

Conservation Commission Meeting
Virtual Meeting
July 13, 2023

This open meeting of the Sharon Conservation Commission was conducted remotely consistent with An Act Extending Certain COVID-19 Measures Adopted during the State of Emergency, signed into law on June 16th, 2021, and as amended and extended through March of 2025. These provisions allow public bodies to meet remotely if reasonable public access is afforded so the public can follow along with the deliberations of the meeting. For this meeting, the Conservation Commission convened by video/teleconferencing via Zoom, and members of the public were provided with access information so that they could follow the meeting remotely. All votes were conducted via roll call.

The remote meeting was called to order at 7:37 pm.

Conservation Commission Chair, Peg Arguimbau opened the meeting by reviewing the ground rules for the meeting. Roll call was taken of members and staff present and included: Chair, Peg Arguimbau, Vice Chair, Meredith Avery, Stephen Cremer and Susan Drisko were present. Keevin Geller, Alan Westman and Jon Wasserman were not present. Staff present included Josh Philibert, Conservation Administrator and Jana Katz, Conservation Clerk.

7:40 PM	Discussion Item	Diamond Residences – Enforcement Order, Jay Bullens
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The Conservation Commission issued an Enforcement Order (WPA Form 9) to Jay Bullens, owner of Diamond Residences on June 2, 2023 regarding DEP file # SE280-0588 for work done on the property located at Lily Lane and 38-50 Juniper Road (formerly 64R Mountain Street and 149 East Street). Members had previously reviewed the matter as a discussion item at the June 1, 2023 meeting.

The “Extent and Type of Activity” portion of the order stated:

The 4,000 square feet of wetland buffer enhancement referred to in Section 4.3 Mitigation on page 4 of the Notice of Intent for Residential Subdivision with Stream Crossing at 64R Mountain Street & 149 East Street in Sharon, Massachusetts, has not been completed. A plan for this work needs to be submitted for Conservation Commission review and approval by July 31, 2023. All work is to be supervised by a qualified wetland professional following the mitigation sequencing detailed in Section 4.3.1 Mitigation Area Sequencing of the NOI. Changes to the Replication Area Plantings or Mitigation Area Sequencing need to be approved by the wetland professional and the Sharon Conservation Commission or Conservation Administrator. Monitoring and acceptance of the buffer enhancement area shall comply with the requirements stated in Section 4.3.2 Mitigation Area Monitoring of the NOI. This includes the issuance of yearly monitoring reports as described in the NOI. Yearly monitoring reports shall begin with the 2024 growing season.

Botanist Ken Thompson was present on behalf of Diamond Residences owner, Jay Bullens, to discuss the matter. Diamond Residences LLC purchased the property in February of 2018 from Dmitry Deych. Philibert began the discussion sharing his to show the planting plan for Diamond Residences located on Lily Lane in Sharon. Philibert identified a 25-foot box culvert; it was noted the specs for the culvert were addressed by a former Conservation Administrator, Greg

Meister. Philibert informed members that the project was always meant to be a wetland buffer enhancement and not a wetland replication.

Thompson described his work taking the original palette that the original botanist had used to devise his plan. The plantings are under trees, there will be no excavation under trees. He digitized the original plans. On the plans along the bridge construction, the zig zag represents the tree line. Materials include wildlife conservation seed mix, loam, and the original mixture underneath the trees. He would like to perform the work in the autumn.

Arguimbau suggested Thompson contact Philibert September 1, 2023 before work commences. Philibert and Thompson agreed that would be appropriate.

Sharon resident Laura Nelson asked for clarification where Lily Lane is located. Philibert identified nearby streets and proximity to Sharon Country Club.

Members were in agreement that this was a good plan.

7:44 PM	Discussion Item	Knollwood Cemetery – Stormwater Plan, Bert Corey, Kevin Riopelle
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Bert Corey and Kevin Riopelle from DGT Associates represented Knollwood Cemetery. Riopelle shared his screen showing the new roadway project at Sharon Memorial Park also known as Knollwood Cemetery. Bert Corey addressed the commission. Sharon Memorial Park retained DGT Associates to prepare a site plan for a new section of burial plots. The work being done on the corner of Dedham Street and Edge Hill Road extend access from the existing cemetery to a new area of burial plots. The project is located at the corner of Dedham Street and Edge Hill Road; no additional entrances or exits to main roads are planned. In January, the plan showing a 20 foot wide paved roadway was submitted to the Town of Sharon Engineering Department. The plan showed catch basins and manholes. Maintaining the existing topography was a priority.

