

## Zoning Commission

### Regular Meeting

May 2, 2013

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Chairman Spellman called the meeting to order at 7:04 p.m.

Roll found: Spellman, Siarkowski, Powell, Nehrenz, Kman. Also present were Alt. Walrath, Ms. Peterlin, who will be Acting Recording Secretary, Trustee Catherwood, and Bill and Diane Mastronicolas. Kamps arrived at 7:30 p.m.

Chairman Spellman asked everyone to review the minutes from the Regular Meeting held on April 4, 2013. No items were noted for correction or completion. Chairman Spellman asked for a motion to accept the minutes of the Regular Meeting held on April 4, 2013. Mr. Kman moved and Mr. Powell seconded. No further discussion.

**Vote: Spellman – yes, Siarkowski – yes, Powell – yes, Nehrenz – Yes, Kman – yes**

Chairman Spellman asked everyone to review the minutes from the Public Hearing held on April 9, 2013. One correction was noted by Chairman Spellman: Change second page to read: “Chairman Spellman asked for a motion for a **continuation of the Public Hearing and was scheduled for May 9, 2013 at 7:00 p.m.**” Mr. Kman moved and Mr. Nehrenz seconded. No further discussion.

**Vote: Spellman – yes, Siarkowski – yes, Powell – yes, Nehrenz – Yes, Kman – yes**

Chairman Spellman reminded everyone of the next Planning and Zoning Work Shop to be held Tuesday, May 14, 2013 at 6:30 in the Medina Public Library in the community. Speaker Irving Sugerma will be present to discuss “Zoning Commission – State Statutes that govern the authority of Zoning Commission”. Anyone interested should contact Suzanne at the township office if planning to attend. Chairman Spellman reminded the members that they are to attend at least one educational work shop.

Chairman Spellman jumped ahead to the new business items of the agenda:

Chairman Spellman stated the first item under new business is: Informal discussion with Mr. Robison requesting to create a Bed and Breakfast located on Jacklin Drive across from the spillway in the metro parks. Chairman Spellman mentioned that Mr. Robison’s girlfriend had stopped in prior to the meeting. He had an informal discussion regarding the Bed and Breakfast request and answered general questions as follows: 1) As it stands today, he explained that according to the Township Zoning Regulations, a Bed and Breakfast type of operation or business is not allowed or permitted in any district. The proposed text also does not allow or permit a Bed and Breakfast type of operation or business in any district – nor are there any similar uses in either current or proposed language. 2) He briefly explained the process how to initiate a Text Amendment Change and a Conditional Use Permit (R1 District) and gave the associated fees involved. 3) He suggested reading the Zoning Regulations to include Parking Requirements.

Chairman Spellman noted he did discover that in the proposed Zoning Resolution, the proposed parking requirements include for a Bed and Breakfast, however, do not permit in district section(s). Requires further review and discussion of the Zoning Commission to leave in or remove.

Chairman Spellman continued to the next new business item as follows: Pine Hills Conditional Use Permit – Pine Hills wants to “true up” their legalities in terms of zoning requirements. They are requesting a Conditional Use Permit in the R2 district. Chairman Spellman noted that the Zoning Commission will review the application and supporting materials and make a recommendation, take a vote and forward to the Board of Zoning Appeals. (The Commission’s role is to review and give recommendation and then forward to the Board of Zoning

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Appeals). Once the Commission reviews and comments on application, Chairman Spellman stated he will put together a written statement if recommendation to forward to the Board of Zoning Appeals. He made a comment regarding Section 13 of the proposed text.

Chairman Spellman asked if everyone had received the packet for the conditional request and asked if everyone had reviewed the packet?

Members were polled: **Spellman – yes, Siarkowski – yes, Powell – yes, Nehrenz – Yes, Kman – yes**

Chairman Spellman requested a few minutes of the board to review and discuss the application and materials so they could move forward with the recommended approval or denial of the request. Chairman Spellman stated that the Conditional Use Permit application is for Pine Hills Golf Course located at 433 W 130<sup>th</sup> Street in the R2 District. He stated that the application was for parcel number 01703A16023, property that Pine Hills had acquired in the 1980's, with additional parcels included in the request. He referenced the current zoning regulations and sited 6R2.3.I – Conditionally Permitted Use in the R2 District. In order for Pine Hills to move forward with any modifications or improvements to the golf course, Pine Hills must be in compliant with the Zoning Resolution.

