



6 Church Street, Gardiner, ME 04345  
Phone (207) 582-4200

Debby Willis, Chairperson  
Angelia Sencabaugh, Administrative Assistant

**PLANNING BOARD MEETING**  
**Tuesday, September 10, 2019 @ 6:00 PM**  
**City Hall Council Chambers**

**1. Call the Meeting to Order Chair Willis called meeting to order at 6:00pm**

**Roll Call; Members Present:**

Chair Debby Willis, Pamela Mitchel, Lester Young

Zachary Hanley

**Also present:** Tracey Steuber: (EDD) Kris McNeill (CEO), Angelia Christopher (P+D-AA), Guy Ferriss-Amy Posovsky, Daniel and Debra Ouellette, Jeffrey Ellis, Aimee Ellis, Zackery Ellis, Richard and Rowena McGlinn, Thomas and Lorna Plourde, Jan Brackett, Calvin and Valerie Moody, Donald and Patricia McLaughlin, Don Larrabee, Richard Nickless

**2. Review of the July 9, 2019 meeting minutes**

Chair Willis ask for a motion to accept the minutes.

Pam Mitchel seconded the motion.

Motion was seconded by Zachary Hanley. All in favor.

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**3. Applicants- Guy Ferriss and Amy Posovsky -Planning Board Review for 96 Riverside Rd. Gardiner, Maine. Seeking approval to slightly enlarge and enclose existing covered front porch in Shoreland**

The applicants are owners of the property; the board agrees that they can hear this with no conflict of interest. The couple recently acquired the property, and the house needs some repairs. They have replaced a septic system, and the front deck that had deteriorated beyond repair. Their current plan is to slightly enlarge the front porch, which also has deteriorated. The 'front porch', is really the backside of the house, facing away from the river, and also used to be an enclosed porch. There is a picture of the enclosed porch enclosed in the application. The applicants want to rebuild the porch, but widen it, so that it's big enough to hold a washer/dryer, and they can use it for a

mud/utility room. The applicants assure the change will be aesthetically appealing. They would like to expand the porch an additional 63” in width. The issue with this permit is that the ordinance says no expansions can happen in Resource protection. There seems to be some confusion in the interpretation of the ordinance and the code isn’t really clear. Code currently states that new construction is prohibited- this is not new construction, it’s reconstruction. Pam Mitchel asks if it is the boards job to grant a variance? This is not really a variance, it can be permitted by the Code enforcement, but with Shoreland overlay, Kris wanted to make sure that everyone was in agreement. Chair Willis has visited the site, and feels that the place where the work is to be done, is far enough away from the water. The whole building is within the setback of the water, so the non-conformity is not being made any worse. This proposal is for the back of the house, away from the water. Pam Mitchel states that there was an error in the numbers in their application. The application states that they wanted to expand by 55”, but when she did the math she came up with 63”.

Chair Willis asks the applicant if they want to stay while the board goes through the application- The applicants agree

Chair Willis opens the application for public comment-there is one person who wants to speak in regards to this application.

Jan Brackett- an abutter- she owns the piece of property on the right of the applicants

Ms. Brackett asks ‘There is a lot going on at the house right now. Is everything going on, at the property replacement work, and it is permitted?’ CEO, Kris McNeill states, that all of the work has been permitted, and are replacement jobs only.

There were no other inquiries from the public.

### **Chair Willis closed the public hearing.**

**6.5.1.1** The application is complete and the review fee has been paid. **Yes**

**6.5.1.2** The proposal conforms to all the applicable provisions of this Ordinance. Pam states that this proposal does comply with all applicable provisions of this ordinance and Chair Willis has laid the groundwork for this

