

APPROVED

HAROLD GARY
Chairman

CRAIG PAEPRER
Vice-Chair

BOARD MEMBERS
ANTHONY GIANNICO
DAVE FURFARO
CARL STONE
KIM KUGLER
RAYMOND COTE

TOWN OF CARMEL PLANNING BOARD



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Town Engineer

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Town Planner*

PLANNING BOARD MINUTES

SEPTEMBER 12, 2018

PRESENT: VICE-CHAIR, CRAIG PAEPRER, ANTHONY GIANNICO, DAVE FURFARO,
KIM KUGLER, RAYMOND COTE

ABSENT: CHAIRMAN, HAROLD GARY, CARL STONE

<u>APPLICANT</u>	<u>TAX MAP #</u>	<u>PAGE</u>	<u>TYPE</u>	<u>ACTION OF THE BOARD</u>
Hillcrest Commons – Lot E-2.2	44.10-2-4.2	1	P.H.	Public Hearing Closed & Planner to Prepare Resolution.
Homeland Towers - Dixon Lake	54.-1-6	1-9	R. Site Plan	Declared Lead Agency.
Homeland Towers – Lake Casse	65.19-1-43	9-10	R. Site Plan	Declared Lead Agency.
Western Bluff Subdivision	66.14-1-20	11-12	Subdivision	Planner to Prepare Neg Dec Resolution.
Minutes – 07/11/18		12		Approved.

The meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Rose Trombetta

HILLCREST COMMONS – LOT E-2.2 – CLAPBOARD RIDGE – TM – 44.10-2-4.2 – PUBLIC HEARING

Mr. Carnazza stated all his comments have been addressed.

Mr. Franzetti stated all his comments have been addressed.

Mr. Cleary stated all planning issues have been addressed.

Vice Chairman Paerprer asked if anyone in the audience wished to be heard on this application.

Hearing no comments from the audience, Mr. Furfaro moved to close the public hearing. The motion was seconded by Mr. Giannico with all in favor.

Vice Chairman Paerprer asked the Planner to prepare a resolution for the next meeting.

HOMELAND TOWERS DIXON LAKE – 36 DIXON ROAD – TM – 54.-1-6 – SITE PLAN (CELL TOWER)

Mr. Carnazza read his memo which stated the applicant is proposing a 150 foot “mono-pine” cell tower to an existing residential property off Dixon Road in Carmel. Provide a zoning information note on the plat. Include all of §156-62 of the zoning code and provide all information and show compliance and/or need for variances. A consultant should be retained to assist the board with the specifics of the new code. What is the width of the driveway? Will a car be able to pass a car driving the opposite direction if needed? A mockup is required at the site. The engineer should contact me to discuss what will be installed for the mock-up prior to the public hearing. Why is one submission for monopole and one submission for a tree style tower?

Mr. Franzetti read his memo which stated the application should be referred to a technical expert accordance to §156-(E)(2) of the Town Code. The applicant will need to provide funding for an escrow account if they haven’t done so already. The applicant will be required to provide a physical mockup of the proposed project. The proposed tower exceeds the maximum height permitted under §156(O)(2), which is capped at 50 feet. In accordance with §156(O)(3), the applicant must provide justification for exceeding the maximum height cap. Even with relief from §156(O)(2), the maximum height permitted is 50% of the of 50 feet, which would be 75 feet. The applicant is proposing a tower of 157 feet with exceeds this length. Requirements as set forth on §156(O)(3) have not been provided. The application proposes a tower location at a priority 5 site as identified in §156(I)(1). In accordance with §156(I)(2), the applicant must provide an explanation of why a higher priority was not selected. The gravel access drive proposed, exceeds 7%, therefore, in accordance with §128-37(E), the access drive

must be paved. The proposed tower will be located on a property adjacent to McDonough Park (off or Angela Drive). As such, in accordance with §156L. (1)(b), the applicant must demonstrate that the proposed tower will not unreasonably interfere with the view from the Town park. Requirements of §156 P (7) should be met. All plantings should be verified by the Town of Carmel Wetlands Inspector and all plantings shall be installed per §142 of the Town of Carmel Town Code. The area of disturbance has not been provided, it is unclear if a Stormwater Pollution Prevention Plan (SWPPP), as detailed by the New York State Department of Environmental Conservation (NYSDEC) is required.

