

**City of Newburyport  
Planning Board**

The meeting was called to order at 7:06 PM.

**1. Roll Call**

In attendance for the Planning Board: James Brugger, Anne Gardner, Joe Lamb, Jim McCarthy, Bonnie Sontag, Andrew Shapiro, Mary Jo Verde, and Don Walters. Leah McGavern arrived at 7:10 PM

In attendance for the Historical Commission: Sarah White, Malcolm Carnwath, and Stephen Dodge

Andrew Port, Director of Planning and Development, was also present

**2. Joint Public Hearing with the Historical Commission**

- a) City Of Newburyport  
83 Merrimac Street and 90 Pleasant Street  
Major Site Plan Review (2017-SPR-01)  
DOD Special Permit (2017-SP-03)  
Special Permit for Use (2017-SP-04)  
Continued from 6/5/17*

Sarah White, Chair, Historical Commission (NHC), opened the NHC meeting.

Chairman McCarthy reviewed open issues. Director Port described building colors and textures as sample materials were passed around. He highlighted on revised elevations the changes in windows, the garage opening, and the ground floor façade. Lintels and sills simulated downtown window designs. Minor adjustments, shown on the site plan layout, included removing parking spaces across from the Merrimac Street opening, changing the turning radius in two places, adding a curb cut, striping the streets, and a wall behind the building gated on both ends. Signage would be worked out with the MVRTA and submitted later. The lighting plan with shoebox style dark sky fixtures, hopefully kept in the center roofline to avoid spillover, would be submitted later. Any stormwater plan would be an improvement and that would come later also. The second traffic study was currently underway to help determine pattern changes on Green and Pleasant Streets. The initial analysis showed no traffic light or signal changes were needed in the immediate area. Phase II would address future conditions. He asked for an approval this evening.

Mr. Dodge asked if windows in the view from Brown Square could look less continuous and more like the windows above. Director Port would work with the design team. Mr. Carnwath and Mr. Dodge said materials were acceptable. Chairman White said if the bottom tower window was smaller than the others, there were three different sizes. Director Port said it was smaller due to the grade and where the landing was located.

Member comments: What was the screening on the view from Titcomb Street? Director Port said screening blocked views of parking while providing open air. Had the design team considered lower poles and motion sensor lights to help abutters? Director Port said hours of operation had

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not been fully discussed and did not know if a motion system was safe. The lowest possible height would be specified for poles. Could roof parking could be blocked off when not needed and roof lights triggered when floors below were full? Would there be overnight parking? Director Port said overnight parking was undecided but allowed for residents during snowstorms. Why were columns not placed under load bearing walls in the design? Columns under load bearing walls created the rhythm on State Street.

Chairman McCarthy read the draft conditions. He wanted warmer color lights. The current traffic study had expanded to include a traffic flow analysis, impact study, a management plan for Merrimac Street and Route 1, and an analysis of changes for signalization, pedestrian street crossings, street directions, and differential parking rates. The two-part analysis would continue all summer and conclude before an occupancy permit was issued. An air quality analysis would show how many idling cars created a problem. Despite talk, there was no link between the garage and the Waterfront West proposal. The garage's purpose was to counteract the loss of waterfront parking.

Director Port said Condition 5 could be met with a written document from the NRA that provided a schedule for removing a specific number of spaces from their lots. The understanding with the NRA did not provide a legal standing to remove spaces. Parking was an allowed use on the waterfront. Members considered asking the NRA for a status report every six months. Were any enforcement actions in the consultant recommendations? Director Port said the report would go to the City Council for a decision. Chairman McCarthy said the City Council and City had signed the Purchase & Sale (P&S). The board would put the best plan forward and approve three items. The City Council would decide whether to fund the garage or not. The initial study proved the traffic would not be so bad that the City should not proceed with a garage.

Public comment open.

Jeanette Isabella, 1 Lime Street, wanted studies done before hand and a guarantee on eliminating waterfront spaces. The City would not have 207 spaces. MVRTA passengers had 45 and the remaining spaces shared with Waterfront West guests. The City was subsidizing NED's parking.

