

MINUTES
Cheshire County Commissioners Meeting
Wednesday, October 14, 2020
County Hall Pursuant to Emergency Order #12 Pursuant to Executive Order 2020-04
This meeting will be conducted electronically.

Conference Call Information

Phone Call-in Number: +1 646 558 8656

Meeting ID: 409 748 8803

Pin #: 6031233

Present: Commissioners: Charles Weed, Jack Wozmak, and Robert Englund

Staff: County Administrator Coates, Finance Director Trombly, HR Director May, Safety Officer Kroupa, and Assistant County Administrator Bouchard.

Guests: Terry Clark, County of Cheshire, Treasurer, and Raleigh Ormerod, Keene City Counselor.

At 8:31 AM, Commissioner Weed opened the meeting, and County Administrator Coates conducted a roll-call of the Commissioners attending the meeting. Commissioners Weed and Englund, and Wozmak responded as "present."

Commissioner Weed then moved to conduct this meeting as an emergency meeting under the relevant provisions of NH RSA 91-A, and consistent with the recommendations contained in Executive Order 2020-04 Order 12 issued by Governor Sununu.

Commissioner Wozmak seconded the motion, and upon roll-call vote, the motion passed unanimously.

Emergency Order #12 Pursuant to Executive Order 2020-04

Temporary modification of public access to meetings under RSA 91-A

Pursuant to Section 18 of Executive Order 2020-04 it is hereby ordered, effective immediately, that:

1. Pursuant to Executive Order 2020-04, paragraph 8 provides: "State and local government bodies are permitted and encouraged to utilize the emergency meeting provisions of RSA 91-A to conduct meetings through electronic means while preserving, to the extent feasible, the public's right to notice of such meetings and ability to observe and listen contemporaneously."

2. Pursuant to Emergency Order #2 issued pursuant to Executive Order 2020-04, gatherings of fifty people or more are prohibited.

3. To implement these orders and recommendations, the requirement in RSA 91-A:2, II 1 (b), that a quorum of a public body be physically present unless immediate action is imperative, is waived for the duration of the State of Emergency declared in Executive Order 2020-04.

4. To further implement these orders and recommendations, the requirement in RSA 91-A:2, II 1 (c), that each part of a meeting of a public body is audible or otherwise discernible to the public "at the location specified in the meeting notice as the location of the meeting," is waived for the duration of the State of Emergency declared in Executive Order 2020-04 so long as the public body:

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- Provides public access to the meeting by telephone, with additional access possibilities by
- video or other electronic means.
- Provides public notice of the necessary information for accessing the meeting.
- Provides a mechanism for the public to alert the public body during the meeting if there are
- problems with access; and
- Adjourns the session if the public is unable to access the meeting.

Coates then outlined the rules of the meeting.

1. The public has an opportunity at the beginning of the Commissioners Meeting under "Public Comment" to speak. Community input will not be allowed after that point unless recognized and allowed by the Chair of the Commissioners.
2. All votes will be Roll Call, and when recognized, we are asking that you re-state your name and yes or no
3. If you have a question or motion that you would like to ask to put forward, please state the following, "Mr. Chair, Commissioner (your name) has a question or motion."
4. If you are having issues hearing the call, please text or call the County Administrator at 603-313-9002.
5. Please mute your phones so background noise won't interfere with the meeting.
6. This meeting has been posted on our website so that the community, department heads, and media can listen to the meeting.
7. This meeting is utilizing a Zoom Platform so listeners can join us via audio or audio/visual.

At 8:33 AM, the Chair recognized Treasurer Clark, who discussed the Commissioners Cost Shifting letter that was released earlier this year. Clark said that a large number of "Likes" had been received online through social media. He said that he is vigorously promoting the letter as he sees that large numbers of the public respond very positively to the ideas put forth in the document. He said that one item that stands out is that the state has abdicated its responsibilities for funding programs that it had committed to over the years.

The letter is presented here in its entirety.