Mr. Cleary stated this is the first application we have had under the new wireless telecommunications law. He said the memo you received from me is in depth because they give you sections of the code, so you have a context of what's going up. He said the big issues with respect to this is a lot of the explanations that the applicant has provided for you with compliance with our code are technical issues that are beyond the expertise of the four of us. This is an instance where we want to retain our own wireless telecommunications consultant to help us review the materials that have been submitted by the applicant. He said the priority issue is a significant issue for us. This is the lowest priority type of location and the justification the applicant provided was that there are gaps in coverage that need to be filled by law. The law goes beyond that for the justification and there are a host of additional issues that you need to take into consideration in order to drop to the lower priority, such as visual impacts, land and zoning issues. It's just not their gap in coverage; it's all of those other issues (community issues) beyond the scope of simply their technical concerns. He said the applicant needs to provide documentation with respect to that. That's a significant issue and moving among those categories is a significant task for us. To repeat, this is in the least favorable lowest category we have in the community. A couple of things we need clarification on, the first is there lighting on the tower. Also, this site is 5 feet off the edge of a wetland boundary. They need to provide who delineated the wetland boundary so the Wetland Inspector could go out and verify that it is accurate. He said there are a host of issues that require clarification. I think the applicant's submission didn't address a lot of those issues, because in their opinion they were self-evident or that they would submit that information as they moved along in the review process. He said in order for us to deem the application complete, all of that information needs to be before you.

Vice Chairman Paepre asked have you shared all your comments to the applicant yet?

Mr. Cleary replied no. They will be forwarded to them tomorrow.

Mr. Robert Gaudioso, ESQ of Snyder & Snyder, representing the applicant addressed the board and stated we have two applications pending. The applications are for a federally licensed wireless telecommunications facilities. The purpose is to remedy Verizon Wireless's gaps within the Town of Carmel. As part of the application we submitted a number of things. First and foremost, the RF Justification report, prepared by PierCon Solutions. What PierCon showed with respect to the priority list is that there are no existing structures, which is the highest priority under your code. There are no existing non-residential sites not fronting on Route 6, Route 6N, Route 52 and Route 301. We did

a map showing where the non-residential zones were and where the existing coverage was and showed that the gap is not in those areas. We actually have coverage in those non-residential zones. He said we did submit a FAA report showing there would be no lighting on the tower. He said we will go through each of the consultants comments and respond back. As far as Mr. Cleary's comment about the visual impact, I think that is a very important function and what the code requires is that there be a visual analysis based on a discussion between the board, its consultants and the applicant. What we typically offer to do is a balloon test. He suggested that we communicate with the board and its consultants pick a date that works for you. We could put the notice out the 4 hours in the morning when we would float the balloon, but prior to that we would come up with photo locations that the board and consultants would like us to take photographs from and then actually prepare a visual resource evaluation including visual renderings of what each of the facilities would look like from those photo locations. He said obviously the day of the balloon float if we saw other locations or if you saw other locations where you think we should also take photographs from we would do that as well. He said we don't have to decide on the date today, but maybe sometime in mid-November after the leaves drop off the trees. We don't think the leaves would have a significant impact, but some people do, so we don't have a problem waiting until November to do the balloon test. He said as far as the mockup that is a big concern to us, I don't know how we could possibly do a mockup of 150 or 180 foot tower and we would ask for a waiver of that, particularly in light of the visual resource evaluation. He said I think the mockup under the new code is essentially intended for a rooftop facility. In order to build something of that height, we would literally need to build something of that height. We would need to have a full foundation design.

Mr. Cleary stated the alternative that would address both of those issues is a crane. He said the crane would serve as the mockup. The crane would also serve instead of the balloon as a fixed point.....

Mr. Gaudioso said I think that's fine provided we could get the crane close enough to the two locations. One of the locations wouldn't be a problem, but the second location we may have an issue, because we proposing to take out about 35 trees. He said if we could do the crane we won't object to that. I think it's more of a situation of access.

Mr. Cleary asked Mr. Gaudioso to look into that.

Mr. Gaudioso replied we will certainly take a look at that and if we could discuss that prior to the next board meeting, we would be happy to do that. He said the one thing about the crane is that the crane wouldn't look like a tree.