Ms. Peterlin offered a clarification that the application is addressing the first parcel number listed 017003A16023, as all other properties had received a Conditional Use Permit previously in 1973. (as noted in the 1973 minutes that were later found after the application by the Zoning Department and included with packet information provided to the Zoning Commission). She noted that in the past, parcel numbers were not included in the minutes or documentation as they are today. The applicant wanted the parcels noted for the records and were later added to the application by request.

The board asked what the applicant was denied for. Ms. Peterlin responded that basically the denial initiates the process for a Conditional Use Permit request and then sited the zoning section 6R2.3.I. Conditionally Permissible Uses – Golf Courses and Section 7 Articles 6 & 8. The board asked what the plans were for the additional parcel. Ms. Peterlin responded that based on general conversation with Zoning Inspector Schaefer - he had mentioned that they will be expanding their golf course by adding a storage barn and added that additional questions would need to be directed to Mr. Schaefer. Trustee Catherwood concurred that there are future plans for adding a storage barn and that current R2 regulations does not permit an accessory building without a dwelling. Ms. Peterlin noted that to date, Pine Hills has not applied for a Zoning Permit. The first step was to obtain a Conditional Use Permit.

There was additional comment by the board regarding the existing use, having a restaurant, etc. and if a Conditional Use permit will let them do whatever they want. Trustee Catherwood offered that all the Hinckley Golf Courses were established prior to the zoning code. The board has concerns as to how the property will be used. Trustee Catherwood reminded the Commission that it is up to the Board of Zoning Appeals to request the additional details.

The board reviewed the acreage of parcel number 01703A16023 as 60.7486 which is in line with the required acreage defined in the resolution.

Mr. Kamps stated that to date he has never heard of any issues with Pine Hills Golf Course or the business. Chairman Spellman stated that if there were no other questions or comments he would entertain a motion to send a letter of recommendation to the BZA to regards to this matter. Mr. Kamps made a motion to go forward

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with a recommendation in favor of the Conditional Use Permit request for Pine Hills. Since Mr. Kamps arrived late, he is not a voting member for this meeting, and his motion was rescinded. Mr. Nehrenz moved to send a letter of recommendation to the BZA in favor of the Conditional Use Permit request for Pine Hills. Mr. Kman seconded. No further discussion.

**Vote: Spellman – yes, Siarkowski – yes, Powell – yes, Nehrenz – Yes, Kman – yes**

Chairman Spellman stated that in the next day or two will put together the written statement and forward to the BZA.

Chairman Spellman continued to next agenda item: Request by owners of 2706 Warner Road. Bill and Diane Mastronicolas were present for an informal discussion regarding their request to change of zoning district. Their current parcel 01703A07011 is zoned both Business and Residential. Chairman Spellman stated that this is one of very few parcels in the township that has split zoning. Chairman Spellman noted that the Mastronicolas's were at the Public Hearing held on April 9, 2013 and Mr. Mastronicolas concurred.

Mr. Mastronicolas offered that basically the total parcel is 211.2 x 206.25 and approximately 66 ft by 206.25 is currently zoned commercial/business and the remaining parcel is zoned residential. He would like to rezone the parcel to be an all commercial business parcel. This was based on 500 ft from 130<sup>th</sup> previously zoned to be commercial/business. There currently is a small house on the residential side of the parcel and a small business on the business side. Change will open a future opportunity to develop property, but no current plan. This request was based from the letter they had received regarding the proposed reclassification. The board reviewed the map which had been provided with the notification to property owners in the B1 district as well as the map from Planning Services.

Mr. Kamps commented that it is his memory that the landscaping company had gone to the BZA for a conditional and was granted as a permitted use some time ago. He also stated that Planning Commissions desires that districts have lines as close to the parcel boundary line, so they are more definable, versus a line that goes through the parcel/property (which may exist with the 500 ft set back off road concept).

Mrs. Catherwood asked the Mastronicolas's if the intent was to make a request to change the parcel during the Zoning Commission proposed changes and Mr. Mastronicolas concurred.

