inconvenienced a few months in a row. She went on to say that the Commission had made exceptions for the applicant and then asked if they could make an exception to the neighbors by notifying them when a new application was submitted. Chairman Gannuscio pointed out that he usually did not receive the applications first, the Building Office did, therefore it would be easier to simply call the Building Office to see if an application had been submitted. He then asked if they had a management association. The first member of the public that had addressed the Commission that evening replied that he was the President of Concorde Landing and that they also had a management company who was also present that evening. Mr. Gannuscio stated that if they were to leave a telephone number and/or email address with Ms. Rodriguez she could get in touch with the management company once a new application had been received. The President of Concorde Landing stated that they would try that, but that they had called the Building Office in the past and not had much successful communication. Mr. Gannuscio again stated that they should speak with Ms. Rodriguez since she would probably see the application before any of the Commission members did.

Another member of the general public addressed the Commission and asked Mr. Johannesen if the proposed restaurant would not come to be without the approval of a liquor permit. Mr. Johannesen replied that he did not know for sure. That same member of the public commented that he did not understand why they did not have a hearing on the liquor permit first, since it could be done easily without any special drawings, etc. Chairman Gannuscio stated that they would see what happened when they received new applications.

**c. Public hearing on the Zone Change application of Stephen W. Ayotte (Ayotte Enterprises) to change the zone from Residential to Industrial 2 for the property located at 288 North Street, 11-2-77 and 290 North Street.**

Steve Ayotte of 288 North Street was present.

Chairman Gannuscio asked the Recording Secretary to read the legal notices for the two Ayotte applications scheduled for public hearings that evening. The Recording Secretary then read the legal notice that had been published in the Journal Inquirer on December 1 and December 9, 2010.

Chairman Gannuscio stated that he had never received a set of plans. Mr. Ayotte stated that he had given copies of the plans to Ms. Rodriguez a few weeks prior to distribute to the Commission. He then pointed out that nothing had changed on the plans except the ownership for the back parcel from Chapman Chase to Robby Nowak and Lori Beneski Nowak.

Mr. Ayotte stated that they were looking to park equipment and store various materials (top soil, gravel, etc.) on the site. He went on to say that there was no paving on the property, it was gravel, there was sufficient drainage and the buffer zone was still there. Mr. Ayotte pointed out that when they had originally moved onto the property the zone was IA-2 and that it had been changed to Residential about 10 years ago when the condominiums were built.

Chairman Gannuscio asked Mr. Ayotte if he had seen the memorandum that had been written by Town Planning Consultant O'Leary dated November 6, 2010. Mr. Ayotte replied that he had not seen it. Mr. Gannuscio then gave a copy of that memorandum to Mr. Ayotte to review. Mr. O'Leary noted that it was very similar to the first memorandum that he had previously written. Mr. Ayotte then proceeded to read the November 6, 2010 memorandum and agreed that it was pretty much the same as the previous memorandum.

Chairman Gannuscio clarified that Item 3 of that memorandum offered an accurate summary:

- one portion was owned by Ayotte Enterprises;
- one portion was owned by Mr. Nowak; and

- one portion was owned by Chapman Chase.

Mr. Ayotte stated that third portion had been previously owned by Chapman Chase, but that it was now owned by Robby Nowak and Lori Beneski Nowak. He then noted that both of the property owners had signed the application.

Chairman Gannuscio asked Mr. Ayotte if he had anything further to add. Mr. Ayotte replied that he did not, they were going to use the property for storage and that they had been on the property for years.

Chairman Gannuscio asked Mr. O'Leary to summarize his comments. Mr. O'Leary stated that they had received the application back in September, 2010 and had originally scheduled it for November's meeting, but had rescheduled it to December because of an issue with the legal notice.