**6.5.1.3** The proposed activity will not result in water pollution, erosion or sedimentation to water bodies **Yes**

**6.5.1.4** The proposal will provide for the adequate disposal of all wastewater and solid waste **Yes**

**6.5.1.5** The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources. **Yes**

**6.5.1.6** The proposal will not have an adverse impact upon waterbodies and wetlands. **Yes**

**6.5.1.7** The proposal will provide for adequate storm water management. **Yes**

**6.5.1.8** The proposal will conform to all applicable Shoreland Zoning requirements. **Yes**

**6.5.1.9** The proposal will conform to all applicable Floodplain Management requirements. **Yes**

**6.5.1.10** The proposal will have sufficient water available to meet the needs of the development. **Yes**

**6.5.1.11** The proposal will not adversely affect groundwater quality or quantity. **Yes**

**6.5.1.12** The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development. **Yes**

**6.5.1.13** The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development. **Yes**

**6.5.1.14** The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance. **Yes**

**Section 8** general performance standards- nothing applies to this application

**Section 9** environmental performance standards- all work done is being skirted with silt fences to prevent run off.

**Section 10** special activity performance standards - nothing applies to this application

**Section 11** traffic road standards- nothing applies to this application

**Section 3.6** nonconforming If this proposal was being done in the same footprint, there would be no issue, but where they want to expand, in resource protection.

**3.6 1.1** “to the greatest practical extent’ can expand - increasing the demands of the property  
The expansion makes the property more attractive, not less attractive.

**3.6.2.2.** ‘whenever enlarged’

**3.6.3.1** ‘to the greatest practical extent’ – which implies that you can expand the non- conforming, the application is not expanding the nonconforming part, it’s not increasing the nonconformity.

Pam Mitchel makes a motion that the applications conforms to all applicable provisions of this ordinance. Zachary gave the second motion. All in favor. Pam Mitchel moves that we approve this project, Les Young seconds the motion. All approve.

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**4. Applicant- Stonewall Commons- Daniel and Debra Ouellette- Planning Board Review for Stonewall Dr. Gardiner, Maine. Seeking approval to build two- 2 family units- potential condo sales or rental units.**

Chair Willis ask if the board can hear this without impartiality. All agree that this can be held without impartiality.

Dan and Debra Ouellette introduce themselves. They state that they are the land owners under Grand Falls Mortgage Company, which they also own. Stonewall Commons is proposed development on a 3 ac parcel on Stonewall lane- Map 16 Lot 6. This development will be two buildings, with 2 units in each building. The Ouellettes have not specified if these residences will be used as sales, rentals, or even condos. They are here today for initial approval for the development. The Ouellettes have included a very complete application, which includes maps, septic designs, deeds, etc. There is enough land in this parcel for such a development, although there is question about road frontage. The main reason this application has been brought before planning board is a development of this nature, a 2 building with 2 units each, in this zone of Planned Development is considered a Multi-family, and that needs to be permitted with review i.e.- go before Planning Board to obtain approval.

The biggest obstacle thus far with this development is the road frontage. They need to have 150' of road frontage in order to get approval, and as the property sits right now, the Ouellettes have 119' of frontage. The board states that the only way this application is going to get approved is if they go with a private road. As long as there is enough road frontage, the development can get changed around some, as long as the set backs are met.

Mrs. Ouellette presents a new design with an updated layout, that shows a well, clearly defined setbacks for a private road, etc. This project can be done under one septic even if they are condos. It is not always the most desirable way to do it, but it is allowable and can be done 'in common'.

Changing their plan, and using a private road, which will probably be named Ouellette Dr., will cause them to change their plot plan around some, due to set back requirements. This cause some issues with the septic, due to the lay of the land and the way it slopes. CEO Kris McNeill will work with Ouellettes to figure out a design that will work and fit within ordinance requirements.

Open for public hearing: -- Chair Willis is there anyone here about this matter? Chair Willis asks me, I tell her there are several people

Calvin and Valerie Moody had presented a letter, which has been issued to board members and added to the record.

Chair Willis has opened for public comment

Rowena McGlinn is the first to come up to speak- she states that she is an abutter to the proposed development. Her biggest concern is about the septic that is proposed for the property. She feels it will be very close to her well, and she is worried about contamination. She is not sure of the distance that is required to be between the two, but she states that her well is lower than where his proposed septic will go. She goes on to tell the board that she has spent years, trying to get her water right, and has just invested in a water system. Kris McNeill-CEO stated that the leach field has to be 100ft from a well, and it appears to be at least 150' according to the plans. Kris states that a State site evaluator will be there, to check on the septic to make sure it is installed properly. Mrs. McGlinn wants it in writing, that if the septic at the Ouellette property fails, and ruins her well, he will be responsible for it. Kris McNeill reminds her that the purpose of a site evaluator is to make sure that the job is being done, correctly, and the likelihood of the septic failing is extremely rare. Mr. Ouellette also states that there is ledge between the well, and the septic.

