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CONSERVATION COMMISSION MINUTES

131 Pleasant Street
Nantucket, Massachusetts 02554
www.nantucket-ma.gov
Thursday, April 17, 2025 – 5:00 p.m.

This meeting was held via remote participation using ZOOM and YouTube.

<https://youtube.com/live/NwwabyFP4lQ>

Commissioners: Seth Engelbourg (Chair), Linda Williams (Vice Chair), Tim Braine, Mike Misurelli, Joe Plandowski, John Schafer, and RJ Turcotte

Called to order at 5:00 p.m. by Chair Engelbourg

Staff in attendance: Jeff Carlson, Natural Resources Director, Will Dell'Erba, Conservation Agent
Attending Members: Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams
Absent Members: -
Members Left Early: -

I. Acceptance of the Agenda

Motion	Motion to accept Agenda (Made by: Williams) (Seconded by: Plandowski)
Vote	Vote Carried: 7-0 Engelbourg, Braine Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

II. Public Comment

Chair Engelbourg called for public comment

Public Comment (00:03:26)	Dan Bailey wanted to clarify that 14 Plover Lane would not be discussed during this meeting. Engelbourg confirms that they are waiting for Town Council to be present and there's more information on May 8th. John Hamilton, abutter of 76 Eel Point Road Engelbourg requests Hamilton to save his public comment during the discussion of the Notice of Intent.
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III. Public Hearing

A. Notice of Intent- No Waiver Required: Pre-January 1st Submissions

1. 3 Star Farm LLC- 76 Eel Point Road (32-31) SE48-3884

Sitting:	Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	Engelbourg
Representatives:	Mark Rits, Site Design Engineering, presented the item and responded to the Commissioners' questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	John Hamilton, Abutter, Sarah Boise Linda Loring Nature Foundation Willa Arsenal, Nantucket Land and Water Council Natalie Kaufman, Council for abutters of 30 Douglas Way & 15 Alliance Lane
Discussion: (00:05:40))	Rits - The applicant strongly objects to Commissioner Turcotte sitting on this hearing as his employer has submitted a comment letter on the project. - Reviews revised plan that submitted for relocation of proposed structures and retaining walls. - The plan shows extensive infiltration for roof and surface runoff for the portions of property they're proposing to develop.

		- The project is still under MISA review that was initiated prior to the filing of the NOI.
	Turcotte	
		- Requested a cross section of what the fill grading was going to look at but didn't see it in the supplemental information that was submitted.
	Rits	
		- We did not provide a cross section in the revised plan but have provided wall height and spot grades for proposed work.
	Dell'Erba	
	Hamilton	- Confirms that the project doesn't need a waiver
		- Believes the drainage system would take up even more land from its natural habitat.
		- The houses were built on a pedestal-like structure built around retaining walls holding them up which would be trucking in a lot of sand.
		- More sand would be brought in and the grade would be altered more than is usually allowed and it didn't seem like the revisions addressed that.
	Rits	
		- Approximately 50-65% of the material that will be needed to do grading on site will be sourced from the site.
		- All proposed structures are outside of the 50- and two-foot separation to seasonal high ground water.
		- We feel the work is within the regulations as they were at the time of the filing.
	Williams	
		- The other part of his question was that there is going to be disturbance of the ground vegetation that's already there and he's asking for the extent of just how much.
	Rits	
		- I don't have a number on top of my head but references the buffer zones on the site plan.
		- About 65% of the site is altered outside of jurisdictional areas.
	Hamilton	
	Rits	- Asks if the ditch within the buffer zone will have an effect on the habitat
		- Explains that the ditch is proposed as a draining structure to capture storm water. It's not going to have any additional impact to habitat greater than the development that's occurring.
	Boise	
		- Submitted a letter and highlighted a few of their concerns.
		- The primary concern is for the wetland ecology and hydrology. The wetland within the property boundary is part of the complex that feeds into our freshwater wetlands at Linda Loring property and into Long Pond.
		- We're concerned about the drainage disturbance and materials being brought in that will affect the wetland habitats and ultimately the watershed in that area.
		- Another concern is that this entire area is considered priority habitat under the Massachusetts Natural Heritage and Endangered Species Program and happy to hear there is a review in progress.
		- We hope that there would be mitigation in place if any species and habitats are disturbed.