Rob Germinara, 2 Ashland Street, said materials lacked the quality and durability of downtown materials. The study should be completed ahead of time and go as far as Kent Street. There should be flexibility to add additional floors for handling 1,000 seats in three restaurants.

David Zinck, 6 Laurel Road, said it was already hard to turn right on Titcomb Street. The bump out should be moved. Off and on of motion sensor lights could be more irritating than perpetual lights. In the 1970s the City learned that a red light created traffic back ups all over town and installed a blinking light. The garage would be empty except during an event. The NRA historically had no money. Sacrificing parking revenue would be met with resistance.

Laurel Allgrove, 22 Beacon Avenue, said when the Gillis Bridge was up during the summer, traffic was backed up. A ventilation system was crucial or air quality would be bad.

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Hazem Mahmoud, 52A Ferry Road, took issue with the current traffic study. What period of time would be studied? Preventing the hotel guests from parking overnight was an issue. Director Port said the study was eight weeks.

A resident asked if there would be electric charging stations? Director Port said a conduit would be run for that.

Jane Snow, 9 Coffin Street, said the P&S was not signed per the last council meeting. Director Port said a portion required federal government approval. The MVRTA grant could not be applied for until the City owned the land. Ms. Snow said hotel drawings showed only 50 parking spaces for 100 units. Where would the other cars park? Where would Ale House customers park?

Public comment closed.

Board comments: Chairman McCarthy was primarily concerned that the garage was a viable enterprise, regardless of who parked there. He recommended that residents who did not want the garage funded address the City Council. Members said the NRA was autonomous. Condition 5 language could be “within 15 days of approval by the City of the traffic flow study and management plan, the City will request a specific plan from the NRA that includes a timeline for deleting at least 100 parking spaces on NRA lots within 75 days.” Director Port said there was no mechanism to undo grandfathered parking, but the NRA made a commitment to reduce parking for expanding and improving park space. Members clarified that some of the draft special conditions were prior to the building permit and some were prior to the occupancy permit because of the timing when things could be learned. There was no need to hold up the construction phase. The board controlled design, use, and DOD permitting. Only the City Council could stop the garage from being built. Chairman McCarthy said the City code had changed. Conditions had to be met prior to occupancy.

What about the public’s suggestion to expand the study to Kent Street, Federal Street, and up to High Street for traffic flow? Nancy Doherty, Tetra Tech Inc., 100 Nickerson Road, Marlborough, said cars coming from 95 and Route 1 already travelled through those intersections to NRA spaces that would gradually disappear over five years. Members said it was necessary to address traffic congestion in a new part of town. Ms. Doherty said NED’s study addressed that issue and Tetra Tech had offered their suggestions. Chairman McCarthy said the Phase II traffic impact study would include counts from Waterfront West and the Ale House. The flow analysis was a first for the City. Members considered the ramifications of withholding the occupancy permit until studies were completed. Capturing summer traffic required more time. Chairman McCarthy said the City needed a contract in place with an expert who would start studying and executing recommendations right as the garage opened. What about building additional stories in the future? Director Port said there would be a discussion with the City Council and the design team about using footings that could support additional floors. Members did not support limiting the garage to 207 spaces. Future spaces should be unlimited. City Engineer Jon Eric White had made radius adjustments for trucks and buses. Bump outs should not be removed because they shortened the crossing and were safer for pedestrians. Electric car outlets would be good.

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The board made a special finding that the garage was an appropriate use because of the understanding with the NRA about removing parking spaces from waterfront lots.

Don Walters made a motion to approve the Special Permit for Use. Joe Lamb seconded the motion and all members voted in favor.

Chairman White said the NHC said the Fitness Factory building did not qualify for the National Register. The NHC was in favor of demolition. Mr. Dodge said the design was appropriate, but he preferred real brick. Chairman White said the design was good for its purpose in this part of town. The NHC recommend approval of the DOD Permit.

Bonnie Sontag made a motion to approve the DOD Permit. Mary Jo Verde seconded the motion and all members voted in favor.