DGT Associates described the scope of the project. A fork in the road leads to a large 20 foot wide bowl, with 130 foot interior diameter, and 150 foot exterior diameter with a series of catch basins and manholes leading to the bottom of the hill. Once collected, the stormwater will go through a treatment unit, a hydrodynamic separator, before it is directed downhill to an underground recharge chamber. Soil conditions and groundwater elevations evaluation showed sandy, gravelly soils with no groundwater present.

The hydrologic analysis shows no formal stormwater under existing conditions. Ten and a half acres were observed. Roughly 34,000 sf of new pavement is being proposed. The amount of uncontrolled flows to the road will be reduced by half. Favorable soil conditions will allow for infiltration into the ground. Plans include directing runoff to a treatment unit and large cultic style system surrounded by stone. The project will capture 6.8" of rainfall which is the 100 year storm amount. It was noted that all of the construction details are also included in the plans. The contractor started at the end of April. All of the catch basins, manholes, interconnected piping and treatment units have been installed. The roadway will be 90-95% at sublevel

elevation. A reusable loam pile is present on site. September 1st or sooner is the anticipated end date in order to seed the land this fall. Erosion controls will remain in place until the site is vegetated.

There was an incident early on in the process around the end of April. There was a significant storm event, 2.5 inches resulted in some sediment going into the roadway. Philibert contact DGT associates at that time. The contractor addressed the issue by installing a stone entrance pad. Since that incident, no others have been reported. Riopelle showed photos from July 11th of the construction entrance after recent rainfall.

Arguimbau asked for area size information. The roadway includes at 150 diameter bulb. The total project is roughly just over three acres in area. Berms have been constructed to prevent heavy rain from reaching the perimeter barriers which are functioning as intended. The filtration chambers will all be buried. Avery noted that she was familiar with the infiltration and treatment systems named in the plans. Riopelle stated that included in the stormwater report is a complete stormwater plan. The manufacturer's maintenance requirements are included as well.

The process for beginning the project began in the summer of 2022. Peter O'Cain had been involved from the beginning. Arguimbau informed the meeting that somebody should have brought this project to the commission ahead of this meeting. She is concerned that the project work began before the commission was able to give feedback. The stormwater bylaw was accepted at May 2022 Town Meeting. The earth disturbance permit would have been appropriate. DGT did reach out to the Engineering Department in October asking what other commissions or additional permits would be necessary for the project.

Avery praised the site controls. Arguimbau agreed. Philibert noted at the time the project began they Conservation Department did not have public facing documents on the website regarding stormwater bylaw permitting.

Cremer asked a question about the topography. He asked if the capacity of the catch basins on the roadway would prevent water moving onto Dedham Street. DGT reported that plans include a low spot in the roadway. A Cape Cod berm with a 4" reveal will be constructed to keep water out of the public roadway. Cremer also asked about snow removal from the roadway. DGT answered that snow removal was part of the stormwater plan.

Drisko asked for clarification as to the commission's role in approval now that the project has started. Arguimbau explained that this discussion's purpose was to review the plan and invite a representative from the project to explain the project.

Resident Georgeanne Lewis from 264 Edge Hill Road addressed the meeting. She praised the cemetery's upkeep and asked if there would be a new entrance for accessing these plots. DGT responded that all access points would be from the rest of the cemetery and the current access points are just for construction. Lewis continued by informing the meeting that the sand piling up on the road was affecting a summer bus stop. DGT informed the meeting that there will be some activity in the next week or two to complete that work in that location.

Laura Nelson of 236 Edge Hill Road, asked for clarification for snow removal. DGT responded that the snow will be pushed into the back of the roadway to prevent the snow melt from running down the hill. She also asked about the underground recharge chamber. The sand will be the final collecting place for runoff that goes through the recharge chamber. DGT confirmed the water will be saturating the ground as there is a low water table. DGT is also aware the project site is in a groundwater protection district.