Chairman Spellman asked why not change to all residential versus changing it to commercial. Mr. Mastronicolas stated that they had purchased the property with the knowledge of the parcel being part commercial for future development and/or investment. Mr. Nehrenz commented that the Zoning Commission's proposal to the district map is for reclassification from a B1 to a B2 and that there is no boundary change at this time. This would be a separate issue and a separate request.

Chairman Spellman provided a brief explanation on the process to request a zoning map amendment change and the associated fees; including the review process by the Zoning Commission during a Public Hearing which also allows for public comment. The Mastronicolas's would like to initiate a formal request. They were advised they may stop by the zoning office to obtain requirements for filing and move forward accordingly. Additionally, it was stated that the map amendment change application will be forwarded to the Planning Commission for their review and comment.

Chairman Spellman continued the meeting going back to the old business items of the agenda.

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Chairman Spellman stated that everyone should have received the packet information that included comments/feedback from the Planning Services Department. He would like to move forward and review the comments from Rob Henwood and incorporate recommendations accordingly. Bill Thorne from Prosecutors office will be attending Thursday's Public Hearing continuation (May 9<sup>th</sup> at 7:00) to provide feedback on his comments to the proposed zoning resolution.

Chairman Spellman stated that the board will begin the review process of the March 6<sup>th</sup> 2013 comments from Rob Henwood regarding first six chapters.

The following items have been listed in accordance with Rob Henwood's feedback and therefore, page number referencing will be based on his comment packet received.

#### Chapter 3

Section 3.2 page 6 – Conservation Development: After review, the board agreed to move forward with recommendations provided except for adding the word "constructed". *Change to read as follows: A contiguous area of land to be planned and improved as a single development, in which dwelling units are accommodated under more flexible regulations, such as building arrangements and setbacks, than those that would normally apply in a single-family district, allowing for the flexible grouping of structures in order to conserve open space and existing natural resources.*

Chairman Spellman stopped the review process to assure everyone had the appropriate revision document as the page numbering differs from the 3/07/2013 to the comments from Rob Henwood's dated 3/06/2013. After discussion, he will reference the 3/07/2013 version to continue the review process with Henwood's comments.

Section 3.2 page 7 – Earth Sheltered Dwelling (Unit): After review, the board agreed to leave the definition as defined.

Section 3.2 page 8 – Grade, Finished: After review, the board agreed to change as recommended by changing the word settlement to settling. *Change to read as follows: The average level of the finished surface of ground adjacent to the exterior walls of the building after final grading and normal settling.*

Section 3.2 page 9 – Land Development Activity: After review, the board agreed to change as recommended by adding "installation of utilities". *Change to read as follows: Any change to the surface area of a lot including, but not limited to, clearing, grubbing, stripping, removing vegetation, dredging, grading, excavating, cutting and filling, installation of utilities, constructing buildings or structures, paving, and any other installation of impervious cover.*

Section 3.2 page 10 – Non Conforming Building or Structure: After review, the board agreed to change as recommended by removing the word building and adding structures. *Change to read as follows: Non-Conforming Structure: A building or structure existing when the Zoning Resolution or any amendment thereto became effective, which does not conform to the regulations governing structures of the district in which it is located.*

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Section 3.2 page 13 – Public Improvement: After review, the board agreed to change as recommended by adding “sanitary sewer, storm or waterline”. *Change to read as follows: Any roadway, sidewalk, pedestrian way, tree lawn, lot improvement, sanitary sewer, storm or waterline, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or that may affect an improvement for which responsibility by the local government is established.*

Section 3.2 page 14 – Sign: Mr. Kamps commented that Mr. Thorne had told us that if we have evidence in our minutes that we do not intend to control the content, we are ok. These are definitions that they can be comprehended by the reader. They are definitions and not rules. Trustee Catherwood disagreed with Mr. Kamps’s interpretation. The only documentation in our minutes was for identification of safety signs for public safety because those contain “safety content”. That is where the ruling came that we have it included in our minutes acknowledging that they were for the safety of the public. We could then use that definition within our code. It had nothing to do with this situation. Catherwood stated that she had heard it addressed with number signs, house identification signs, with signs posted on the street that have to do with public right of ways, directional safety signs and things like that - and those are acknowledged in the minutes even though they are full of content.