Mary Jo Verde made a motion to approve the site plan and attach site plan conditions to all three motions. Andrew Shapiro seconded the motion and all members voted in favor.

**Motions Approved.**

*During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.*

Stephen Dodge made a motion to adjourn the NHC meeting. Malcolm Carnwath seconded the motion and all members voted in favor.

**3. General Business**

- a) The minutes of 6/21/17 were approved as amended. Bonnie Sontag made a motion to approve the minutes. James Brugger seconded the motion and all members voted in favor.

**Motion Approved.**

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- b) 20 Dove Street/23 Warren Street ANR (2017-ANR-09)**

Chairman McCarthy said lot lines shifted for a lot split. Members said ZBA variances were huge.

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Don Walters made a motion to approve the ANR. Anne Gardner seconded the motion and all members voted in favor.

**Motion Approved.**

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**c) Application Completeness Vote – 77R, 85 & 85R Storey Avenue (2017-SPR-04)**

The Planning Office recommended approving the Atria application. A public hearing would be scheduled for August 17. There were no waivers.

Anne Gardner made a motion to approve Application Completeness. Andrew Shapiro seconded the motion and all members voted in favor.

**Motion Approved.**

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**4. Public Hearings**

**a) Six Perkins Way Nominee Trust  
6 Perkins Way  
Major Site Plan Review (2017-SPR-02)  
Continued from 6/7/17 – Request to continue to 7/19/17**

Attorney Lisa Mead, Mead, Talerman & Costa LLC, 30 Green Street, requested a continuance to July 19 because the applicant was working with their engineer to resolve CSI's comments.

Don Walters made a motion to continue the Major Site Plan Review to July 19. Leah McGavern seconded the motion and all members voted in favor.

**Motion Approved.**

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**b) *New England Development***  
***83 Merrimac Street and 90 Pleasant Street***  
***Definitive Subdivision (2014-DEF-02)***  
***Continued from 6/21/17***

Chairman McCarthy requested a continuance to November 1.

James Brugger made a motion to continue the Definitive Subdivision to July 19. Joe Lamb seconded the motion and all members voted in favor.

**Motion Approved.**

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**c) *Evergreen Commons, LLC***  
***18 Boyd Drive and 5 Brown Avenue***  
***Definitive Subdivision (2017-DEF-01)***  
***WRPD Special Permit (2017-SP-05)***

Andrew Shapiro read the notice. Attorney Mead listed the submittals. On June 6, the board and Board of Health (BOH) received chemical testing results. The original filing was supplemented with those details. Some OSRD conditions not in the definitive plan filing, such as repaving the end of Boyd Drive, would be part of the requirements. Roads and 38 lots covered 13.36 out of 38.84 acres, with a lot off Brown Avenue. The homeowner's association (HOA) would maintain the open space. On June 27, a BOH letter to the board indicated no problems with the proposed OSRD and considered ongoing testing during construction superfluous. The Conservation Commission wanted a copy of the peer review report on the ILSF.

Steve Sawyer, Design Consultants, Inc. (DCI), 68 Pleasant Street, presented three images. The main entry and homes fronting the outside of the loop road looked onto a two-acre central green. Five-foot wide sidewalks on both sides of the two-way looped road had one sloped granite edge. Houses fronted both sides of the road toward Brown Avenue. There was no need for retaining walls. Walking paths diverged from sidewalk in two places. He showed a small pump station on the plan. Three lots conformed to Boyd Drive zoning with R2 frontage and area. The cul de sac was closed off except for access to a mile of public trails. A smaller cul de sac was about 75 feet long. Connections to open space and natural pollinator meadows surrounded the public tot lot. The existing dysfunctional ILSF would be excavated and improved.