Nelson asked about plans for storm calculations that would exceed 100 year storm projections. DGT responded that the Planning Board rules for subdivision and regulations have been the guidance for the project. Unfortunately, DGT explained that in excesses of the 100 year storm event amounts, the water would go into the roadway. Philibert asked if the water would then go into the MS4, which it would not. Nelson continued to express concern about flooding in nearby residential homes where flooding is already occurring and a major concern. DGT explained that hydrologic analysis noted a reduction in the volume associated with flooding impacts as much of the water will run into the ground instead of the roadways.

Corey clarified that the plans do not include infrastructure improvements to the roadway. Lewis and Nelson expressed concern about water flow onto Edge Hill Road. Philibert will monitor the site.

Members agreed that discussion and presentation was satisfactory.

8:23 PM	Discussion	4 Lily Lane – Buffer Encroachment, Daniel and Yulia Ruvinsky
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Arguimbau began the discussion noting the property owners have been in contact with Philibert. The Ruvinsky's shared their screen to show pictures of the site located at 4 Lily Lane. They wanted to give a historic overview regarding the current encroachment that Philibert identified.

The property owners purchased the land in October of 2022 from Simon Belsky, a contractor. He received a foundation permit and septic permit from the Town of Sharon. He cleared the most of the lot before the Ruvinsky's took over ownership. The site was initially outlined by Diamond Builders prior to selling the lot to Belsky.

Much of the debris and rocks currently present were on the left side of the property. Belsky installed wattle sock on the left and rear of the property outlining the limit of work. Philibert and Kevin Davis reviewed the land. Ruvinsky showed photos of existing conditions in October 2022.

In May of 2023, the property owners worked with Dick Morse to install a new silt sock around the full site perimeter per the suggestion of Alex Chongris of Chongris Engineering. Orange fence was also installed for safety and setting the limit of work all around the property.

The Conservation Commission approved stormwater plans in May of 2023. The Ruvinsky's spoke with Philibert about a potential encroachment on the buffer on the property. Because the silt sock had been in place for years before the Ruvinsky's obtained the property, the Ruvinsky's

assumed it was in the correct location. They worked with Dick Morse to move it even closer to the structure to protect the buffer even more so.

Ruvinsky identified the buffer encroachment from the original owner and present the conditions. Plans include removing the fill and seeding the area. The Ruvinsky's understand the commission's position: the Ruvinsky's should have come before the commission before work commenced to obtain approval of the proposed work.

Yulia Ruvinsky expressed her desire to improve the lot.

Arguimbau asked Philibert for a photo of the original wetland buffer conservation restriction line plan. He showed Belsky's submission for a septic plan. Belsky did submit a septic plan which was approved. Ruvinsky noted his plan was the same plan Belsky used so the wetland buffer and conservation land boundary would be the same.

Philibert preferred to show the plan that Ruvinsky and Chongris presented to the commission when they were before the commission previously. All of the plans that were shown previously showed no impacts on the wetland buffer. Philibert did not notice the encroachment until he was in physical proximity of the location.

Philibert noted the plan is very specific showing erosion control and limit of work. Philibert noted he had identified the area in red on a map that was e-mailed to Ruvinsky prior to the meeting. He also identified work that has been done while the Ruvinsky's were property owners. What was presented to the commission is not currently where the erosion controls are or where the limit of work is.

Ruvinsky responded that Chongris had sent an updated plan to the commission as a revision to the stormwater plan. He confirmed Philibert was correct in saying that the line that Belsky used was the line that was already disturbed. Belsky was using the line from previous years. He agreed that he and Philibert measured the land separately and both came to the conclusion that the line was incorrect. They also agreed Belsky's work had damaged the wetlands. Ruvinsky noted that he had assumed incorrectly that the silt sock was placed by previous owners was in the correct place.

Arguimbau and Ruvinsky discussed the conservation restriction line on the map. He identified on the map where the erosion controls were and noted the sock encompassed the entire area. Arguimbau identified the 100 foot buffer, Ruvinsky noted the sock was right on the buffer line. Arguimbau asked about the work being done on the inside of the erosion controls. Ruvinsky praised Morse's work clearing piles of rocks and debris so it does not go into the buffer.

Arguimbau asked members for opinions regarding getting the buffer cleared out and restored to address the violation. Drisko questioned whether Ruvinsky had stated they had already begun to clear out the debris. Drisko would like a removal plan to illustrate how the property owners plan to rectify the situation. Arguimbau asked Ruvinsky to clarify if there was encroachment past the CR lined. Ruvinsky confirmed the work does not go into the CR.