Mr. O'Leary referred to his November 6, 2010 memorandum and summarized it as follows:

1. The applicant is requesting a change of zone from Residential to Industrial 2 for the existing site of Ayotte Brothers Construction Company, Inc. Recently there has been an expanded parking and storage area constructed on the abutting property that was owned by the Nowaks as part of the application (Parcel 19-2-77).
2. The applicant has submitted an application dated 4/19/10, a Zone Change Plan dated 4/19/10 prepared by Alford Associates, and an Improvement Location Plan dated 4/19/10 and updated to 6/30/10 prepared by Alford Associates.
3. Originally there had been a question regarding ownership of the parcels. Mr. O'Leary stated that they had clarified the ownership issue earlier that evening. He then noted that Mr. Ayotte owned parcel 19-2-80 and leased the others that were owned by the Nowaks (a portion of two other parcels). Mr. Ayotte stated that that was correct.
4. The Town GIS System had aerial photographs from 2002 and 2008. The 2002 aerial photograph shows no used at all on the Nowak properties, but the 2008 photograph shows all of the improvements that had been done. They also showed up on the site plan that had been submitted with the application.
5. This area of town had been rezoned by the Commission along with much of the area north of North Street and east of Acorn Drive approximately 10+ years ago. Extensive areas of industrial zoning were removed. Mr. O'Leary noted that it had been the subject of a major discussion at several workshops and public hearings. There had been hopes that the property could be accessed via and extension of King Spring Road, but that it had been determined that King Spring Road could not be extended.

The Townsø last two Plan of Conservation and Developments supported that change in zoning and land use for the North Street area. The previous Plan of Conservation and Development was adopted in 1996 and was the impetus to subsequently amend the Zoning Map. The existing Plan of Conservatin and Development was adopted in 2007 and clearly supported the land use pattern.

6. A Zone Change Application must follow the submission requirements of Section 1105:
  - a. A letter of explanation of why the zone change is needed must be submitted;
  - b. A legal description of the area of the zone change is required;
  - c. A preliminary site plan is required with details as noted in 1105.A.3.

Mr. O'Leary asked Mr. Ayotte if he had submitted a legal description. Mr. Ayotte replied that he had submitted a legal description to Ms. Rodriguez in the Townsø Building Office. Mr. O'Leary then noted that the site plan that had been submitted was really an existing conditions plan.

7. The Commission in determining a zone change application must consider a number of items:
  - a. Consistency with the Plan of Conservation and Development;
  - b. Consistecy with the Comprehensive Plan (the Zoning Plan) of the community;
  - c. Impact on the surrounding neighborhood and the ability of those parcels to be properly used within their zoning district;
  - d. And finally, to approve a zone change there must be reasons for the change to be placed in the record by the Commission; no reason is required to deny the application.

Mr. O'Leary noted that State Law indicated that to change a zone a majority of the entire Commission needed to vote in the affirmative.

Chairman Gannuscio asked Mr. Steele if he had any comments. Mr. Steele replied that he had no comments on the zone change application.

Chairman Gannuscio asked the Commission members for any questions.

Chairman Gannuscio asked Mr. Ayotte if there was anything further that he wanted the Commission to take into consideration. Mr. Ayotte asked the Commission to consider that 310 North Street was also Industrial and that there was just a little strip of Residential between two Industrial properties. Mr. O'Leary asked what the use was at 310 North Street. Mr. Ayotte replied that it was a trucking outfit. Mr. Gannuscio then asked Mr. Ayotte if he had anything further in response to Mr. O'Leary's comments. Mr. Ayotte had nothing further.

Chairman Gannuscio asked for any public comments in support of the application. There were none.

Chairman Gannuscio asked for any public comments in opposition to the application.

Dr. Anthony Giorgio addressed the Commission and stated that he was the President of the Chapman Chase Homeowners Association and the Owner/Manager of Chapman Chase, LLC. He went on to say that Mr. Ayotte had worked for Chapman Chase installing their driveways. He also noted that he wished Mr. Ayotte continued success. Dr. Giorgio reminded the Commission that they had spent many hours discussing the vision of Chapman Chase as one of the premier age restricted residential developments in Windsor Locks. He went on to say that they had done so under the context of all of the land to the west of Chapman Chase, including the parcel that Chapman Chase had originally owned located behind Mr. Ayotte's building, as being Residential.