Mr. Giannico stated I would think that you would have photographs of similar installations.

Mr. Gaudioso stated we could definitely give you photographs. We just did a great one in North Salem. It was about 120 to 130 in height.

Vice Chairman Paepre asked if that was in a residential area also.

Mr. Gaudioso replied yes it was. He said 180 feet starts to get to tall for the tree. People always point to the Hutchinson River Pkwy. That's 180 feet. He said let's do the balloon test and see where it is visible from, what the angles look like and then let's decide about camouflaging. He said you may say you don't like the tree after we do the visual renderings. I think it's a conversation we ought to have and doing the balloon test without the leaves on the trees, doing the visual renderings, picking the viewpoints, sometimes a 150 foot tower is more visible then a 180 foot tower. He said we are not taking anything off the table, we are happy to work with you and your consultants on the design and process. He discussed the code which says 50 feet in a residential zone, but you could go up to 50% more than that, arguably someone could read that it should have been 150%. We are comfortable with the analysis of that it means 75 feet and then the question is if we need a variance for that procedurally with SEQR. Does this board intend to act as lead agency? Do you intend to do an uncoordinated review? If you intend to act as lead agency the only thing I would ask is for us to get started on that process so we can get zoning board's consent to you be lead agency and then we could file for the necessary variances.

Vice Chairman Paepre asked how did you come up with 150 feet?

Mr. Gaudioso stated Verizon showed two different sets of plots. They have two different frequency ranges. They have 700 and 2100 MHz. 700 goes very far. 2100 doesn't go far at all, but it provides much better capacity, so they really need both. They have to design both. What we did was coverage maps of all the different design criteria at the different frequency levels. What we submitted were maps at lower heights, 20 foot increments down to 40 feet. The reason for the board to approve a higher height is for collocation. One of the benefits of Homeland Towers is that they are a tower company. They build towers so that they are accommodating for all four of the wireless carriers and we have also accommodated for municipal public safety entities which we provide for free of charge on the tower. That's an important extra benefit of Homeland Towers. He said when a carrier comes before they are interested in only themselves and not necessarily their competitors. Homeland Towers has designed both facilities to accommodate collocation of all four carriers plus the municipality and the code specifically says the higher height is allowed for collocation to avoid proliferation of towers. And ultimately, less towers. He said what we did in the report, we showed the lower heights and how we would lose coverage, but how at the 40 foot lower for the 4th carrier it would still provide enough coverage so they wouldn't come back to you and say we need to build a second tower in 6 months. We tried to accommodate the facility for Verizon's needs, but also taking into account the other carriers and the municipal public safety entities. It's a bit of a balance, but we think it's appropriate with respect to your ordinance and some of the requirements as far as collocation. We also submitted a collocation commitment letter as part of the application as required by your code.

Mr. Carnazza asked will your fenced in area be large enough for a collocation also?

Mr. Gaudioso replied yes. He said not only did we design the tower, we designed the whole base for each of the carriers and we showed a spot for the municipal service.

Mr. Carnazza said that's important because we have had others come back to collocate and they wanted to expand their fenced in area and then they are back to this board for that.

Mr. Gaudioso stated we will bring the utilities for everybody in one shot. We do the access road, utilities, everything in one shot.

Mr. Franzetti stated we purposely had it at the 50% higher and it would never be 150% higher. We went through a lot of machinations with this board and Mr. Cleary, so you could interpret anyway you want, we have that number in there on purpose, for residential purposes. The idea is to limit the visual impacts.

Mr. Gaudioso replied I agree with your interpretation that it means 75 feet, what I was trying to say was someone could misread it and say 50% of the 50 feet which is technically 25 feet.

Vice Chairman Paepre asked how close are the neighbors?

Mr. Gaudioso replied they are pretty far away. If you look at the maps that were submitted we actually showed you every single site within the town and within the bordering communities.

Mr. Carnazza asked if this application will eliminate any of the rooftops on Route 6?

Mr. Gaudioso replied no. He said if you look at the map with the future locations, there aren't any planned at this time along Route 6.

Mr. Furfaro asked are there any plans to build in the north or is this it?

Mr. Gaudioso stated we showed a future site in the very southern tip of the town and then we showed three areas in the western portion of the town that might be in the future.