Ruvinsky asked the commission what they would like to see to restore the buffer. Should the property owners leave the previous disturbance or replenish the areas with plantings?

Arguimbau stated the rocks and debris need to be removed as there should be no disturbance within the 100 foot buffer on a new lot. Philibert questioned where the limit of work was supposed to be. He also noted that the plan shows grading that does not exist yet. At some point in the process the actual limit of the buffer needs to be staked in the field. He does think, although it is not shown on the plan, there is encroachment on boulders that have been put in recently on Lily Lane. He does not believe that Dick Morse knows where the actual limit of work should be. The actual limit of work needs to be staked in the field, which is the buffer line as shown on the plan. The boulders would need to be removed.

Cremer discussed a photograph showing a tree trunk on the other side of the wattle and questioned whether there was debris dropped off prior to the wattle being put into position.

Ruvinsky responded that they have been removing debris to prevent it from falling across the line. Ruvinsky brought up photos showing the lumber was in fact fallen wood. Cremer believes the trunk looks like it was cut by a chainsaw. Ruvinsky denied that the Ruvinsky's have cut any trees on the land. Philibert noted there was no evidence of recent cutting on the site.

Avery agreed with Philibert that the wattle needs to remain in place as the limit of work is established. She noted there would be presence of loose soil on the land. She imagined that the homeowners would plan to remove the pile of dirt on land. She noted Philibert likely recommended plantings without there being a need for a formal plan. Philibert agreed that erosion controls should stay while the fill gets removed until they find the existing top soil. He believes the property owners should then reestablish the lines on the property.

Ruvinsky agreed. Arguimbau instructed the property owners to leave the wattle, excavate the loose soil to get to the appropriate soil and then see where the 100 foot measures out to locate where the wattle should be placed. Whatever is disturbed on the wetland side of the wattle will have to be addressed with plantings. Drisko asked whether or not the property owners need to come back with a planting plan.

Arguimbau suggested the property owners come back with an update on the work that has been done before the planting plan is created. It would not have to be a hearing. Philibert will be able to report back to the commission. The Ruvinsky's were invited to come to an autumn meeting. Ruvinsky asked for planting recommendations. Arguimbau suggested they contact Philibert and prioritize not planting any invasive species.

The commission's preference is for the land to remain natural. Philibert would like to note that the limit of work will need to be surveyed on site. Members agreed that the wetland lines should remain in place for the duration of the work. The property owners will update Philibert along the way and let the commission know when they would like to return with an update.

9:02 PM	Discussion Item	3 Lily Lane – Buffer Encroachment, Simon and Vlada Zilberman
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Arguimbau and Philibert discussed how the encroachment came to light. Philibert noticed the encroachment when he was surveying the site for the purpose of issuing a Certificate of Occupancy. All plans on file with the department for projects at this location were proposed with a retaining wall and all of the impacts outside the 100 foot buffer. Currently there is no buffer nor retaining wall. There is a paper trail of Philibert and the property owner informing them of the problem.

Simon and Vlada Zilberman explained that they are new residents moving to Sharon and looking to build a home with the intension of raising a family and joining the community. They have tried to work with the natural landscape. The extensive building process has involved Philibert and other departments. They noted there is a bit of a dispute about the retaining wall.

The property owners believe they do have a retaining wall on site. They agree that what they consider a retaining wall is not what Philibert has proposed. Vlada Zilberman believes constructing Philibert's version of a retaining wall would damage the land and necessitate trash, debris, and heavy machinery. The property owners instead have rocks covered by dirt and wood chips preserving the land. It is their intention to have grass and trees. Their limit of work is appropriate according to their understanding.

There was an exchange in August of 2022. They are asking the committee to (in their words) be reasonable and note that they are in compliance with the need for a retaining wall with their natural wall instead of a manmade structure. They believe they are within the staked land. Simon Zilberman noted that the existing conservation stakes and professional crews have worked with the silt sock. They now realize there is a CR and buffer zone that are about five feet apart. Their proposal is to keep the land as natural as possible.