Dr. Giorgio explained that they had master planned the parcel for Residential, but then the Army Corps of Engineers had wanted them to build a \$1 million bridge across the little drainage ditch, which resulted in it being an impossible feat. He went on to say that the land, therefore could not be reached by Chapman Chase and that it was zoned Residential so when they were approached by the current owner to sell the property they did so assuming that it would continue to be used for residential.

Dr. Giorgio stated that to change the parcel to Industrial would have a profound impact to Chapman Chase, would create a larger Industrial finger in the Residential Zone, and would not be consistent with the Town's Plan of Conservation and Development. He went on to say that he had also not heard any reason to change the zone.

Chairman Gannuscio asked for any other public comments in opposition to the application.

Mark Pesco of 9 Chamberlain Crossing in Chapman Chase addressed the Commission and stated that he supported Dr. Giorgio's comments. He then reiterated that changing the zone would have an impact on his neighborhood.

Chairman Gannuscio asked if there were any other public comments in opposition to the application. There were none.

Chairman Gannuscio asked Mr. Ayotte for any response to the comments made in opposition. Mr. Ayotte stated that he would not be putting another building on the property; he would just continue to do what he had been doing for the past 10 to 12 years.

Chairman Gannuscio asked Mr. O'Leary for any further comments. Mr. O'Leary had none.

Chairman Gannuscio asked the Commission members for any questions or comments. Mr. Scarfo asked Mr. Ayotte how long his lease was for. Mr. Ayotte replied that it was for five years. Mr. Scarfo then asked how long into the lease it he was. Mr. Ayotte replied that he was two years into the lease.

Mr. Szepanski commented that he found it strange that the owners of the property were not present to support their co-application.

Chairman Gannuscio asked the Commission members if they wanted to continue the public hearing to the January meeting or if they wanted to close the public hearing that evening. Mr. Zimnoch stated that he saw no need to continue the public hearing. Both Mr. Szepanski and Mr. Scarfo agreed.

**Chairman Gannusco moved to close the public hearing on the Zone Change application of Stephen W. Ayotte (Ayotte Enterprises) to change the zone from Residential to Industrial 2 for the property located at 288 North Street, 11-2-77 and 290 North Street. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

Chairman Gannuscio noted that they would need at least three of the four votes either way, since they were missing their fifth member that evening.

Chairman Gannuscio asked the Commission members for any final comments. They had none.

Chairman Gannuscio stated that he had been on the Commission since 1995 and that from almost the first year that he was on the Commission one of their concerns had been the North Street area and trying to achieve a balance between the Residential and Industrial uses. He went on to say that a good deal of effort went into drafting and amending two Plans of Conservation and Development to try to describe and offer some kind guidance for the situation that existed on North Street. Mr. Gannuscio also noted that a lot of effort had gone into several zone change applications in the 1990s and the early part of the 2000s. He went on to say that it was a policy and zoning map that offered a good a compromise/guide for what was not the best of situations. He then reiterated that it was not something that had been done lightly or easily at the time. Mr. Gannuscio stated that it was something that should not be changed without some strong reasons to do so. He then commented that to change a zone just to remedy something that really should not be there was not a good reason. Mr. Gannuscio concluded by saying that to reverse 10 to 15 years of planning policy and conservation and development action did not strike him as something that was a good direction to take.

Mr. Zimnoch stated that they would need a really good reason to change the zone and that he had not heard one.

Mr. Scarfo asked if anything had been put in writing regarding the zone when the parcel had been sold from Chapman Chase to the Nowaks. Chairman Gannuscio replied that the correspondence had indicated that it had been sold with the understanding that it would be kept Residential. He then proceeded to give Mr. Scarfo a copy of that correspondence to review.

Mr. Szepanski stated that he agreed with Chairman Gannuscio's comments. He went on to say that he had not heard any good reason to change the zone.