Thomas Plourde- The second person to speak out against this development. Mr. Plourde lives almost at the end of Stonewall Lane. He tells the board that there is in fact an association- that was

started about 22 years ago. He does not know where the paperwork is, and there are no regular dues paid. When work needs to be done, residents split the bill, and there is one person doing all of the winter plowing with residents paying him. About a month ago, a culvert went and Mr. Plourde contacted Mr. Ouellette to discuss his portion. Mr. Plourde states that Mr. Ouellette told him no, that wasn't his problem, and he refused to pay. Mr. Plourde states that he paid to fix the road, 2 of the other residents have paid their quarter of the bill, and he is working with the other resident for their share. Mr. Plourde is also concerned about the traffic on Brunswick Ave, coming out of Stonewall Lane (a blind hill). He states that the traffic is bad, moves fast, and there have been many close calls. He feels that adding more vehicles coming out of the road, will be hazardous, and will only make an accident more likely.

Calvin and Valerie Moody – They are abutters, who live on Brunswick Ave. They first met Mr. Ouellette when they had cleaned their yard, and pool only to get covered in soot and ash shortly after. When Mr. Moody approached Mr. Ouellette, he was told that he had a burn permit, and he was burning brush on his property. Two weeks later, during a baby shower at the Moody home, there was more ash and soot. When Mr. Moody, approached Mr. Ouellette, he got the same response, “too bad”. Mr. Moody reports that Mr. Ouellette has moved some of the rocks that were his fence, property markers, to make his property lines look wider. Mr. Moody calls Mr. Ouellette deceitful, states that he has moved property boundaries, lied to land owners, changed his story numerous times. First he told the residents of Stonewall that he was building a garage, then it was 2 mobile homes, and now it's condos. He has cut down trees wherever he wants, including on other people's property, and even left raging burning fires unattended.

The Moodys report that the Ouellettes are cutting down trees in the ROW. Mr. Moody states that he asked Mr. Ouellette to stop and he refused. Mr. Ouellette then reportedly told Mrs. Moody, that her husband had given him permission to cut the trees when she stopped to discuss it with him on another occasion. The Moodys are fed up with Mr. Ouellette cutting on their land and have contacted the Forest Service to serve him with a cease order or face legal action. The Moodys also feel that there is no easement, that they own the land all the way up to Stonewall lane. They openly state that they don't care what he does with his property, but he needs to leave theirs alone. They complain about him leaving several fires left burning unattended. They may have had a permit for these fires, but have left them, raging to the point of out of control. The Moodys state that the Police and Fire Depts know about these fires, as they have been contacted to check on them. Kris McNeill CEO, states that every step of this development will be permitted, and watched.

Patricia McLaughlin, an abutter- She tells the group that they do have a ROW, but she wants to know if Mr. Ouellette is going to do his share of maintaining the road? Ouellette, states that if there is a FORMAL association, he will be responsible, for HIS share of the road, but not for the back side of the road, that his past his property. He feels that he is not responsible for part of the road where people from his development won't be traveling. She states that there will be more traffic on the road, if this development goes through. Does he have a plan, for road maintenance to manage the wear and tear? Is he going to be responsible? Mr. Ouellette has said what he will be responsible for as far as road association.

There are no other residents here to speak.

Chair Willis closed the public hearing

The board is considering the need for an executive session due to the information in this application. Chair Willis is taking a minute to read/review the deeds and easements that are included with the application.

The group decides to take a 5 minute- off the record break instead of an executive session so that the board can review the documents.

**Time out: 7:15 pm**

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**Time back on the record: 7:22 pm**

Chair Willis tells the group that this application should be recognized as one property- not two. She is striking the plot plan that defines lot 1 and lot 2.