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County of Cheshire

12 Court Street, Keene, NH 03431
www.co.cheshire.nh.us

State of New Hampshire's Broken Promises

Your property taxes have tripled in the past 20 years, and the reason has virtually nothing to do with local town, city or county spending. These increases have everything to do with state cost shifting. The actions of the state, including the Governor, both political parties of the Legislature and the Courts have been systematically breaking nearly every promise government has made to municipalities and counties.

It is critical to understand the effect that state-level budget decisions have on local property taxes. The financial burden is shifted to local government when the state reduces funding for any program developed to help New Hampshire citizens.

The state has shirked its responsibility at the expense of the local property tax payer; this letter will focus on a few of those points.

Meals and Room Tax (M&RT). *Enacted in 1967 the state bargained with the municipalities so that IF the municipalities agreed to collect revenue for the state, the state would split the revenue 60%/40%. Today, only 21% of that revenue is shared with municipalities.*

Business Profits Tax (BPT). *Enacted in 1969, again with the state promise that if the municipalities collected this tax locally, it would be returned to the local municipalities. That revenue sharing has decreased over time so currently the state returns NO revenue to the municipalities.*

Highway Block Grants. *The State promised to help communities maintain and improve Class IV and V local roads. This resulted in the Legislature's establishing a sustainable plan to maintain and improve local roads and highways. Funded by the gas tax only once in 23 years has the gas tax been increased. As a result, approximately 30% of local roads and highways are in poor condition.*

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***State Bridge Aid.** Due to lack of realistic funding through gas tax and tolls, there will be as many 'Red List' bridges 10 years from now as there were 10 years ago. There is no state plan to honor the promise of providing adequate bridge aid to communities.*

***Medicaid Funding for Long-Term Care.** Over the decades, the State has gradually, but significantly, shifted the costs of nursing home care to the local property tax payer. Since 1998, county taxpayers have gone from paying zero toward the state's Medicaid rates to more than 50 percent. Those costs are going to rise substantially as our population ages and needs more care.*

***The New Hampshire Retirement System.** In 1967 the State insisted that all communities consolidate their local pensions and form one single retirement system for all public employees. In return for this, the State enacted a statute that promised to make funding contributions thereby mitigating the cost to local communities. In the past few years, the state has broken that promise and transferred tens of millions of dollars of funding burdens onto the local property tax payers. This saved the state budget from having to contribute its 35% promised contribution.*

***Water and Wastewater Treatment Grants.** Environmental Grants to make water/wastewater plants modern and safe have been reduced by more than two-thirds and dozens of projects are now in the "Delayed and Deferred" pile. That means that if (when) your community encounters water or wastewater quality issues the funding will need to be found within your community.*

The state has virtually abandoned its promises to provide aid to local communities. If you are wondering who funded the "Rainy Day Fund" or created the State budget surplus, it was the local property tax payer.

We have local Senators and State Representatives in Cheshire County who understand this cost-shifting and who have done their best to ease the burden on property tax payers.

However, this is a call to arms, their voices are not enough to accomplish real change. It will take every Selectperson and thousands of citizens to make our voices heard in Concord and more importantly in the voting booth.

We have a right to institute responsible state funding practices that generate the revenue necessary to meet State's statutory obligations without leaning so heavily on local property tax payers.

Let the discussion begin.

Cheshire County Board of Commissioner's

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Crowell was then recognized to review Master Agenda Item #811: Uninterruptible Power Supplies (UPS's) for Sheriff's Dispatch. She discussed that these are very large UPS's used for the Communications Dispatch Center. She discussed how the grant would cover the costs of the purchase and installation and said that the lowest bid that was received is the one that she is recommending. Commissioner Wozmak asked about the load usage levels. Crowell explained that each unit only carries about one-quarter of the load. The current system was installed in 2014 and was paid for with a Vermont Yankee grant. The End-Of-Life timeframe for the UPS's is typically five (5) years. The bids that were received were \$40,432.00, \$34,008.00, \$33,800.00 (plus shipping) and \$31,560.39 (including shipping).

Following discussion, Commissioner Wozmak moved to authorize the purchase of the UPS's for the Dispatch department from the selected vendor, FGC equipment 4916 East Broadway, Madison, WI 53716 for \$31,560.39. Commissioner Weed seconded the motion, and upon roll-call vote, the motion passed unanimously.