Mr. Furfaro asked so those are future or is it in lieu of this area.

Mr. Gaudioso replied they are future in lieu of this area. He said we are looking to do three more with Homeland Towers with these two.....

Mr. Carnazza asked including the rooftops?

Mr. Gaudioso replied I think the rooftop was approved.

Mr. Furfaro said there is supposed to be one more in the area of Church Street. One more rooftop.

Mr. Gaudioso replied I don't think that is going forward.

Mr. Cleary stated keep in mind that is just Verizon Wireless, it's not Sprint and so on.

Mr. Furfaro stated you said you are designing this for all the carriers. Does that mean the next carrier is going to build another tower?

Mr. Gaudioso stated we are going to build it, so they go in our pole and your code says they have to do that.

Mr. Franzetti stated the board needs to be aware that the code does call for the mockup to be there two weeks before and the initial appearance before the planning board. And it shall be removed no later than two days after the close of the public hearing. A decision will have to be made on how we want to move forward.

Mr. Charbonneau stated I think the board is deeming the application as incomplete, because of all the comments from the consultants.

Vice Chairman Paepreer stated there must be 12 to 13 pages of comments at least. Let's get those resolved.

Mr. Franzetti stated the mockup is part of this and it needs to be there.

Mr. Cote stated unfortunately it's a situation where we received both applications on the same day. I put them side by side and flipped page by page and it's clear it's just a form.....

Mr. Gaudioso replied no it's not.....

Mr. Cote said it's a form and you just plug in a few things. For instance, the major changes are on pages 5 and 6 where you talk about the gaps in coverage. That is the only substantial difference in these reports. My question is where is the backup data for all these facts that you give us about why it's needed and why the other areas aren't good.

Mr. Gaudioso stated what the maps do is that the maps show the existing coverage. The maps for each of the reports are completely different. The only thing that is the same on the maps in each of the reports is the exhibit of the master plan which is exhibit D.

Mr. Cote stated I'm not talking about the maps. I'm talking about the documents that were prepared.

Mr. Gaudioso stated the report you are referring to is the radio frequency emissions report. That is based on the antenna type, model and power. Those reports are different. The only difference in that report is that the level for Dixon Lake for example at 157 feet is only 1.1% of the federal law. The other site – Lake Casse is 180 feet, so the antennas are 176 feet. Because they are taller the amount of the emissions is less and it is less than 1.1% and that shows compliance with Federal law and the radio frequency exposure. The PierCon report for each of the two facilities is based on a model that they testify to and they follow a form that the courts when they look at the issue of need for a site, they follow that form. So what they did for each of these reports, the maps in the back, the RF propagation maps are different for each of the two sites. The only thing that is the same on these maps is Exhibit D which shows all of the sites in and around the town. But each of the reports shows the coverage that is existing throughout the town and that area and the proposed coverage from each of the two facilities in those areas. The proposed coverage is different because of the location and height in each of the areas. The gap area the way they described it, based on which roads and the population density in those particular gap areas are different. The justification for the need is very similar in each of the cases, because there are significant gaps. The justification for the priority list is also very similar. Each of the reports has a different that shows the zoning code, highlights in red where the commercial areas are and highlights with a purple dot where the proposed site is. Then on the next page it does the same thing, but this time it overlays the existing coverage and it shows that there is coverage in the commercial areas and they are trying to provide coverage to the residential area from the residential area. He said they are different in that key respect, because they are different sites and different justifications, but the reasoning is exactly the same. The Town of Carmel has excellent coverage in the commercial zones, but in these two particular areas, there isn't good coverage in the residential zones and that's why we need to go on the fifth out of six priorities in the zoning code. It also talks about that there are no existing structures that we could collocate on, because Verizon has actually collocated on each of the existing towers that surround these areas. So, I agree with you it's based on a form, because there is a certain formula under federal law to prove the gap in coverage. But each of the maps in different areas are different, the size of the gap area, the description of the gap area is different. The reasoning why we need to be in a residential zone is similar, but it's based on similar facts.

Mr. Cote stated I would like to have that data available to our consultant in order to evaluate it to see if he or she agrees with you that 1 mile really makes a difference. He asked how you already signed a contract with the owners on Dixon Road?

Mr. Gaudioso replied that's correct.