She is also striking the Variance application- Planning Board cannot grant a variance.

Chair Willis asks the board and the applicants are ready to review the application? All agree

**6.5.1.1** The application is complete and the review fee has been paid. **YES**

**6.5.1.2** The proposal conforms to all the applicable provisions of this Ordinance. **YES** Les, feels that we would like to see the documents updated.

**6.5.1.3** The proposed activity will not result in water pollution, erosion or sedimentation to water bodies. **YES**

**6.5.1.4** The proposal will provide for the adequate disposal of all wastewater and solid waste. **YES**  
See septic plans

**6.5.1.5** The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources. **YES**

**6.5.1.6** The proposal will not have an adverse impact upon waterbodies and wetlands. **YES**

**6.5.1.7** The proposal will provide for adequate storm water management. **YES**

**6.5.1.8** The proposal will conform to all applicable Shoreland Zoning requirements. **YES**

**6.5.1.9** The proposal will conform to all applicable Floodplain Management requirements. **YES**  
Not in floodplain

**6.5.1.10** The proposal will have sufficient water available to meet the needs of the development. **YES** A well is marked in the plans. Mr. Ouellette state the development will have a drilled well.

**6.5.1.11** The proposal will not adversely affect groundwater quality or quantity. **YES**

**6.5.1.12** The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development. **YES**

**6.5.1.13** The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development. **YES** Stonewall is a private Rd with no services for water or sewer

**6.5.1.14** The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance. **YES**

## **Section 7 Minimal Dimensional Requirements-**

**6.3.2.3** verification of the applicant's rights.

**Section 7.7** property is in PD The requirements of 150' Rd frontage cannot be met using Stonewall lane as a primary rd. The Ouellette's have decided to go with a private rd with sufficient frontage for this development. The lot needs to be at least 60, 000 sq ft, for what is being proposed, and multi family dwelling is allowed in Planned Development Permitted with review.

**Section 8. General Lot Requirements-** access to lots.

**8.1** General lot requirements- with 2 principal buildings the lot needs to be at least 120, 000 sq ft- Pam Mitchel states there is more than enough land here for this development.

**8.2** Access to lots, driveways by means of a common driveway or a road- this is identified in the application.

**8.9** external material storage-If the property is going to be kept as a rental, it needs to have a dumpster, which will need to be screened (fenced). The Ouellettes state that they hadn't thought about that, but agree that if the property ends up being a rental, they will see this step is taken care of properly.

**8.10** Buffers and screening, -

**8.11.4.3.2** a buffer of at least 25' wide to be placed on side rear and front – does it apply here?

There is currently not a lot of vegetation on this lot, no buffers to speak of. After researching, the consensus is that our ordinance reads that the 25' buffer strip does not apply to this development.

The discussion immediately turned to the hazard of having this development. What are the risks to the environment? That many people, living on one lot?

The residents of Stonewall lane want to know why four families on one lot, does not get considered a multi-unit? Chair Willis explains that it's the way the ordinance is worded, and it's considered 2-2 units.

The McGlinn family wants to know how far back the Ouellettes can clear the property of trees and vegetation?- CEO- Kris McNeill states he can clear all the way to the property lines.

Chair Willis reminds the group that they need to get back to the discussion:

after looking at the ordinance it appears the 25 ft buffer does not apply

## **Environmental Section 9- Erosion Control Measures**

At this time there has been some clearing of trees, but there has not been any excavation started yet. Chair Willis reports that she saw lots of dirt, and cleared land when she did her site visit. Mr. Ouellette reports that when he starts excavation, erosion control measures will be taken by way of silt fences, sand bags, and other means if needed.

Mr. Plourde speaks up and tells Chair Willis she should get out of her car when she visited the property. He assures her it will be a soup hole when the excavation starts. She informs him that she did see the topography, she is aware of the landscape. There will have to be adequate erosion control while landscaping and excavating

Chair Willis has to remind people again that the public hearing has closed.