Chairman Spellman has concerns with striking that line out, the board has identified the appropriate sign definition. The board has evaluated many definitions and based upon this particular definition of “sign” the board has tailored certain things in the Sign Section based around this definition. By striking the line, this will cause the board to revisit the entire Sign Section. Chairman Spellman commented that the board has spent a great deal of time on this definition and by eliminating the recommended changes makes the definition generic. Chairman Spellman commented on Bill Thorne’s comments, and stated he was fairly thorough in calling out that things are not content neutral in regards to some of the definitions, and did not even comment on this definition. After discussion and review, the board agreed to leave the definition as defined.

Section 3.2 page 14 – Sign, Billboard: After review, the Board agreed to change as recommended by removing See Sign, Off Premise and add “as permitted by ORC §5516.01 to §5516.14. *Change to read as: As permitted by ORC §5516.01 to §5516.14.*

Section 3.2 page 15 – Sign, Ground: Figure A has been included.

Section 3.2 page 15 - Sign, Off Premise: After review, the Board agreed to remove entire definition as recommended.

Section 3.2 page 15 – Sign, Pole: Figure A has been included.

Section 3.2 page 15 – Sign, Portable: Figure A has been included.

Section 3.2 page 15 – Sign, Projecting: Figure A has been included.

Section 3.2 page 16 – Sign, Roof: Figure A has been included.

Section 3.2 page 16 – Sign, Wall: Figure A has been included.

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Section 3.2 page 16 – Sign, Window: Figure A has been included.

Section 3.2 page 19 – The following definitions shall apply to section 16, Sexually Oriented Business. After review, the Board will leave as is and keep separated.

Section 3.2 page 19 – Adult Material, Adult Entertainment and Adult Service: After review, the Board agreed to change as recommended by removing point 2 except to add last sentence and combine with point 1. *Change to read as: Which media, entertainment or service is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, human body functions of elimination or sadomasochistic practices, or any other explicit sexual material as herein defined. This definition does not include movies that have been rated “G”, “PG”, “PG-13”, “NC-17”, or “R” by the Motion Picture Association.*

Section 3.2 page 20 – Adult Material Store – Point 3: After review, the Board agreed to change as recommended by removing “or holds” and “out in any form”. *Change to read as: Advertises itself as “X: rated, “adult”, “sex” or otherwise is a sexually oriented business.*

Section 3.2 page 20 – Adult Motion Picture Theater: After review, the Board agreed to change as recommended by removing “or holds” and “out in any forum”. *Change to read as: Any motion picture theater that used 15% or more of its total daily viewing time for presenting explicit sexual material or that advertises itself as or offers features described as “X” rated, “adult”, or “sexually oriented”.*

Section 3.2 page 20 – Adult Only Live Entertainment Business – Point 2: After review, the Board agreed to change as recommended by removing “male or female impersonators”. *Change to read as: Exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, or similar entertainment or services as defined in this Chapter.*

Section 3.2 page 20 – Bathhouse: After review, the Board agreed to change as recommended by removing “including all forms and methods of hydrotherapy”. *Change to read as: An establishment or business that provides the services of baths of all kinds. This definition is not to apply to or affect the operation of hydrotherapy facilities by any person licensed by the State of Ohio Medical Board.*

Section 3.2 page 20 – Explicit Sexual Material: After review, the Board agreed to change as recommended by changing “male organ” to “penis” throughout definition and remove gender “male” and “female”. *Change to read as: Media characterized by sexual conduct that includes one or more of the following: erect penis; contact of mouth of one person with the genitals of another; penetration with a finger or penis into any orifice in another person; open labia; penetration of a sex toy into any orifice; ejaculation; or the aftermath of ejaculation.*

Section 3.2 page 21 – Sexual Conduct: After review, the Board agreed to change as recommended by removing “vaginal”, “between a male and a female”, “intercourse”, “l in vaginal” and “anal cavity” and adding “vaginal or” and “anus”. *Change to read as: Intercourse vaginal or anal, fellatio, and cunnilingus between two persons regardless of sex; and the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vagina or anus of another.*

Section 3.2 page 21 – Sexual Excitement: After review, the Board agreed to change as recommended by removing “the” and “male or female”. *Change to read as: The condition of human genitals, when in a state of sexual stimulation or arousal.*

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Section 3.2 page 22 – Sexually oriented toys or novelties: After review, the Board agreed to change as recommended by removing “organs” and adding an “s” to genital. *The change reads as: Instruments, devices, or paraphernalia either designed as representatives of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genitals.*

Chapter 4

Section 4.4F page 23 – Regarding bridge width. After review, the Board agreed to leave as written.