	- Concerned about bringing in construction vehicles through the access point which functions as a foot path as well as storage of fill and if materials will be leached into the surrounding wetlands.
Williams	
Dell’Erba	- Asked Dell’Era if the Commission has previous requested a construction mitigation plan for other properties.
Williams	- I’m certain we’ve done that in my time here and feel that it’s a reasonable requirement.
Rits	- Would like to see a mitigation plan for location on where everything is going and would like to review it before approval.
Misurelli	- We can certainly provide a mitigation plan and work description plan for activities that will be occurring within jurisdictional areas.
	- Agrees that a mitigation plan would be a good option as due to neighbors having valid questions and it would be in the best interests of the abutters and applicant to have everything laid out in advance.
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Braine and Plandowski	agrees with Misurelli
Arsenal	
	- Submitted a letter on February 14th and noted a lot of the Land and Water Council’s concerns. - Primary concern is the significant risk it seems to pose to the function of the nearby wetlands. - Believes it’s violating the performance standard 3.02 B2 and would really like to see the Commission request a waiver. - The significant grading and elevation changes will affect a lot of the local hydrology, and I think a waiver would allow more potential protection of the resource area.
Dell’Eba	- I believe it’s at the Commission discretion if they want to request the waiver. I don’t have a strong opinion on it one way or another.
Schafer	
	- Asks Arsenal how a waiver is going to help this process.
Arsenal	
	- Having a waiver might allow us to see any alternatives that might exist on this development and changes they may need to make in order to meet the performance standard.
Dell’Erba	
Rits	- They would have to provide a alternatives analysis at that point as well.
	- Asks to hear the wording of that performance standard again if possible.
Arsenal	re-reads the performance standard
Rits	
	- Questions how it will significantly change infiltration and water flow or change the ability of the wetland to absorb flood waters.

	Kaufman - Echo both Arsenal and Boise's comments - Asks Commission to request full hydrological analysis. - It's a significant amount of development, impervious surfaces, and disturbance to the area. - Mentions concerns of a subdivision later on and the cumulative impact on neighboring properties. - Does the Commission have to wait for the MISA analysis review in order to determine if the project meets the performance standards? Dell'Erba - We can't close until that review is completed and whatever conditions are put in the Order are the result of that review. Rits - Requests additional clarification in terms of the MISA review, it's my understanding that the Commission would condition the project to comply with the findings of that MISA review. - Requests Dell'Erba to make a determination on the appropriate course for that. Dell'Erba - <u>Will verify the information for the next meeting.</u>
Action:	CONTINUED UNTIL MAY 8, 2025

2. Nantucketshire LLC- 30 Dukes Road (56-189) SE48-3687 (Reissue)

Action:	CONTINUED UNTIL MAY 8, 2025
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B. Notice of Intent- No Waiver Required

1. Nantucket Islands Land Bank- Smooth Hummocks Way (82-30) SE48-3893

Action:	CONTINUED UNTIL MAY 8, 2025
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2. Purcell- 32 Dukes Road (56-188) SE48-3904

Action:	CONTINUED UNTIL MAY 8, 2025
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C. Notice of Intent- Waiver Required: Pre-January 1st Submissions

1. Sconset Beach Preservation Fund- 59-83 Baxter Road (various) SE48-3759

Action:	CONTINUED UNTIL MAY 8, 2025
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2. The Summer House of Nantucket Realty Trust- 10 & 16 Ocean Avenue (73.2.4-15, 23, & 21) SE48-3824

Action:	CONTINUED UNTIL MAY 8, 2025
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3. West Ashored LLC- 62 Wanoma Way (92-16) SE48-3869

Action:	CONTINUED UNTIL MAY 8, 2025
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D. Notice of Intent- Waiver Required