Mr. Cote stated the carts before the horse. You here telling us you already signed a contract and this is the reason why we need it. Give it to us.

Mr. Gaudioso stated we have to sign a contract; otherwise we wouldn't be able to invest into these applications to be able to have access to those properties. We absolutely have to have a contract. That's standard practice to have a written contract. Particularly on

an application like this where we have to do significant due diligence on the property with respect to wetlands flagging and now bringing in a crane and doing other types of investigation that we need to do.

Mr. Cote stated I'm not sure if a crane is going to cut it. We have a public park within feet of this property. If you put a crane up which is not a big thing, whereas, this tower you are proposing is going to be of substantial object in the sky.

Mr. Cleary stated from what I have seen in the past, the crane could rig the width..... He stated the crane would be far better than the balloon.

Mr. Gaudioso stated I think we could work something out with the consultants.

Mr. Giannico stated the crane alone would give you a view, the only thing you would be missing is the branches on top.

Mr. Gaudioso stated I understand the point of the mockup, the visual renderings, if you look at the DEC manual and how to evaluate this, the visual renderings that we are proposing to do is going to be far and excessive. He said it will take into account the viewpoints, the scale, the color, the look and light reflection on the facility. He said the ones that we've done, particularly the trees, the visual renderings over estimate what the visibility would look like.

Mr. Furfaro stated we have done very poorly with visual renderings in the town.

Mr. Gaudioso said give Homeland Towers an opportunity.

Mr. Franzetti stated we will, right after the mockup.

Mr. Gaudioso asked the board if they could start the SEQR process, because we will variances.

Mr. Carnazza asked if that starts the clock.

Mr. Gaudioso stated the clock started.....

Vice Chairman Paeprer stated if this is incomplete, which it clearly is.....

Mr. Gaudioso stated the federal law requires 150 days from the day we file. The only way it could be initially told is if there were comments within the first 30 days which there weren't any. That brings us to December 30th. He said we are not hear to ram it down your throat, as long as we are moving forward in a reasonable fashion we have the opportunity to mutual extend that shot clock. We have no objection to doing that. We appreciate your comments tonight and appreciate the feedback from the board. We are not asking for an approval, we are asking for your review under the law and I think we are going in the right direction.

Mr. Charbonneau stated the application as far as the consultants respective is that it is not complete at this point. You will continue to provide additional information in order to make it complete so that our consultants could provide their concerns and opinions to the board.

Mrs. Kugler asked why does the clock start if the application is incomplete?

Mr. Charbonneau stated Mr. Gaudio's assessment of the law (shot clock) with respect to the federal regulations is correct, because they don't want municipalities dragging their feet for a public utility. That's what it boils down to.

Mr. Furfaro asked will this increase the value of this property, are we re-assessing based on this.

Mr. Cleary stated we always re-assess once these are added.

At which time, Mr. Cote moved to designate the planning board lead agency for SEQR determination. The motion was seconded by Mr. Furfaro with all in favor.

Mr. Furfaro moved to retain a wireless communications consultant to help assist in the review process. The motion was seconded by Mr. Cote with all in favor.

**HOMELAND TOWERS LAKE CASSE – 254 CROTON FALLS ROAD – TM – 65.19-1-43
SITE PLAN (CELL TOWER)**

Mr. Carnazza stated the comments are the same as Dixon Lake with the exception that there appears to be a commercial operation operating on the site, a construction yard, if this is the case they need to get approvals or remove it. Also, there is a washout at the bottom which may cause a problem for the site plan. He said this is the monopole as opposed to the tree.

Mr. Franzetti stated essentially all the comments are the same; except for this is a 180 foot monopole and a fenced, 36' x 100', compound for related equipment along with an access drive. If you were to compare the two applications that were submitted to us, the first application had two extra sets of drawings which had a driveway profile and landscaping plan. This particular one does not have that. One of comments I have gotten is the monopole should be designed to resemble a tree. He said we do not have any details on the driveway access. Additional information should be provided as to deeded access rights to this property as it traverses over private and NYCDEP properties. I don't know if this particular activity is allowed to occur over that deeded access.