Chapter 6

Section 6R1:

Section 6R1.2C page 28 – # 1. Regarding model homes. After review, the Board agreed to leave as written.

Section 6R1.2C page 29 - # 3. Regarding sales trailers. After review, the Board agreed to leave as written.

Section 6R1.2E page 29 – # 1.g. Regarding noise, fumes, smoke, etc. After review, the Board agreed to remove “g” completely.

Section 6R1.2E page 29 # 2. Regarding Family day care home, type B. Ms. Peterlin asked what type B represented. After review, the Board agreed to remove “type B” from #2. *Change to read as: Family day care home.*

Sub-Section 6R1.4 A. page 30 – Regarding Minimum Lot Area. After review, the Board agreed to change as recommended and remove “In computing lot area, not to exceed one-half (1/2) of the width of the road or street right-of-way may be included if the owner holds title to the same.

Sub-Section 6R1.4.J.3.a. page 31 – Regarding Minimum Lot Area. After discussion and review, the Board agreed to change as recommended and remove “Additional open space shall be set aside in perpetuity for each lot developed that is less than 65,340 square feet, (1 ½ acre), in area. This open space land may be left in its natural state or developed into non-commercial recreational facilities for residents. Areas of public roadways shall not be included in determining the dwelling density.

Sub-Section 6R1.6.A.2.c. page 32 – Regarding lots greater than 5 acres. After review, the Board agreed to leave as written.

Sub-Section 6R1.7.A.3 page 33 – After review, the Board agreed to change as recommended and change the word “Establish” to “Utilize”. *Change to read as: Utilize development review criteria which will promote creative design solutions in a manner which best conserve the area’s resources.*

Sub-Section 6R1.7.A.4 page 33 – After review, the Board agreed to change as recommended and change the word “Establish” to “Utilize”. *Change to read as: Utilize a review process which maintains local review and approval of the overall development plan and which results in the timely consideration of an application.*

Sub-Section 6R1.B.1 page 34 – Regarding Area/Permitted Density. After review, the Board agreed to leave as written.

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Sub-Section 6R1.B.2.b. page 34 – After review, the Board agreed to leave as written.

Sub-Section 6R1.E.2.a. Page 36 – After discussion and review, the Board agreed to leave as written. Trustee Catherwood commented that the Zoning Commission may want to revisit at a later time, and/or get feedback from Bill Thorne/legal counsel or Rob Henwood.

Sub-Section 6R1.E.7 page 36 – Regarding Off street parking. After review, the Board agreed to leave as written.

Sub-Section 6R1.E.8.f. – page 37 – Regarding Private street. After discussion and review, the Board agreed to leave as written.

Sub-Section 6R1.G. – page 39 – Regarding Waivers. Trustee Catherwood commented that this is more of a BZA function to grant or deny something, not of the ZC. The ZC can review for design standards, design flexibility, site review, density allowances and things like that. Language is very broad. Chairman Spellman asked if we should strike the entire section and reference the BZA instead of the Zoning Commission. Mr. Kamps disagreed and gave reasons for the Conservation Language. Suggestions were made to add language / remove language and after discussion and review, the Board agreed to leave as written for now, and revisit after receiving comments from Bill Thorne at the May 9, 2013 meeting.

Sub-Section 6R1.8.A.1.c. – page 39 – Regarding Submission of General Development Plan: After review, the Board agreed to leave as written.

Sub-Section 6R1.8.A.1.e. – page 40 – Regarding drainage patterns. After review, the Board agreed to change as recommended and remove “existing wells and well sites”. *Change to read as: Delineation of existing drainage patterns on the property.*

Sub-Section 6R1.8.A.1.i. – page 40 – Comments: Submitted text contains two items lettered “h”. After review, the Board agreed to make correction.