Stormwater management was divided into small areas. Boyd Drive pumped down to a newly constructed stormwater wetland, clay lined at the Conservation Commission's request to minimize infiltration and significantly improving water draining into the ILSF. After treatment with particle separators, different high points directed water to five lower bio-retention areas two feet above seasonal high water. ILSF calculations were discussed. The City's Cornell number

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rendered the size of the ILSF that was considered an impervious surface. Lowering the ILSF area improved the situation. In the event of two back-to-back, 8.3-inch rainstorms, groundwater would still be below foundation elevations. Ponding would occur in a pollinator meadow where no chemicals were used. Seven wells were installed for periodically measuring groundwater elevations. A large data sample showed greater than the 90<sup>th</sup> percentile above the median. Seasonal high groundwater was above average. He described how the bio-retention area treatment systems improved stormwater quality. Out of the 44% pretreatment handled by the deep sump catch basins, the separator provided 25%.

Attorney Mead said three conditions were triggered by the WRPD permit. She described the special permit criteria. Lot 25 exceeded one condition for slope. Mr. Sawyer said design criteria required new stormwater discharges to be 100 feet away. The average grade across the site was 9%. Lot 25 could be stabilized easily with two retaining walls. The treated Boyd Drive stormwater met new Zone 2 standards.

Jay Billings, president, Northeast Geoscience Inc., 97 Walnut Street, Clinton, MA, described the site's hydrology for the special permit. Quality and quantity of water available to recharge the area could not be adversely affected. Existing conditions for quantity included the consumptive use of irrigating a nine-hole golf course from two on site gravel wells with no external drainage. Proposed conditions eliminated the irrigation wells, added City water and sewer services, and had a slightly higher evaporative loss due to pavement. Post-development water quantity would be slightly higher than current conditions. Existing conditions for ground water quality focused on chemical application records for 9.1 acres of managed turf. Untreated stormwater irrigated the golf course in close proximity to the well. Many products were fungicides not used on a normal lawn. AECOM devised the soil test plan used for analyzing eight samples from the golf course. Their lab identified 16 compounds in low concentrations, 15 of which were turf management products and one related to DDT. Four products were purchased since 2014 and 11 were used probably prior to 2014. Most compounds were found on the greens, representing 2.6% of the golf course. Nothing was found on the tee boxes or fairways. Due to the lack of standards for these compounds a risk assessment professional was hired. Concentrations were low enough not to pose a threat to human health. AECOM would give their assessment at the next meeting. Proposed conditions created a slight increase in impervious surfaces and road salt applications. A projected 8% increase in sodium chloride met Zone 2 requirements. Suspended solids would be removed prior to infiltration. Overall, the 62% reduction in managed turf and the elimination of the use of turf products from the WRPD removed potential sources of contamination.

Member comments: Chairman McCarthy requested the attendance of experts from CSI, AECOM, and the Conservation Commission at the next meeting. Members wanted the City engineer to address concerns about the impact of more surface water on mosquito breeding and pesticide use. The subdivision was still in Zone 2, despite a future new well. CSI should ascertain whether water control devices met criteria of no less than six feet from the historical high water. The board, as the permit granting authority, should have detailed and definitive information. Other types of analysis could be done. AECOM should verify that testing was state of the art and used best engineering practices for the WRPD. All City departments would be asked for comments. If none were received within 60 days, that would be considered an approval. The BOH letter addressed only the soil report and did not address the WRPD

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specifically. Chairman McCarthy asked how the risk assessment comments related to the water supply? Mr. Billings said the assessment assumed a certain amount of soil would be ingested. Attorney Mead said soil testing was done under AECOM's oversight and in their lab. Members needed to know if chances increased for substances to get into the well when the former greens were disturbed during construction. Chairman McCarthy said the initial presentation had roof infiltration into the yards. Were roofs infiltrated? Mr. Sawyer said no. Chairman McCarthy asked if there was one blacktop path? Attorney Mead said the board had requested removing pavement. All paths were crushed stone. Chairman McCarthy thought the outer path would be paved and bikable. Members asked if there was another solution to salting the roads? Attorney Mead said yes. Winter road treatment would be approved by the DPS. Salt was not supposed to be used Zone 2, but the DPS still used it. Members asked about water collecting at the bottom of Brown Avenue? Mr. Sawyer said the water would be pulled away into two catch basins at the toe of the hill. Members asked about the lot whose slope exceeded 15% in the WRPD permit? Mr. Sawyer said the average slope across the site was 9%. Chairman McCarthy said the site was fairly flat.