The Commissioners then took-up Master Agenda Item #812: Semi-Annual Report - Safety Officer. **Kruopa discussed the following report with the Commissioners:**

To: Cheshire County Board of Commissioners
From: Julie Kroupa, Safety Officer
Date: October 8, 2020
RE: Quarterly Report to the Commissioners

Listed below is a summary of the current and ongoing projects for the 2nd and 3rd quarter of 2020.

Currently working to create a Safety Policy Manual. Many policies have been completed and more to come.

Ongoing management of the Worker's Compensation and the Temporary Alternative Duty program. Programs are current with the compensation process and are in compliance.

Working closely with our insurance company, PRIMEX, benchmarks are set every year to assist in areas that need strengthening. 2020 Benchmarks are: Average number of claims under 34 (2019:28; 2020:21), Average number of material handling/resident transfer claims under 13 (2019:6; 2020:8) and Average number of Slip/Trip/Fall claims under 5 (2019:3; 2020:3).

Renewed the annual PRIMEX PRIME3 Certification for 2020 and received a 2.5% discount for Worker's Compensation and 2.5% discount for Property and Liability toward 2021.

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Ongoing Construction project at Maplewood- Weekly Infection Control Risk Assessment meetings with Facilities, Assistant Director of Nursing/Quality Assurance and Infection Prevention, Safety and Construction to ensure resident and staff safety and troubleshoot issues that arise.

Weekly facility life safety walkthroughs of Maplewood to ensure safety compliance during the construction phase.

DHHS Life Safety Survey of Maplewood Assisted Living was Deficiency Free.

Coordinate the required Department of Labor (DOL) annual inspections of all County-Owned Facilities. The Cheshire County Joint Loss Management Committee and the Campus Safety Committees are responsible for inspections of their buildings and reporting deficiencies to the Safety Officer. Write inspection reports, work orders and submit to each department for review/resolution. Inspections are ongoing.

Developed the agendas, created and distribute all the meeting minutes for the Maplewood Safety Committee, Keene Safety Committee and the Cheshire County Joint Loss Management Committee.

Working with the Department of Corrections (DOC) Superintendent to create a Safety Committee at the DOC for 2021.

Continue to train MNH employees on the new Disaster Plan along with ongoing testing of the plan, including updating policies as needed. Changes are distributed quarterly.

Annual Safety Training for DOC completed for 2020. Maplewood does annual/new employee training every two weeks ongoing. Annual Safety Training for Keene Campus is currently underway.

Conducted DES Certified Underground Storage Tank training for the Facilities employees in both Keene and DOC.

Fire drills were held in accordance with state and local regulations for Maplewood and Keene Campus. Maplewood fire drills were altered by CMS and DHHS this year, a toolbox style training was introduced for all employees in the months of June and July and will be utilized for all new employees at orientation. DOC handles their fire drills internally.

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Completed all emergency equipment inspections and replaced items as needed- completed on a weekly/monthly schedule.

2020 Annual MNH Entrapment Survey on hold due to COVID-19. All new beds configured to be safer, less entrapment zones per MNH Administrator.

Utilized the MNH High Winds/Tornado/Hurricane Disaster plan on August 4 upon notification of a Tornado Warning in Cheshire County, specifically in Westmoreland.

Working with Keene Facilities to assess the New Courthouse emergency procedures, inspection schedules and hazardous materials inventory to achieve continuity and ensure compliance in all safety and environmental programs.

Continue to maintain an active role in the Greater Monadnock Public Health Network, the Granite State Health Care Coalition, Regional Planning Committee, Healthcare Emergency Preparedness Alliance, the Healthcare Workforce Group and the Public Health Emergency Coordinating Committee. Will be pursuing MACE training. Will be joining the Leadership Council for a Healthy Monadnock Executive Committee.

Ensure all the MNH Transportation department drivers who transport residents have current safe driving records and/or defensive driving certificates on file.

Working to meet employee's ergonomic needs with the review of workstations, adding ergonomic devices and new furniture.

Member of the committee that organizes employee Health Fairs and Wellness Initiatives at MNH and Keene Campus.