1.. *Craig C. Carreau Revocable Trust- 8 Ames Avenue (60.2.4-56) SE48-3908

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Mark Rits, Site Design Engineering, presented the item and responded to Commissioners questions.
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:45:58)	Rits

	- Describes the proposed project which includes a septic upgrade from a conventional system to a drip IA system with no room capacity. - We are partially within heritage habitat and there's typically an exemption for septic system temporary subsurface disturbance. - Heritage came back to us with a letter scoping us for avoiding plovers so if we have to be conditioned that way, we will accept it. Engelbourg - If they mentioned that, you would have to be conditioned that way but it probably won't have an impact on your project.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

2. *3 Pochick Surfside, LLC- 3 Pochick Avenue (80-323) SE48-3903

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Brian Madden, LEC Environmental Consultants
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:49:00)	Madden - The proposed project involves a raise and re-build of a single-family dwelling within Bordering Vegetated Wetland and bordering land subject to flooding, however there is no proposed work within the flood zone itself. - The dwelling itself is within the 100-foot buffer zone. There's portion of the pool, patio, retaining wall, and pool equipment within the 75-foot buffer zone. - The 1,20 square foot mitigation plan includes native shrubs within the 75-foot buffer zone. - We feel the project has been designed appropriately to meet the new waiver provisions and provide a long-term net benefit to the resource area. Engelbourg - I don't think the project requires a waiver because the applicant is doing the exact thing that we made an exemption for in the new regulations. - We are prohibiting a new structure inside the 75-foot buffer zone unless that structure can be mitigated for. It follows the definition of exemption. - Dell'Erba agrees with Engelbourg
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

3. *Cheese and Crackers, LLC- 39 Cliff Road (42.44.3) SE48-3902

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Brian Madden, LEC Environmental Consultants Arthur Reade, representing the property owner
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	Tim Callahan, owner of adjacent property, 41A Cliff Road & previous owner of 39 Cliff Road

Discussion: (00:56:35)	Madden - This project is a raise and re-build with a unique set of circumstances as it relates to the resource areas. - Describes the setting of the site which includes isolated fragmented discontinuous Coastal Banks and qualifies as a policy Coastal Bank. - Elevation 7 is our flood zone elevation that minimally intersects the toes of the slope of that embankment in one specific stretch. - We are proposing to move the dwelling further away from the top of the Coastal Bank, reduce the structural footprint within the 25-foot buffer zone and provide mitigation planting on top of that Coastal Bank. - The pool and retaining wall are proposed to be removed and is going to be replaced with an elevated deck. Misurelli - At the Coastal Bank, it's listed as hedge. Is that just natural material that's cut down and asks if it's native. Madden Engelbourg - Confirms it's a Arrowwood native hedge. - I found there to be several waiver requests with no alternatives analysis presented, which are required for our regulations. Request one. Brian - We didn't request the waiver under the no adverse effect, no reasonable alternative, which would require the alternatives analysis but did request one under the long-term net benefit standard. Is that still needed at that provision. Engelbourg - It's not needed under that provision unless the Commission deems it to be required. Misurelli - I was okay under this waiver to not require the alternatives analysis. Commissioners agree with Misurelli Callahan - My concern is that the neighboring property extended the Coastal Bluff and the current owner asked us if they could do the same during the purchase and sale process, which was rejected due to potential damage to adjacent bluffs. - We would like to know that whatever consideration goes into this, it also includes making sure that there's not something more that goes beyond the submission and care is taken to protect the bluff and our foundation. Engelbourg - There is no work proposed for an extension or expansion of the bluff so if any of that type of work happens, they will be subject to a violation and Enforcement Order. - The Commission is looking to request a mitigation plan for review. - We could continue the hearing to wait for the mitigation plan or we could close the hearing if we have the appropriate information and can require the plan to be submitted as a condition in the Order of Conditions. Misurelli is okay to close the permit and get the submission to the planting plan.
Staff Recommendation:	All necessary items have been received in order to close.