### Section 6R2:

Sub-Section 6R2.B.1. – page 44 – Regarding model homes. After review, the Board agreed to leave as written.

Sub-Section 6R2.B.1. – page 44 – Regarding sales trailers. After review, the Board agreed to leave as written.

Sub-Section 6R2.3.D.2 – page 44 – Regarding Family day care home, type B. Ms. Peterlin asked what type B represented. After review, the Board agreed to remove “type B” from #2. *Change to read as: Family day care home.*

Sub-Section 6R2.3. – page 44 – Regarding Conditionally Permissible Uses. After review, the Board agreed to change as recommended and remove “of this Resolution”. *Change to read as: The following conditional uses will be permitted in an R-2 District upon the issuance of a Conditional Zoning Certificate according to the procedure set forth herein and complying with the provisions listed below:*

Sub-Section 6R2.6.A.2.d. – page 46 – Regarding Accessory Buildings. After review, the Board agreed to leave as written. The chart in Rob Henwood’s comments is incorrect. The correct one does appear in current revision.

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Section 6B:

Sub-Section 6B.6 – page 50 – Regarding Off-Street Parking. After review, the Board agreed to change as recommended and remove “in accordance”. *Change to read as: The area within this setback shall be landscaped as provided herein.*

Sub-Section 6B.8.A. – page 51 – Revision 2/07/13 does not have points 5 and 6 listed. Suzanne to review previous notes and update accordingly.

Section 6I1:

Sub-Section 6I1.5.B – page 54 – Regarding Minimum Front Yard Depth. After discussion and review, the Board agreed to change as recommended and change “two hundred fifty feet (250 ft)” to “one hundred fifty feet (150 ft)”. *Change to read as: The building setback from the street right of way line shall not be less than one hundred fifty feet (150 ft) from a county or state road and not less than one hundred feet (100 ft) from a township road.”* It was suggested to go back and validate that the I1 and I2 sections are correct.

Chairman Spellman commented that this will conclude the review of Mr. Henwood’s comments for the first half (Chapters 1 – 6) The second half will be reviewed at the next regular meeting. Comments from Bill Thorne will be reviewed on May 9, 2013.

Chairman Spellman gave some options for scheduling a work session and opened the floor for feedback from the Board. After discussion, the Board agreed to schedule a work session to immediately follow the public hearing continuation on May 9, 2013. At the regular Zoning Commission meeting on June 6, 2013, the Board will review the second half of Mr. Henwood’s comments and feedback from Mr. Thorne and then make a motion to forward to the Trustees at that time.

There was also discussion regarding the possible Map Amendment request by the Mastronicolas’s and the timelines required for sending to Planning Services and the Zoning Commission setting a date for a Public Hearing.

Chairman Spellman requested that a notation be made to add Development of Site Planning – Standards Henwood’s comments page 36 and 39 to be discussed on May 9, 2013 with Bill Thorne.

No reports given from Vice Chairman Siarkowski, Chairman Spellman or Board members. It was noted that Mr. Powell will not be present for the May 9, 2013 continuation or the June 6, 2013 regular meeting.

Chairman Spellman noted as a reminder the continuation hearing is on Thursday, May 9, 2013 to begin at 7:00 p.m. with a work session to immediately follow. He also noted that the next Regular Zoning Commission meeting is scheduled for June 6, 2013 at 7:00 p.m.

Chairman Spellman asked for a motion for adjournment of the Regular Meeting. Mr. Nehrenz moved and Mr. Powell seconded.

**Vote: Spellman – yes, Siarkowski – yes, Powell – yes, Nehrenz – Yes, Kman – yes**

Meeting was adjourned at 10:00 p.m.

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Minutes by: Suzanne Peterlin, Acting Recording Secretary

Minutes Approved: \_\_\_\_\_, 2013

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William Spellman, Chairman

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Karen Siarkowski, Vice Chairman

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Jim Kamps, Member (ALT)

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Calvin Powell, Member

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John Nehrenz, Member

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Mel Kman, Acting Member

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Terry Walrath, Alternate Member