Public comment open.

David Zinck, 6 Laurel Road, said bio-retention systems would not work in winter. Houses were dug into the aquifer. If more holes were dug for pools, chemicals would be a new concern. Catch basins can be overwhelmed in heavy storms. How often would they be cleaned? Retention ponds would go into the aquifer in winter. The DPS did not have bins of special salt for these residents. What if sewer pipes cracked? Chairman McCarthy said programmatic testing would catch it. Every Development in Zone 2 is allowed in every U.S. community. The City, with its permanent easement, was responsible for the well and must be responsible for the roads as well.

Mary Zinck, 6 Laurel Road, was concerned about children's safety on Brown Avenue.

Annemarie Vega, 21 Boyd Drive, asked if runoff from the cemetery was included? Mr. Sawyer said yes. Was there a difference between spring testing on a Newbury well and the 13 borings? Mr. Sawyer said base elevations were based on the 13 test pits. Ms. Vega said boring observations showed 54 feet for seasonal high water. The plan said 51 feet. Mr. Sawyer said the soil from ILSF test pits showed 52 feet. Attorney Mead said the tests verified the golf course readings. Chairman McCarthy said tests demonstrated that readings were not abnormally low. Ms. Vega said chemicals were found on less than an acre. There would be nine acres of lawn. She questioned the calculations and statistics. AECOM's report said said bound chemicals would go into the ground if soils were moved. Chairman McCarthy said the City's expert would verify AECOM's data.

David Marino, 7 Boyd Drive, asked what kind of materials would be brought in for the roadways? Mr. Sawyer said clean processed gravel or excavated material.

Public comment closed.

Chairman McCarthy said the next meeting date would be coordinated with the City experts' availability. Attorney Mead said architectural material would be ready for the next meeting. Documents had been reviewed and a response to comments would be presented.



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Bonnie Sontag made a motion to continue the Definitive Subdivision and WRPD Special Permit to August 16. James Brugger seconded the motion and all members voted in favor.

**Motion Approved.**

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**d) Clipper City Car Wash  
74 Storey Avenue  
Major Site Plan Review (2017-SPR-03)**

Andrew Shapiro read the notice. Chairman McCarthy said the proposal did not violate zoning. The applicant was allowed to cover 30% of the area and only 12% was used. Paul Avery, Oak Consulting Group, PO Box 1123, Newburyport, showed a plan of the existing site with three wash bays. Proposed was a conveyor bay at the rear of the property, removing an existing bay, replacing six individual vacuum stations with a buried, less noisy central vacuum serving nine cars, and seven new parking spaces per zoning requirements. Traffic flow did not change. Most of the site was paved except back where the new conveyor would operate from 7AM to 7PM in the B1 zone. The stormwater system was a series of self-contained catch basins. The new bay had a water reclamation system. No groundwater was encountered at 10-12 feet. There were no issues in responding to CSI comments on stormwater, the sewer connection, and what would be done with the removed bay. City comments were not substantive. The building would be eight feet from the nearest residential dwelling. A sound wall to dampen sound and mitigate noise would help address residents' concerns. Information on the wall was sent electronically today. The photometric plan displayed minor spillover from downcast lights, but not updated with the wall. A 10-foot light pole would be replaced with a gooseneck pole.

Member comments: What was the wall height? Armand Sencartier, Clipper City, said wall height was to be determined. The current wall was 10 feet high. Landscaping should be improved with evergreens along the rear wall. Mr. Sencartier said some existing trees would be removed for the drive area. Members requested specifics on the number, types, and height of trees. Chairman McCarthy suggested making the wall U-shaped to cover the sides. This was a significant addition. Landscaping modifications should be made to the entire site to continue improving Storey Avenue. It was not unreasonable to request an acoustic study to ensure adherence to the noise ordinance. Chairman McCarthy said the noise ordinance might apply only at night. The City engineer should verify the project met all performance standards. Members wanted a neighborly approach to addressing noise in every way possible. Mr. Sencartier would reach out to the wall professionals to manage expectations. The vacuum had a single enclosed blower instead of six separate ones. Coin operated wash bays were open 24 hours. Director Port considered that conveyor doors would open and close on a regular basis. He asked for a plan showing the location of each piece of equipment and the corresponding decibel levels.