#### **9.7.331 - 7.332**

Provisions for the ownership, maintenance, future replacement and liability of the central collection system shall be developed.

An ownership association shall be required whenever different owners use a common disposal system. Deed covenants for each lot or owner shall require mandatory membership in the association. Ownership will be required.

#### **Section 10 Special Performance Standards**

**10.16.1** Have to meet the lot and dimensional requirements, of the zone in which they are located

**10.16.2** any two- family dwellings shall have onsite vehicle turnarounds.

**10.16.13** need to have two 9X18 parking spaces for each dwelling unit

#### **Section 11 parking**

**11.4.4.1** spots must be minimum of 9X18 must be and 2 for each dwelling

A garage counts as one. There is a garage in each unit one car each in each garage

A residence has to have 2 spaces per development,

**11.4.5.1** there will be a garage at each unit and home on either side =2 garages.

One car in each garage.

Despite the public comment being closed, there are still comments coming in.

Mrs. McLaughlin, speaks up, stating she is upset about that her question about her ROW. She feels that it was not addressed. Chair Willis states that the applicant has answered all those questions and the public hearing is closed.

Chair Willis takes a moment to remind people that Planning Board is made up of Gardiner residents, who volunteer their time, because they want to give back to their communities. She is an attorney, she reviewed the deeds, she states that all the easements are in place, and there are no restrictions on the ROW. She cannot force anyone to join a land association. Planning Board cannot force people to be good neighbors. Board members are here to interpret the ordinance, and work within those guidelines, and hope that people will be good neighbors.

There seems to be a lot of heated discussion about how the Ouellettes obtained their ROW. Mr. Ouellette tells the board, and the audience that they are a written agreement for the ROW, that was achieved through paving Stonewall Lane. There is an easement, with no restrictions. He is more than willing to participate in the upkeep and maintenance of the road, for his portion. He does not feel that the road, past the entrance to his development is his responsibility.

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#### **Gone back to the second question- this proposal applies to all applicable provisions of this ordinance.**

The board agrees that this proposal applies to all applicable standards to this ordinance. They are asking for a few documents that need to be updated with information. The board will add conditions to the approval to make sure that all information is up to date, and accurate. The board



agrees that this application does not need to come back in for review, Code Enforcement can review and monitor the progress of the development.

Pam Mitchel makes a motion that this application conforms to standards with a condition that a new plot plan be done, with new location of septic. There should also be an updated parking design included as well as updated septic design to reflect the number of bedrooms. She would also like a condition that there be a Septic system ownership association with mandatory membership if it becomes a condo.

Zachary Hanley seconds the motion and all approve

Pam Mitchel makes a motion to approve the application, with the three mentioned conditions Zachary Hanley seconds, all in favor.

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**5. Applicant- Jeffrey Ellis- 30 Pope St- Planning Board Review for 30 Pope St. Gardiner, Maine. Seeking approval for variance to move a garage onto a cement foundation.**

Mr. Ellis and his wife are the property owners. The board agrees that they can hear this application without bias. This building is a duplex. The Ellis have done lots of work to it since their purchase. The garage in question is currently sitting on dirt, and falling in disrepair. They want to move the garage, and place it on a slab. The issue here and the reasoning for this coming to Planning Board, is the garage is 1-2 feet from the property lines, which is not within the required setbacks. The Ellis purchased this property this way, making it grandfathered. Mr. Ellis wants to fix up the garage, which will require moving it and putting it on a slab. The only way to move this garage, would be to set up the slab, beside it, lift up the garage carefully and slide it on to the already prepared slab. Getting the slab ready ahead of time, for the garages eventual place, actually move the location of the garage, to a less conforming location, but it's still not within the required setbacks of 10'. Moving the garage onto a slab and securing the structural integrity will make it less non-conforming, but still not conforming.

The garage is only non-conforming with setbacks on one side. That neighbor is fine with this change, and has actually signed the application with his approval.

According to the ordinance he can rebuild a non-conforming structure in the same exact spot, but he can't move it, to reduce his non conformity. He can build a new one in the same foot print, but not move this one in a different direction because it will still be non-conformant.