Motion:	Motion to close. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

E. Amended Orders of Conditions- No Waiver Required

1. Madron Lake LLC- 26 Monomoy Road (54-146) SE48-3884

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte
Recused:	Williams
Representatives:	Chloe Coggins, Nantucket Surveyors
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:16:20)	Coggins - We are seeking an Amended Order of Conditions for the construction of a retaining wall within a buffer zone to a Bording Vegetated Wetland. - The purpose of this retaining wall is to be able to extend the adjacent blue stone patio outside of the 50-foot buffer zone and outside the flood zone. Engelbourg - Asks if there are going to be two retaining wall facing each other. Coggins - Clarifies that it's just the retaining wall between the pool and the shed. The part in between the existing wall won't touch. Engelbourg - I'm just concerned that the two retaining walls will create channelization of that specific spot and cause a shoot for water to run off erratically.
Staff Recommendation:	All necessary items have been received in order to close.
Motion:	Motion to close. (Made by: Misurelli) (Seconded by: Braine)
Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte (aye) Williams (recused)

F. Amended Orders of Conditions- Waiver Required: (none)

IV. Public Meeting

A. Orders of Conditions/Amended Orders of Conditions- No Waiver Required: Pre-January 1st (none)

B. Orders of Conditions/Amended Orders of Conditions- No Waiver Required (none)

C. Orders of Conditions/ Amended Orders of Conditions- Waiver Required: Pre-January 1st Submissions

D. Orders of Conditions/ Amended Orders of Conditions- Waiver Required

1. Craig C. Carreau Revocable Trust- 8 Ames Avenue (60.2.4-56) SE48-3908 (Rits)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:20:52)	Dell'Erba presents the item
Motion:	Motion to approve the OOC as drafted (Made by: Plandowski) (Seconded by: Turcotte)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

2. 3 Pochick Surfside LLC- 3 Pochick Avenue (80-323) SE3903 (Madden)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:48:38)	Dell’Erba presents the item
Motion:	Motion to approve the OOC as drafted (Made by: Turcotte) (Seconded by: Williams)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

3. Cheese and Crackers, LLC -39 Cliff Road (42.44-3) SE48-3902 (Madden)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	-
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (00:48:38)	Dell’Erba presents the item Misurelli - Requests to add Condition #23 for the applicant to submit a mitigation planting plan.
Motion:	Motion to approve the OOC as amended (Made by: Schafer) (Seconded by: Williams)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams (aye)

E. Request for Determination of Applicability- Delineation Only (none)

F. Request for Determination of Applicability- Work Requested (none)

G. Minor Modifications

1. 9B Crows Nest LLC- 9B Crows Nest Way (12-20.2) SE48-3508

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte
Recused:	Williams
Representatives:	Brian Madden, LEC Environmental Consultants
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:28:47)	Madden - This is a minor modification of an Order of Conditions that was issued back on April 12, 2025, for the renovation and relocation of existing structure and septic upgrade. - The modification updates represented on the planning plan to include the expansion of the BVW wetland buffer zone restoration area by about 550 square feet with reconfiguration of the driveway parking area. Schafer Madden - Is this work that has been done or requested to be done? Englebourg - The landscaping updates are looking to be done this spring. - My one request is that they use the standard ecotype rather than the navigator 2 cultivar.
Motion:	Motion to approve the Minor Modifications (Made by: Plandowski) (Seconded by: Braine)

Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte (aye) Williams (recused)
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2. 100 Wauwinet Trust- 100 Wauwinet Road (11-24.1) SE48-3685

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Brian Madden, LEC Environmental Consultants
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:32:38)	Madden - This Order was issued in October of 2023 for reconstruction of a barn, pool house, pool, driveway, hardscaping with associating landscaping, utilizes with the buffer zone to a BVW. - The updated plan shows the reconfiguration of some of the structures, landscaping, regrading, utilities, and limit of work.
Motion:	Motion to approve the Minor Modifications (Made by: Williams) (Seconded by: Engelbourg)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, and Williams (aye)