Mr. Gaudio stated there is an existing access drive in the flat area. We showed the profile of where we are proposing the access drive. He said this access is completely flat and we will be using that one. We are not proposing to change it. On the other site we

are proposing to remove about 35 trees, but with this site we are proposing to remove about 2 trees. He said on the other site because it is a tree there is a code provision that requires three 20 foot trees, that's why we showed the landscaping plan on the other application.

Mr. Franzetti said I don't know the driveway profile which is why it needs to be provided, which then triggers any of the other zoning and/or town requirements. 7% requires it to be paved and we don't know where we are at with this right now.

Mr. Gaudioso stated even if it is an existing driveway that we are not touching.

Mr. Franzetti replied yes, we need to see that information to confirm it.

Vice Chairman Paepre asked what went into your thought process on making one a monopole and one a tree.

Mr. Gaudioso stated 180 feet is a huge difference in the 30 feet in height. When you get that big, you are also increasing the width of the facility to be able to support the structural load. It would be 187 feet to get the branches on top, so it's even higher. He stated as far as the easements, they were submitted and we are very comfortable that we have access on that.

Mr. Franzetti asked Mr. Charbonneau to review the documents that were submitted.

Mr. Cleary stated the comments are the same as Dixon Lake.

Mr. Furfaro stated he would like to go visit the sites and asked if he needs an appointment to visit the sites.

Mr. Cleary stated there are two options. The applicant could give the board the right to access the property whenever, be courteous and knock on the door and let them know you're there. Or we could go out as a board to visit the site if you choose to do that.

Mr. Gaudioso stated he would prefer to have one of our representatives there and make sure everyone knows in advance. So there aren't any misunderstandings.

Mr. Cleary stated to coordinate the site visits through the secretary.

At which time, Mr. Cote moved to designate the planning board lead agency for SEQR determination. The motion was seconded by Mr. Furfaro with all in favor.

Mr. Furfaro moved to retain a wireless communications consultant to help assist in the review process. The motion was seconded by Mr. Cote with all in favor.

**WESTERN BLUFF SUBDIVISION – 350 WEST SHORE DRIVE – TM – 66.14-1-20 –
PRELIMINARY SUBDIVISION PLAT**

Mr. Carnazza read his memo which stated the applicant proposes a three lot subdivision off West Shore Drive in Carmel. Wetland permit will be required from the ECB. All zoning comments have been addressed. I have no further comments for preliminary approval.

Mr. Cleary stated they have addressed the planning comments prior to the last meeting, so I have no further issues.

Mr. Cleary read Mr. Franzetti's memo dated September 4, 2018.

Mr. Cleary stated the applicant is at the preliminary approval stage and for them to deal with the SWPPP, that is a DEP approval and they need us to move them to the Negative Declaration state. He said there are no SEQR relative obstacles to moving towards adopting a Negative Declaration. If you choose, we could have that prepared for the next meeting.

Mr. Brian Hildenbrand of Keller Sessions Consulting, representing the applicant addressed the board and stated this is a 14.8 acre site. There is an existing house and driveway to the south, which will be demolished completely. Three lots will be created and they are all zoning compliant. The layouts and access will be through a common driveway which is about 100 feet south of Farview Road. Each lot will have a well, septic and stormwater mitigation system. He said as Mr. Cleary stated we still have a lot of technical review to do with NYCDEP, so our hope is to get the Negative Declaration.

Vice Chairman Paepre asked if the lots are similar in size.

Mr. Hildenbrand replied yes. They range from 4.6 to 5.6 acres.

Mr. Furfaro stated these are common driveways, no town roads, correct? You will need to have easements between the neighbors.

Mr. Hildenbrand replied that's correct.

Mr. Cote asked if they consulted with the Fire Department to look at the configuration to make sure they could get in there in case they need to?

Mr. Cleary stated yes we have had discussions on it.

Mr. Giannico asked if there will be guardrails along the driveway because of the grade?

Mr. Hildenbrand stated most of the grading is benching into the hillside. He said if there is a shoulder situation we will have guardrails.

Vice Chairman Paepre asked the Planner to prepare a Negative Declaration Resolution for the next meeting.

MINUTES - 07/11/18

Mr. Cote moved to accept the minutes. The motion was seconded by Mr. Furfaro with all in favor.

Mr. Furfaro moved to adjourn the meeting at 7:55 p.m. The motion was seconded by Mr. Cote with all in favor.

Respectfully submitted,

Rose Trombetta