**Chairman Gannuscio moved to deny the zone change application of Stephen W. Ayotte (Ayotte Enterprises) to change the zone from Residential to Industrial 2 for the property located at 288 North Street, 11-2-77 and 290 North Street. Mr. Szepanski seconded the motion. The vote was 3 – 1 (Mr. Scarfo was opposed), the motion was approved.**

**d. Public hearing on the site plan review application of Stephen W. Ayotte (Ayotte Enterprises) for the property located at 288 North Street, 11-2-77 and 290 North Street.**

Chairman Gannuscio asked Mr. Ayotte if he wanted to proceed with the public hearing on the site plan review application. Mr. Ayotte replied that he would like to withdraw his site plan review application.

**Chairman Gannuscio moved to accept the withdrawal of the site plan review application of Stephen W. Ayotte (Ayotte Enterprises) for the property located at 288 North Street, 11-2-77 and 290 North Street. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

Chairman Gannuscio called a five minute break at 8:05 pm.

**BREAK:**

Chairman Gannuscio called the meeting back to order at 8:10 pm.

**REVIEWS:**

There were none.

**ACTION ON CLOSED PUBIC HEARING ITEMS:**

There were none.

**OLD BUSINESS:**

**a. Discussion with Commission and Staff**

Chairman Gannuscio asked Mr. O'Leary if he had anything new to present and/or discuss. Mr. O'Leary replied that he did not. He went on to say that, with regard to Main Street, he was going to talk with Patrick McMahon about possibly meeting with the Economic and Industrial Development Committee and that he was also going to draft a regulation.

**NEW BUSINESS:**

**a. Public Input**

There was none.

**b. Receive New Applications**

**i. Site plan review application of Rollies Garage, LLC for the property located at 4 Lawnacre Road.**

**Chairman Gannuscio moved to schedule the site plan review of Rollies Garage, LLC for the property located at 4 Lawnacre Road for January 10, 2011. Mr. Scarfo seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

**c. Informal discussion regarding a home occupation at 60 Spring Street.**

There was no one present for this discussion.

Chairman Gannuscio stated that he had spoken with Scott Chadwick, Town Attorney, and had been told that an injunction had been issued telling them to stop running their business from the residence at 60 Spring Street. He then asked the Recording Secretary to drop the informal discussion from further agendas.

**e. Review of the bond reduction request of T&M Builders for North Wind Estates.**

Mr. Steele stated that T&M had submitted a request for a bond reduction of Phase 3 of North Wind Estates, the cul-de-sac portion of Meg Way. He explained that there had been a number of problems with drainage for the project and as a result construction on Phase 3 had been delayed. Mr. Steele noted that they had redesigned the drainage to include a detention basin on the property, which had since been built. He then noted that per Scott Lappen, Public Works Director, everything was in good shape and had been installed properly.

Mr. Steele stated that T&M was requesting a reduction down to the minimum permitted by regulation before road acceptance, which was 1/3 of the original bond amount. He then noted that the original bond had included an erosion and sediment control portion as well as a public improvements portion that totaled \$266,100. Mr. Steele stated that the following items remained to be completed:

- the top course of pavement;
- utility connections for a couple of lots; and
- pavement markings and traffic signs.

He noted that there was about \$28,000 worth of work remaining to be completed and that 1/3 of the original bond would be \$88,700 (three times as much bond as work remaining).

Mr. Steele stated that he had no issue with reducing the bond as requested in the letter dated November 23, 2010 from T&M Building Company, Inc.:

- reducing the Erosion and Sediment Control Bond from \$21,000 down to \$7,000; and
- reducing the Performance Bond for Phase 3 from \$245,100 down to \$81,700.

Chairman Gannuscio asked the Commission members for any questions. They had none.

**Chairman Gannuscio stated that Town Engineer Steele had recommended that the Erosion and Sediment Control Bond be reduced to \$7,000 and the Performance Bond for Phase 3 of North Wind Estates be reduced to \$81,700. He then moved to accept Mr. Steele's recommendation. Mr. Szepanski seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

**d. Informal discussion regarding the T&M and North Group, LLC request for acceptance of roads.**

Mr. Steele stated that the request for road acceptance dealt with Szepanski Road, Acorn Drive, and Mayhern Way in Windsor Locks Farms and Cody, Meg Way and Kate in North Wind Estates. He went on to say that he had met with Scott Lappen, Public Works Director, regarding those roads and that Mr. Lappen had had no particular concerns with the construction.