Arguimbau requested pictures of the site. Philibert noted the members have seen photos of the wood chips. He also clarified that the plan never included boulders and that was the problem. Philibert does not have a preference for what the materials of the retaining wall would be. Zilberman noted the rocks as a retaining wall are protecting the CR and were taken from the site itself.

The Zilberman's shared their screen showing the line of boulders under the wood chips all along the backyard. There is a black fence in front of the CR. An old fence and silt sock were put in by Dick Morse. The pink stakes were there from the prior owners. Arguimbau discussed the buffer lines and a previous report authored by Eric Dias that protected the buffer from any new work.

The commission agreed that the wetland natural resource area needed protection. Arguimbau asked Katz to find information regarding Diamond Residences and the hearing that took place regarding boundaries. Arguimbau believes the retaining wall may have been a part of that presentation which would contribute to the commission expecting the retaining wall to be there. She questioned whether the rocks and wood chips would provide the same amount of protection as what the commission is asking for. The commission needs to prioritize the best protection for the natural resources.

Avery's sound cut out. She asked about sheet 5 including the original plan. Zilberman answered her that the original plan with the retaining wall completed by their engineers. The retaining wall that was proposed could utilize existing elements on site.

Philibert stated that he remembered seeing the site last summer. He commented and received replies regarding the necessity of identifying the 100 foot buffer and scope of work. He noted the correspondence dated back to August of 2022 when Philibert stated it was necessary to show the 100 foot buffer. The limit of work and disturbance was the 100 foot buffer. Zilberman appreciated his guidance. Philibert questioned whether the work had been done according to his requests.

Zilberman stated the engineer created the plan believing plans worked well with the CR. Philibert restated that it was in the correspondence and that he had received replies that the property owners were away of the issues. Arguimbau asked Zilberman to show on the photos and plans where the boulders were in relation to where the retaining wall once was.

Zilberman noted it was 5 feet behind the CR. Drisko asked the property owner to confirm that 5 feet was not going into the CR. She noted that due to the topography's steepness the wood chips would likely wash away into the wetland in a rainstorm. Zilberman identified the drainage system with the cultic chambers. They also plan to plant grass on the site which Zilberman identified in a photo.

Drisko noted that the porch on the plan is closer to the limit of work. Zilberman answered showing an area where they would like to plant grass. Vlada Zilberman noted that the porch does not interfere with the wetland boundary or CR. Drisko asked if they planned on planting in the wood chips. Vlada Zilberman noted safety concerns for their dog and child were priorities as well.

Arguimbau questioned whether the retaining wall was part of the plan that was before the commission or was part of a plan not reviewed by the commission. Zilberman said he believed that retaining wall was only proposed by their engineers and not something that was on the original subdivision plans. Philibert noted there is about 15 feet from the CR to the 100 foot buffer. He believes the site already required a retaining wall. Philibert frequently tells applicants that a retaining wall would need to be built behind the line of work as equipment would likely have to traverse the land. Running the equipment on the wetland side would necessitate a great buffer. He believes the line is about 10-15 from the porch. Philibert does not have a plan showing the new construction.

Arguimbau suggested members review the initial filing in regards to what was to be done with the buffer. Avery agreed. She also noted the mulch is already moving down towards the silt fence in photo six. She praised the stormwater controls on other parts of the site but noted rainwater would move the mulch. Avery questioned whether the naturalization would be a good thing for the downstream areas. Cremer agreed with Avery's analysis. He would like the property owners to review project.

Zilberman showed the original Diamond Builders plans showing Lot 8 on Lily Lane. He showed the corner of the plan where the lot is now. Philibert brought up a close-up of the plan's

stormwater detention basin and part of Ruvinsky's land noting it looked like a smaller house. Zilberman told members it was a septic issue that changed the architectural design. Arguimbau noted the plan did not call for any walls although it does show a detention basin. Arguimbau questioned where the plans for the boulders came into play as a retaining wall was not in the original plans.

Philibert identified the 100 foot buffer as a gray dashed line. The plans showed the grading outside of the 100 foot buffer. The site always required a retaining wall, according to Philibert. Arguimbau will have Katz send the original plan to members so they can strategize what would be a workable alternative as what is on the plan is not what was explained in the initial presentation. She noted this is a significant change in the natural resource.

The property owners noted the expense of removing the rocks would be costly.

Arguimbau invited the property owners to come to the August 10th meeting.

