

A meeting of the Board of Directors of the Municipal Authority of the Borough of Portage was held on Thursday, September 3, 2020, at 7:00 p.m., in the Conference Room at 606 Cambria Street.

Those in attendance were:

Brent Kinley, Chairman
Craig Castel
John Morgan
Jerome Yetsko

Also present were: Ron Cadwallader, Supervisor; Attorney Michael Emerick, Solicitor; Joe Beyer, The EADS Group; Mike Barton, Forester; Ron Portash, Mainline Newspapers; Tony Thompson.

I. CALL TO ORDER

Mr. Kinley, Chairman, called the meeting to order at 7:00 p.m., which was followed by the Pledge of Allegiance and Roll Call.

Mr. Kinley recognized Mr. Portash and Mr. Thompson.

II. CORRESPONDENCE

Mr. Cadwallader noted that the only correspondence received was a letter from the Governor relative to a drought watch and requesting a 5% reduction and voluntary conservation measures. Mr. Cadwallader commented that this information was placed on the Authority's website and will be included on the next bills as well.

III. APPROVAL OF MINUTES

ON MOTION OF MR. CRAIG CASTEL, SECONDED BY MR. YETSKO, THE BOARD UNANIMOUSLY AGREED TO DISPENSE WITH THE READING OF THE AUGUST 2020 MINUTES BEING THAT THEY WERE DISTRIBUTED IN WRITTEN FORM AND UNANIMOUSLY ACCEPTED THE MINUTES AS PRESENTED. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, AND MR. YETSKO.

IV. AGENT'S EXPENDITURES

There were no Agent's Expenditures to be presented.

V. INVOICES

Brent Kinley	\$ 45.00
Cambria Mailing Services, Inc.	79.26
ChemStream, Inc.	4,239.26
Cintas	115.84
Clearfield Wholesale Paper	77.26
CMPA	1,000.00
Craig Castel	45.00
EADs Group	466.46
Fariway Laboratories, Inc.	389.00

Groff Tractor & Equipment	2,492.00
Hach	968.26
Heritage Environmental	3,403.00
Hite Company	319.94
J.M. DeLullo Stone Sales Inc.	16,857.71
John C Morgan, Jr	45.00
L/B Water Service, Inc.	18,105.00
Long's Equipment	43.00
Mark Castel	45.00
Mary L Elchin	325.00
Michael S Emerick, ESQ	595.00
New Enterprise Stone & Lime Co Inc.	9,455.27
Peoples Natural Gas Company	22.31
Portage Auto Parts	17.94
Portage Post Office	165.00
Portage Service Center	765.75
Pristow's Sales & Service Inc.	120.00
Ray's Lawnmower	16.50
Ray Oil & Gas Co	244.92
RDM – Johnstown LLC	152.00
Ronald J Cadwallader	20.00
Sharon Squillario	55.00
Stager's Store	217.82
Univar USA, Inc.	353.75
Valley Flagging Services, LLC	4,583.25
Visa – 1 st Summit	779.48
WB Mason Co Inc.	119.36
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	\$66,744.34

Paid Bills

Ashley McCabe	\$ 100.00
Comcast	309.07
James L Sivic	100.00
Lynda McVicker	100.00
Mosholder Insurance Agency	4,565.00
PA One Call System, Inc.	28.75
Penelec	1,123.34
Verizon	483.84
Aflac	139.84
Fisher Scientific	477.40
Lowe's	425.69
Pro Disposal, Inc.	161.00
REA Energy Cooperative Inc.	1,011.33
UPMC Health Plan	8,794.92
Verizon Wireless	92.97
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	\$17,913.15

ON MOTION OF MR. YETSKO, SECONDED BY MR. CRAIG CASTEL, THE BOARD UNANIMOUSLY AGREED TO ACCEPT AND PAY INVOICES IN THE AMOUNT OF \$111,221.40 (REGULAR BILLS, \$66,744.34; PAID BILLS, \$17,913.15; PennVEST, \$3,896.36 AND \$5,508.55; USDA, \$16,051.00; 1ST

SUMMIT, \$1,108.00). BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, AND MR. YETSKO.

VI. TREASURER'S REPORT

ON MOTION OF MR. CRAIG CASTEL, SECONDED BY MR. YETSKO, THE BOARD UNANIMOUSLY AGREED TO DISPENSE WITH THE READING OF THE AUGUST 2020 TREASURER'S REPORT AS IT WAS PREVIOUSLY DISTRIBUTED IN WRITTEN FORM AND UNANIMOUSLY ACCEPTED THE REPORT WITH A BALANCE OF: BEGINNING CASH, \$1,668,504.35; CASH IN, \$234,754.66; CASH OUT, (\$273,704.02); ADJUSTMENT, \$0; ENDING CASH, \$1,629,554.99. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, AND MR. YETSKO.