All external conferences have been postponed for 2020.

COVID-19:

- *Conducted Employee Screening for all MNH employees who enter the building*
- *Mandatory use of face masks in the building*
- *Coordinating construction work to try to eliminate non-employees inside the building.*
- *Attended coordinating meetings with Keene State College, Cheshire Medical Center, etc. in setting up Surge Center at Keene State.*
- *Coordinated with Keene State College in proving housing for staff who are COVID-positive, are awaiting results, or need short term, temporary housing for long shifts/family member sick, etc.*

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Kroupa discussed her involvement in the County's COVID-19 responses and reviewed the areas in which the Safety Office is involved.

She then reviewed the Workers Compensation statistics and discussed the trends and numbers for the year to date.

Workers Comp 2020

As of September 30, 2020

Claims to Date: 21 (21 also as of 9/30/19)

1: Department of Corrections

1: Sheriff

7: MNH Nursing

1: MNH Facilities

4: Environmental Services

7: MNH Dietary

Lost workdays: 229 (26 2019) **Light Duty Days: 224** (566* 2019)

Gender: 18 – Female

3 - Male

Shift: 10– 7:00-3:00

2 – 3:00-11:00

3– 11:00-7:00

4- 4:00-12:00

2- 12:00-8:00

Day of Week:

3- Sunday

3- Monday

2 - Tuesday

2- Wednesday

3- Thursday

4- Friday

4 – Saturday

In 2019 we had an injury that required surgery and extensive leave for recovery- 484 days of light-duty.

In 2020 we have two employees on extended lost time leave, one recovering from surgery, still ongoing.

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Commissioner Wozmak asked questions around the age distribution of the injuries and a discussion of the age groups that are out of work due to injuries in the workplace began.

Administrator Coates asked some questions about the current year's Workers Compensation statistics and when tracking of statistics are started each year. Kruopa said that the insurance company uses a calendar year period the same as the County, so monitoring begins on January 1, each year.

Maplewood Administrator Kindopp was then recognized to discuss Master Agenda Item #813: Annual Corporate Compliance Training / Review. Kindopp outlined the reason and need for Corporate Compliance training and read a lengthy introduction of the program's facts and requirements.

CORPORATE COMPLIANCE TRAINING CHESHIRE COUNTY COMMISSIONERS

Since 2019, CMS has expected LTC facilities to have implemented a Corporate Compliance Plan for the facility.

The Sarbanes Oxley (SOX) act of 2002 is a Federal law that established sweeping auditing and financial regulations for public companies. Lawmakers created the legislation to help protect shareholders, employees, and the public from accounting errors and fraudulent financial practices.

Maplewood Nursing Home has had a Corporate Compliance policy in effect since 2006. Early in 2019, a subgroup was formed to include the County Administrator, the County Finance Director and one of the County Commissioners (who has a legal background as well as a LTC and county operations background). Together, the renewed policy and procedure manual was updated. (keeping the Federal Register of March 2000 plus the updated one of 2008 to include all essential elements.)

The Corporate Compliance binder includes an overview policy as well as 24 additional policies representing our intent to comply with applicable rules and laws.

A special note on board of directors: Over the years, Office of the Inspector General (OIG) has paid special attention to the role of boards of directors. It's important for boards to be involved in creating, funding, setting up and maintaining your compliance program. The OIG expects the Board to educate itself on facility operations, specifically including quality of care issues, and to know enough to understand what's going on in the facility at all levels, to be directly involved in

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correcting problems and to ensure proper corrective actions are implemented. The OIG suggests specific steps for boards including:

- *Requiring the compliance officer to make regular reports to the board about compliance and quality of care*
- *Educate board members about compliance issues including quality of care and use of outside, independent experts to help where needed to ensure that board members have sufficient knowledge to understand what they are hearing and to ask questions where appropriate*
- *Provide sufficient resources for compliance activities*
- *Require company managers to provide regular reports on quality of care performance, including quality measures and benchmarks, along with financial benchmarks*
- *Validate reports on quality of care received from company management, using outside objective experts where appropriate.*
-

In addition to the Corporate Compliance binder, we also have the Corporate Compliance Hotline – New staff are trained annually and are retrained about this option for reporting. There is also the False Claims Act and Whistle Blower Protection policy that staff are trained on as they start and annually thereafter. You have been provided a copy of our Code of Conduct, also given upon hire, and staff are trained to this annually.