Chair Willis asks if any of the Board members have gone by this residence. She has and Pam Mitchel has walked by. Chair Willis asks if the garage will be used to store vehicles? Where the driveway sits now, moving the garage over 10ft, the driveway would look odd, and might not work if vehicles were going to be stored in the garage. Mr. Ellis reports that there is currently a plane in garage, and he will be using the garage for storage only.

The building is currently sagging. Lifting it, enough to put a slab under it, could easily be enough to destroy it. The reason he is doing this this way, is so he can slide over, onto the slab that will secure it. After it is secure, he is going to put siding on it, and re-roofing it.

The garage seems to have some historic significance too. The main house was built approximately 1875. The garage was sometime after that. Zachary Hanley asks if the sill is gone, and if the structure is stick built. Mr. Ellis reports that the sill has been reinforced with pressure treated

lumber, and the garage is stick built. Board members ask if Mr. Ellis is going to do the work himself or hire the job out. He reports that he has extensive building experience and feels confident that he can get this done right.

All members of this meeting agree that this move is aesthetically appealing and for the sake of the community, this makes sense. Mr. Ellis reports that there is a possible insurance issue pending. If the repairs aren't done by mid-December, the garage will have to be demolished.

Board members agree to review the application.

Chair Willis opens the application for public comment

There is no one here for this matter.

Chair Willis asks if the City has had any inquiries about this matter.

No inquiries-

Chair Willis closes for public comment

Review of the application.

**6.5.1.1** The application is complete and the review fee has been paid. **YES**

**6.5.1.2** The proposal conforms to all the applicable provisions of this Ordinance. **YES**

**6.5.1.3** The proposed activity will not result in water pollution, erosion or sedimentation to water bodies. **YES**

**6.5.1.4** The proposal will provide for the adequate disposal of all wastewater and solid waste. **YES**

**6.5.1.5** The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources. **YES**

**6.5.1.6** The proposal will not have an adverse impact upon waterbodies and wetlands. **YES**

**6.5.1.7** The proposal will provide for adequate storm water management. **YES**

**6.5.1.8** The proposal will conform to all applicable Shoreland Zoning requirements. **YES**

**6.5.1.9** The proposal will conform to all applicable Floodplain Management requirements. **YES**

**6.5.1.10** The proposal will have sufficient water available to meet the needs of the development. **YES**

**6.5.1.11** The proposal will not adversely affect groundwater quality or quantity. **YES**

**6.5.1.12** The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development. **YES**

**6.5.1.13** The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development. **YES**

**6.5.1.14** The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance. **YES**

**Section 8** General Performance Standards

**8.4** accessory building, we already know its nonconforming with setbacks but it's not being made any taller-wider, etc

**Section 9** Environmental Performance Standards --no concerns

**Section 10** Special Activity Standards, --none

-On the record non- conforming- site plan for duplex apartment – sliding back and over, away from the neighbor's property, but not within the 10' setbacks required.

**Section 3-** we know this a non-conforming structure; the property owner would like to move it 4 feet from the property line- back from the road. At this time, it sits, 2 ft from the property line. This movement will make this structure less non-conforming, but still non-conforming.

The purpose of the move is to preserve the structural integrity of the building, by placing it on a slab. Moving it back and away from the property lines, will make it less nonconforming building

Pam Mitchel makes a motion that this proposal conforms to all the applicable provisions of this Ordinance but the change of the position is to preserve the building, and in order to do that it will be necessary to have a slab under that, and in order to move it safely, the building will have to be slid over on top of the slab. The new position of the building will still be nonconforming but less non-conforming than it was before,

Zachary Hanley seconds the motion. All in favor.

Pam Mitchel makes a motion to approve this application, Les Young seconds the motion All approved

Pam Mitchel moves that we adjourn, Zachary seconds, All in favor.

6. Other Business- none at this time.

7. Next meeting: The next scheduled meeting should be held on October 8, 2019. There are no items for the agenda at this time.

Adjourn: Chair Willis asked for a motion to adjourn.

Pam Mitchel made motion to adjourn 8.52 pm

Les Young offered a second. All are in favor