4. Penant Realty, LLC- 5 Coskata Course Way (14-14.1) SE48-3838 (Madden)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Brian Madden, LEC Environmental Consultants
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:34:37)	Madden - The proposed modification to the approved single-family dwelling and driveway includes minor reconfiguration revisions.
Motion:	Motion to approve the Minor Modifications (Made by: Misurelli) (seconded by: Williams)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

4. 39 Monomoy LLC- 39 Monomoy Road (54-79) SE48-3657

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte
Recused:	Williams
Representatives:	Brian Madden, LEC Environmental Consultants
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.
Discussion: (01:36:01)	Madden - Request covers minor pool, retaining wall, patio adjustments within the outer foot 100-foot buffer zone to BVW.
Motion:	Motion to approve the Minor Modifications (Made by: Plandowski) (Seconded by: Braine)
Vote:	Carried://6:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte (aye) Williams (recused)

5. Albani- 39 Wanoma Way (92.4-318) SE48-3796 (Blackwell)

Sitting:	Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams
Recused:	-
Representatives:	Jeff Blackwell, Blackwell & Associates
Documentation:	Site and topographical plans, photos, requisite departmental reports and correspondence.
Public Comment:	There were no public comments.

Discussion: (01:37:51)	Dell’Erba - This Order was permitted for beach stairs that they had to dog the bottom of them due to conditions on the ground. - The modification would be to reflect the actual location of the beach stairs.
Motion:	Motion to approve the Minor Modifications (Made by: Engelbourg) (Seconded by: Williams)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

H. Certificate of Compliance (none)

I. Extension Requests (none)

J. Other Business

1. Approval of Minutes 01/09/2025, 01/15/2025, 01/23/2025, 02/06/2025, 02/20/2025

Motion:	Motion to approve all the Minutes (Made by: Williams) (Seconded by: Misurelli)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

2. Monitoring Reports – None

3. Reports: CRAC, CPC, NP&EDC, Harbor Plan, Offshore Wind Work Group, etc.

CRAC:	Braine - No report.
CPC:	Schafer - We had a presentation from the housing people on what they’re doing for affordable housing, which was interesting.
NP&EDC:	Misurelli - No report
Harbor Plan	Williams - Logging through

4. Commissioner’s Comments

Discussion: (01:42:41)	Misurelli - We have some filings that are lagging, and I don’t know if we can compel people to come in and finish these up. - Engelbourg - There are some specifications that if you enter an application and if it doesn’t get heard for two years then it would need to be withdrawn and resubmitted. - Applicants are allowed to do that in order to get materials together. Plandowski - I think the unfortunate thing is if I was representing somebody and we wanted to delay the project for two years, we just push it to the next meeting each time. I concur with Mike, that just doesn’t seem right. - Engelbourg - I agree but it’s the process that DEP created through the Wetlands Protection Act.
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	Dell’Erba - I think if this is something that if this is something that we would wish to look at, I think it would be possible for us to put something in our bylaw. We have a regulation update meeting on May 1st. Engelbourg - Just to clarify, it wouldn’t be in the regulatory update, it would have to be in the update to the bylaw which would have to be submitted to town council for review and town meeting for authorization. Turcotte - Read the statement that he gave to the Selectboard before he was appointed to the Commission. Engelbourg - Once any Commissioner has sat and heard that application, they can’t recuse after the fact. They must deal with the consequences of that decision. - If any Commissioners have any questions on if they should recuse, make a disclosure or do any other action, we have Maureen Coleman from town admin or the state ethics committee who will provide you with the advice that you need to avoid open meeting law violations.
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5. Enforcement Actions (none)

6. Administrator/Staff Reports

Discussion: (01:50:13)	Engelbourg mentions the special meeting scheduled to discuss any potential updates to our regulations or policies on May 1st. Dell’Erba we will more than likely be scheduling another special meeting at that time.
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Adjournment:

Motion:	Motion to adjourn at 6:55pm. (Made by: Williams) (Seconded by: Plandowski)
Vote:	Carried://7:0 Engelbourg, Braine, Misurelli, Plandowski, Schafer, Turcotte, Williams (aye)

Submitted by:
Lisa Graves