Mr. Steele noted that there had been some modifications made to the approval with regard to fencing and a parking lot next to the open space. He went on to say that the result of his discussion with Mr. Lappen was that Mr. Lappen had wanted him to do a final walk through and verify that all of the issues had been addressed. Mr. Steele commented that there were some issues with some of the curb cuts out onto North Street where there had been some settlement and required repaving. He went on to say that there were some outstanding items and that he had not done his final walk through yet, therefore he was not prepared to recommend acceptance of those roads that evening. Mr. Steele stated that he hoped to put together a final list of any remaining items that needed to be addressed and submit it to the applicant.

Chairman Gannuscio clarified that they should continue the item on the following month's agenda. Mr. Steele stated that that was correct.

**Chairman Gannuscio moved to continue Item 8.d, informal discussion regarding the T&M and North Group, LLC request for acceptance of roads, to the January meeting. Mr. Scarfo seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

#### **COMMUNICATIONS AND BILLS:**

**Chairman Gannuscio stated that he had received a bill from Mr. O'Leary for his September/October retainer in the amount of \$3,333. He then moved to approve Mr. O'Leary's bill in the amount of \$3,333. Mr. Scarfo seconded the motion. All were in favor. The vote was 4- 0, the motion was approved.**

Chairman Gannuscio stated that he had received one communication that had had to do with the Margueritas Restaurant application which had been withdrawn earlier that evening. He noted that the communication had been from the Skyline Restaurant and that it had basically said that the Commission was not properly interpreting or adhering to the Regulations when it came to liquor permits.

Chairman Gannuscio commented that ten days prior he and Mr. Zimnoch had attended a meeting with the First Selectman, two representatives from the Department of Environmental Protection (DEP), the First Selectman of Suffield, the Town Attorney and Ms. Rodriguez regarding Babylon and their proposal to increase the capacity of the plant. He then noted that the increased capacity would be devoted to solid municipal waste.

Chairman Gannuscio stated that they had initially been told by the applicant that the Town had no say in the matter, but that the DEP had since said that there would be a public hearing and that

the Town could participate in that hearing. He noted that there was strong opposition from the people in the area and that a public forum had been held at the High School regarding Babylon's proposal.

Chairman Gannuscio commented that it was not an open and shut case where there was nothing that the Town could do or say about it. He explained that the Town Attorney had suggested that the Town would be wise to hire counsel with expertise in reviewing and fighting these types of applications. He went on to say that a request would have to be made to the Board of Finance in conjunction with the Board of Selectmen. Mr. Gannuscio then recommended that the Commission make a recommendation to the Board of Selectmen that a request be made to the Board of Finance for money to be spent to hire specialized counsel to represent the Town in the application process before the DEP. The discussion continued and Mr. Gannuscio then asked the Commission members if anyone disagreed with making such a recommendation. The Commission members all agreed that they should make the recommendation to the Board of Selectmen.

**Chairman Gannuscio moved to recommend to the Board of Selectmen that a request be made to the Board of Finance for money to be spent to hire specialized counsel to represent the Town in the application process before the DEP. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the motion was approved.**

Mr. Steele asked if the Town of Suffield was doing something similar. Chairman Gannuscio replied that it would not have the impact on Suffield like it would on Windsor Locks. The discussion then continued briefly and Chairman Gannuscio then stated that he would send the Commission's recommendation to the Board of Selectmen.

Chairman Gannuscio asked the Commission members and staff if they had further concerns or items for discussion. They had none.

**Chairman Gannuscio moved to adjourn the meeting. Mr. Zimnoch seconded the motion. All were in favor. The vote was 4 – 0, the meeting was adjourned at 8:45 pm.**

Respectfully submitted,

Diane Ferrari  
Recording Secretary

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**THIS IS A DRAFT**

**Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.**