VII. SUPERINTENDENT'S REPORT

As it relates to the Main Street project, Mr. Cadwallader reported that on Tuesday the crew will start at Mazz's, put in the tap and proceed from there. When the crew gets to the light at Mountain Avenue, they will shut off the valve that comes down Main Street; and they can then do the last one on Caldwell, which is tied into the main going down Main Street. Mr. Cadwallader explained that he is working on obtaining a paver so that he can then get assistance from the plant employees and the Borough to then start blacktopping. Mr. Cadwallader stated that he wanted to make the Board aware that the main is in bad shape; and there were a lot of problems encountered with it. For example, the sprinkler system at The Kegg was fine, but their service line was an old galvanized service line, which blew out. Mr. Cadwallader apprised the Board that there was a concern with two of the flaggers, who were replaced and no longer work for the company. Mr. Kinley questioned what the anticipated date of completion is and whether we were still looking at a timeframe ahead of schedule, to which Mr. Cadwallader replied that he is hoping by mid to late September we should be completed, which would allow one month to have everything blacktopped and sealed. Mr. Kinley questioned if there are any concerns with the curb boxes, to which Mr. Cadwallader replied that the contractor has 10 of them. We do need five more to finish the job; and they will be available after Labor Day. Mr. Cadwallader is awaiting Groth to get a trench paver to pave down the center of the road; and then he will be able to do the base, top and seal.

Mr. Cadwallader informed the Board that the Authority was awarded a grant for the Benscreek dam project. The other two grants that the Authority applied for were denied. Mr. Cadwallader noted that the grant was for \$76,000; and the Authority would be required to put 15% toward the project.

Mr. Cadwallader stated that, as it relates to the summer help, one of the workers has returned to school already and one is still here. He questioned the Board as to whether we should keep him on for a while. Mr. Kinley expressed his opinion that he believes that Mr. Cadwallader and Mr. Thompson should make this decision. He pointed out that we are still short two employees. Mr. Kinley commented that he was speaking with Mr. Bilchak; and Mr. Bilchak has suggested providing a \$100 bonus to each of the summer help employees for the great assistance they provided. Mr. Kinley commented that if Mr. Cadwallader and Mr. Thompson feel the additional help is needed and if the summer help employee wants to stay, he does not see a concern with this because he may be a person that wants to stay on and continue with the Authority. Mr. Cadwallader stated that, if it is agreeable to the Board, he would like to keep the summer help employee on a month-to-month basis. Mr. Yetsko stated that he is not in favor of the \$100 bonus suggestion; however, if Mr. Cadwallader needs the employee and they are going to be an

asset, keep him on. Mr. Yetsko questioned Mr. Thompson on his opinion, to which Mr. Thompson replied that he would keep the employee on to keep up with the grass cutting until the project is complete and to help with the project if needed. Mr. Craig Castel questioned where the monies would come from since the Authority only budgeted for this position until a certain time, to which Mr. Cadwallader replied that the budgeted monies for the summer help have been exceeded already. Mr. Cadwallader noted that the person is only working eight hours; and we will get to a point soon where we will not have to cut the grass any longer. The Board agreed to keep the employee on a month-to-month basis and that Mr. Cadwallader report back to the Board at the next meeting.

VIII. ENGINEER'S REPORT

A copy of the Engineer's Report was distributed to the Board prior to the meeting.

Mr. Beyer informed the Board that there is no change relative to the Emergency Action Plan.

As reported by Mr. Cadwallader earlier, Mr. Beyer commented that the amount of the DCED grant for the Benscreek reservoir totaled \$76,438. We have not received any type of agreement as yet. Mr. Cadwallader commented that the only information received is for Mr. Mark Castel and Mr. Craig Castel to complete the on-line information needed. Mr. Beyer noted that he contacted DEP this week to schedule a pre-app meeting relative to permits and other requirements as, when you are working with the dam, there is more involved than just water lines; however, Mr. Beyer is awaiting a return call.

As it relates to the tube settlers, Mr. Beyer noted that they have not been installed as yet.

Concerning the Main Street project, Mr. Beyer questioned if it is planned to go down to Dominic's, to which Mr. Cadwallader replied that, once the required part of the project is completed, we will address the other areas after the winter months. Mr. Yetsko questioned what the total project cost is, to which Mr. Cadwallader replied that it is \$1.2M for the entire project.