Last year you given a hand-out called Corporate Responsibility and Corporate Compliance: A Resource for Health Care Boards of Directors. The following are excerpts from that hand-out: Corporate Responsibility and Corporate Compliance:

The expansion of health care regulatory enforcement and compliance activities and the heightened attention being given to the responsibilities of corporate directors are critically important to all health care organizations. In this context, enhanced oversight of corporate compliance programs is widely viewed as consistent with and essential to ongoing federal and state corporate responsibility initiatives.

Fiduciary Responsibilities:

The basic fiduciary duty of care principle requires a board member to act in good faith with the care an ordinarily prudent person would exercise under similar circumstances. The responsibility of the Board is to provide oversight, not manage day-to-day affairs. It is the process the Board follows in establishing that it had access to sufficient information and that it has asked appropriate questions that is most critical to meeting its duty of care.

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Duty of care refers to the obligation of the Board to exercise the proper amount of care in their decision-making process. Duty of care involves determining whether the directors acted in good faith, with the level of care that an ordinarily prudent person would exercise in like circumstances and in a manner that they reasonably believe is in the best interest of the corporation.

Good faith; usually focuses upon whether the matter or transaction at hand involves any improper financial benefit to an individual. The 'reasonable inquiry' test asks whether the directors conducted the appropriate level of due diligence to allow them to make an informed decision. Directors must be aware of what is going on about them in the corporate business and must in appropriate circumstances make such reasonable inquiries as would an ordinarily prudent person under similar circumstances. Directors are obligated to act in a manner that they reasonably believe to be in the best interest of the corporation. A director will not be held liable for a decision made in good faith, when the director is disinterested, reasonably informed under the circumstances, and rationally believes the decision to be in the best interest of the corporation.

Directors obligations: with respect to corporate compliance programs, arise within the context of that oversight function. A director has two principal obligations in response to the oversight function; a duty to attempt in good faith to assure that a corporate information and reporting system exists and that this reporting system is adequate to ensure the board that appropriate information as to compliance with applicable laws will come to its attention in a timely manner as a matter of ordinary operations. (no rationally designed information and reporting system will remove the possibility that the corporation will violate applicable laws or otherwise fail to identify corporate acts potentially inconsistent with relevant law.) Crucial to the oversight function is the fundamental principle that a director is entitled to rely upon, in good faith, on officers and employees as well as corporate professional experts/advisors in whom the director believes such confidence is merited. A director, however, may be viewed as not acting in good faith if he/she is aware of facts suggesting that such reliance is unwarranted. Absent the presence of suspicious conduct or events, directors are entitled to rely on the senior leadership team in the performance of its duties.

Unique challenges for health care boards: The health care industry operates in a heavily regulated environment with a variety of identifiable risk areas. An effective compliance program helps mitigate those risks. Health care providers are subject to voluminous and sometimes complex sets of rules governing the coverage and reimbursement of medical services. Over the last decade, the risks associated with non-compliance have grown dramatically. The government has dedicated substantial resources, including the addition of criminal investigators and prosecutors, to respond to health care fraud and abuse. In addition to government investigators

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and auditors, private whistleblowers play an important role in identifying allegedly fraudulent billing schemes and other abusive practices. I would refer you to our False Claims Act and Whistle Blower Protection policy.

Compliance programs will not prevent all wrongful conduct and the Board should be satisfied that there are mechanisms to ensure timely reporting of suspected violations and to evaluate and implement remedial measures.

Operations questions to assist the Board's review of the compliance program:

Do we have a Code of Conduct: see hand-out; the question is if this has been incorporated into policies across the organization. Has management taken steps to publicize the importance of this to all employees?

Do we have Policies and Procedures: has the organization implemented policies and procedures that address compliance risk areas and established internal controls to counter those vulnerabilities?