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Chris Loiselle, Autoshine, 8 Kensington Road, Hampton Falls, NH, indicated the location of the new sign on the side of the conveyor building and said it did not face the street. Chairman McCarthy asked about the sign on plans? Members asked about the difference in height between the existing structure and the new structure? Mr. Loiselle said the new conveyor would not peak above but there would be sightlines to it. Chairman McCarthy asked if the fence at the back property line would stay? Mr. Sencartier said yes. Chairman McCarthy noted the amount of dead plant material that needed replacing and noted places for deciduous trees to block neighbors. He requested a letter from the applicant to verify that the project met zoning code performance criteria. No traffic study was needed. Mr. Loiselle described the building as all glass. Chairman McCarthy said starting in November, when it was dark earlier, flashing lights would be visible. Mr. Loiselle said glass was used to open up a 100-foot tunnel. Members preferred using windows and closing it up a bit to reduce the visible flashing lights. Would it be hard to do a more traditional building? Mr. Loiselle said he would find out. Chairman McCarthy wanted less intense lights. Mr. Loiselle agreed that old blacktop would be removed to reduce the impervious surface and said power was underground. Members said the sign faced Story Avenue, not Maritime Landing. Mr. Loiselle said the new sign was like the existing identification sign in front. Members asked if the lit sign would turn off at 7 pm? Mr. Loiselle said the sign lit only when cars entered and would be shut off at 7 PM.

Public comment open.

Paul O'Neil, Curzon Mill Road, said existing noise mitigation were trees would be removed. He was not opposed, but lighting, noise, a landscaping waiver, and exhaust fumes were all problems. Neighbors would see the top of the building. The conveyor should move to the street side.

Chairman McCarthy asked for the wall to be modeled in the photometric study.

Felicia Miller, 21 Clipper Way, spoke about the impact of emissions, noise, smells, and lights radiating from the conveyor building. Headlights would shine into homes through wide gaps in the stockade fence. The conveyor should be moved away from homes.

Ann Jaronyk, 6 Woodman Way, said Woodman Way was lined with weeds, not trees. A barrier wall and landscaping would help mitigate sound.

Mary Higdon, 5 Woodman Way, heard car radios blasting at 2 AM from the 24/7 car wash bays. Could the vacuum turn off at 9 PM?

Sandra Barnes, 19 Clipper Way, whose backyard faced the car wash, agreed with her neighbor's comments on noise, vacuums, radios, exhaust, and moving the conveyor to the street side. What about cars that drove around the vacuums to find the conveyor closed? Mr. Sencartier said there was gate at the cashier. Cones would prevent cars from driving around the back at night.

Jim Collins, 27 Clipper Way, an early riser, said cars were there at 4:40 AM. The 6-foot wall should be extended.

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Jim Divola, 15 Clipper Way, wanted the design changed and something done about the dumpster's banging noise. Mr. Sencartier said moving the conveyor was unworkable because it was necessary to keep cars moving. The dumpster could be emptied in the middle of the day.

Ms. Miller asked if the equipment room would generate sound? Mr. Loiselle said no. Chairman McCarthy said a good noise design would be necessary.

Public comment closed.

Members said the drawing looked as if the conveyor could shift forward. Mr. Avery said it was in the rear to avoid traffic conflicts. Members said reducing the number of vacuums would gain more stacking for the queues.

Bonnie Sontag made a motion to continue to September 6. Leah McGavern seconded the motion and all members voted in favor.

**Motions Approved.**

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**5. Adjournment**

Mary Jo Verde made a motion to adjourn. Bonnie Sontag seconded the motion and all members voted in favor.

The meeting adjourned at 10:58 PM.

Respectfully submitted -- Linda Guthrie