9:26 PM	Discussion Item	Harding Street, Steve Levangie
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Philibert explained that Steve Levangie were coming to the commission to get feedback about potential building plans for an addition to his 2 bedroom, 1 bathroom home on Harding Street. Site constraints resulted in architectural plans within 50 feet of the wetlands. Philibert took soil samples and evaluated the wetlands which are 45 feet off of the proposed addition.

As the initial plan was too close to the wetlands, Levangie explored using the side of the existing deck for the addition and the existing foundation for an additional bathroom. He showed an alternative site plan that would create an addition on footers.

Philibert showed where on Harding Street the location is. He identified the lake, Beach Street, and Harding Street. The Town GIS helped identify where the wetlands are on the property. Philibert noted the wetland vegetation is somewhat further than the wetland soils in his initial estimation. He recommended the property owners perform a formal investigation. Philibert noted the only non-buffer portion of the lot is not near where the addition would be built according to both proposed plans. He also noted there is an area outside of the 50 foot buffer that would fit. He noted that since the deck exists, anything done on the footprint of the deck may be possible. Philibert described questions he asked Levangie about alternative building plans.

Arguimbau agreed that less disturbance utilizing the existing footing on the deck may be the better option. She discussed putting another deck on the far side of the house on footings. Both agreed that putting in a foundation would require much more earth movement. Arguimbau encouraged members to take a ride by Harding Street.

Avery asked for the 50 foot line be identified on the lot. Philibert noted there is no delineation in the property files currently. Arguimbau would like members to get an idea where the existing deck is.

Levangie thanked the commission for their assistance in trying to find the best way to address his housing needs. He plans to reach out to his contractor so he can come up with a plan to submit to the Conservation Commission.

9:40PM	Discussion Item	Review DEP#SE280-0650, Grant of Easement and Deed
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Arguimbau asked members for their response to Philibert's e-mail regarding the DEP#SE280-0650, Grant of Easement, and Deed for the land at 715 and 715R South Main Street for work done on the cranberry bogs.

Philibert explained that many of the special conditions for the Order of Conditions were common conditions regularly issued with orders. He added specifics regarding phragmites removal and planting plans. Arguimbau asked if the OOC should include a reseeding clause if after one year there was not satisfactory growth.

Members were comfortable sending the documents to the applicants.

Motion: Motion to issue the Order of Conditions for DEP#SE280-0650 as developed up to this date as laid out in the memo.

Drisko moved.

Cremer seconded.

Avery – Abstain, Drisko - Aye, Cremer – Aye, Arguimbau – Aye

3-0-1 Motion Passed

9:17 PM	Discussion	Lake Update
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Philibert informed members that the lake is clear and the level is good. A few weeks ago he observed some small flecks of cyanobacteria but they have dissipated.

9:17 PM	Discussion	Conservation Administrator Update
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Philibert informed members he was reviewing permits and the Costco retail complex (160,000 square foot and \$17,000,000) building permit has been submitted. He had a meeting with Peter O'Cain and they called Tom Houston of PFC to discuss stormwater management plans. Philibert praised Houston's work as a peer consultant. He believes everything that needs to be reviewed was done well. The wetland concerns have been covered. Costco will be buying the portion of the gallery where their lot will be constructed. Water flows to the bog will not change much, if anything it will add more water not less. There is no concern about them drying out.

9:17 PM	Other Business	Approve Meeting Minutes
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Members voted to accept the June 1, 2023 meeting. There were not enough members to vote on the April 13th and April 13th Executive Session meetings. The June 15, 2023 minutes were accepted.

Motion: Motion to accept the June 1, 2023 minutes
Drisko moved.
Cremer seconded.
Avery – Aye, Cremer - Aye, Drisko – Aye, Arguimbau – Aye
4-0-0 Motion Passed

Motion: Motion to accept the June 15, 2023 minutes
Cremer moved.
Drisko seconded.
Avery – Abstain, Cremer - Aye, Drisko – Aye, Arguimbau – Aye
3-0-1 Motion Passed

9:53 PM Motion to Adjourn

Motion: Motion to adjourn
Cremer moved.
Drisko seconded.
Avery – Aye, Cremer - Aye, Drisko – Aye, Arguimbau – Aye
4-0-0 Motion Passed