Do we have a Compliance Infrastructure: Does the Compliance Officer have sufficient authority to implement the compliance program? Has management provided the compliance officer with the autonomy and sufficient resources necessary to perform assessments and respond appropriately to misconduct?

Do we have measures to prevent violations: What is the scope of compliance-related education and training across the organization? Has the effectiveness of such training been assessed? What measures have been developed to enforce training requirements and to provide remedial training as warranted?

*Do we have measures to respond to violations: what is the process by which the organization evaluates and responds to suspected compliance violations? How are reporting systems, such as the compliance hotline, monitored to verify appropriate resolution or reported matters?
Show OIG film now*

Some examples of our intent to be and to remain in compliance include our Facility Assessment, our HIPAA training, and reporting, our Abuse and Neglect training and reporting, our quality assurance reporting and meetings, as well as our safety committee to name a few.

Kindopp's training then concluded, and Commissioner Weed asked if reward programs for whistleblowers was in place. A discussion about how whistleblowers may maintain anonymity if

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required or requested was then covered. Further discussion about the incentives and challenges for someone who is a whistleblower began.

The Certificate of Attestation for the Corporate Compliance for the Maplewood Nursing Home of Cheshire County was then signed by all three of the Commissioners.

Administrator Coates was then recognized for the Weekly Operations Report

Coaters said that he would be returning to the office from self-quarantine on Thursday (tomorrow) of this week.

He then said that the closure of the County buildings in Keene would continue through at least the end of the year due to the resurgence of the pandemic in many areas. He said that the public may still make reservations with the various County departments for in-person meetings when necessary.

Coates then said that Senator Sheehan received the County's letter, and he related that Sheehan read the message into the Senate minutes. A copy of the video was ordered from C-SPAN.

Coates then said that removing the cap for vacation days during the pandemic continues until the end of the year. The cap will then be reestablished at the beginning of the new year. Trombly discussed the use of vacation day hours and said that some employees had accumulated over 350 hours, and the financial implications could be very high. A discussion of the use of donated sick time was covered. It was reiterated that vacation time cannot be used in the same way that sick time is used.

Coates said that a virtual Health Care Meeting was held on Oct 15th from 7:00 – 8:00 by the Cheshire County Democrats and that the meeting was moderated by County Commissioner Bob Englund, Bethann Clauss, and Aiden Jasman. with Panelists Sen. Jay Kahn, Representatives Lucy Weber & Joe Schapiro & Candidate Amanda Toll. With Bethann Clauss & Aiden Jasmin.

He then discussed the successful Telemedicine program with Cheshire Medical Center that is ongoing at the nursing home and stated that the program will be extended to the Department of Corrections in the coming weeks.

Coates said that he sent an email from the Dupont Group to the Commissioners and staff for the NHAC virtual Annual Conference sessions that are to be held October 26 – 30. The email contains information and links for the individual sessions that are planned for the conference.

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Old Business: None

New Business: Commissioner Weed said that he was concerned about a "sexual preference" reference instead of "sexual identity" statement in the Employee Handbook. Coates and HR will check the language in the County HR documentation.

Weed then said that the NHAC Commissioners Counsel dues proposal passed as presented which means that the large counties will end up paying less and the small counties (including Cheshire County) will pay more for NHAC dues in the coming year.

Consent agenda: Minutes of 10/07/2020 and Manifests for the week of 10/14/2020. Commissioner Englund moved the consent agenda and was seconded by Commissioner Wozmak. the motion passed with unanimous consent.

At 10:30 AM, pursuant to RSA 91-A:3, II(b), Commissioner Englund moved to enter a non-public session to discuss *hiring any person as a public employee*, and Commissioner Wozmak seconded the motion. Upon roll call vote, the motion passed unanimously.

As a result of deliberations in a non-public session no decisions were made and no vote was taken.

At 10:54 AM, the Commissioners voted unanimously to return to public session.

10:58 AM here being no further public business to discuss, Commissioner Englund moved to adjourn and was seconded by Commissioner Weed. Upon roll call vote, the motion passed unanimously.

Minutes recorded by:

R. Bouchard, Assistant County Administrator

Reviewed and submitted by:

R. Englund, Clerk