Concerning the grant for the Benscreek dam project, Mr. Yetsko questioned the cost of this project, to which Mr. Beyer replied that the total cost of the project is \$89,936.20; and the Authority would be responsible for 15% of the project. Mr. Yetsko questioned if the Authority's portion has been budgeted, to which Mr. Beyer noted that the Authority should have budgeted for the project. Mr. Kinley pointed out that the Authority could not have budgeted for the project if it did not know if we received the grant. Mr. Beyer noted that, when the agreement is received, the Authority could deny the grant if it feels they do not have the funds. Attorney Emerick commented that, if the project is not going to be done this year, it would go into next year's budget.

Mr. Beyer informed the Board that the inspection of the Martindale reservoir was completed; and he will ensure the report is completed to be submitted to DEP.

Concerning the Main Street project, Mr. Kinley questioned, when the project is complete, will someone from PennDOT come in to approve the completion before the Authority signs off, to which Mr. Cadwallader replied that the inspector from PennDOT will inspect the blacktop to see that it is sealed and leveled. Attorney Emerick commented that the only issue would be if the Authority is holding up PennDOT with proceeding with their project. Mr. Beyer pointed out that the only thing he is unsure of is, whenever the Authority applied, it was stated in the agreement as the entire length; and PennDOT is only doing from the "s" turn up to Johnson Avenue, so he

does not know if this would affect the project or not if we wait until after the winter to complete the rest of the area. Mr. Cadwallader commented that the remainder of the project (from the “s” turn to Dominic’s) would be paid for by the Authority because it is betterment. However, Mr. Beyer pointed out, would this be holding PennDOT up at all. Attorney Emerick commented that, if we are holding PennDOT up, that is where the concern would be. Mr. Beyer pointed out that, previously when we discussed the project, we had anticipated that it would all be done by November 1; although, Brandon and John from PennDOT did say the Authority could come in afterwards, but this was just verbal. Attorney Emerick questioned, if the betterment is not completed, will that hold up PennDOT, to which Mr. Cadwallader replied that the betterment on the part of the project where PennDOT will be doing their work will be completed. The only part that will not be complete is where PennDOT will be doing the milling and paving. Mr. Cadwallader stated that, if we have a mild winter and in January or February there is no snow, the crew can start laying pipe again. Mr. Kinley pointed out that the PennDOT inspector had stated at the Council meeting that they are pushed back in all of their projects as well; and Mr. Kinley asked the inspector, if this is the case, why is PennDOT giving the Authority an earlier deadline. Mr. Beyer questioned when PennDOT is planning to start their project, to which Mr. Kinley replied that no timeframe was given. Mr. Cadwallader stated that the project just went out to bid for the paving portion, but not for storm drains, etc. Mr. Beyer indicated that if it is out on bid now, the bids could be open in November/December and the project awarded early in 2021. Mr. Cadwallader stated that March is when they are legally able to start construction. Attorney Emerick emphasized that as long as we are not holding up anything for PennDOT, there should be no concerns. Mr. Yetsko questioned the Streetscape, to which Mr. Cadwallader replied that it is part of the project with PennDOT; and he has been in touch with the Borough Engineer on some questions on certain sidewalks, etc.

IX. SOLICITOR’S REPORT

Attorney Emerick noted that a copy of his report was provided to the Board prior to the meeting.

As it relates to discussion from the last meeting on the personnel policy relative to vacation leave, Attorney Emerick noted that the policy states that “accrued vacation leave is paid in full at full value at retirement or separation.” He noted that, if the Board wants something in the policy regarding buying back the vacation time or reinstating it, he would have to amend the policy upon the Board’s agreement. Mr. Kinley commented that this item should be tabled until all members of the Board are present to offer their opinion.

Attorney Emerick indicated that he was also asked by the Board to look at the situation relative to the contractor who removed the timber off of the Authority’s property. He asked Mr. Barton to give the Board an update. Mr. Barton stated that the landowners informed him that the contractor who removed the timber was Stanley Zock. Essentially, the landowners informed Mr. Barton that Mr. Zock is basically bankrupt; and they offered the timber in payment for the work done on their residence. Mr. Barton pointed out that the landowners did state that their offer stands that, as long as they own the property, if the Authority wants to recoup the timber, the Authority can come onto their property and take whatever timber would equal that which Mr. Zock removed, whether it be tomorrow or five years from now and they would make reparation that way. Mr. Yetsko questioned if the funds from the timber would then come to the Authority, to which Mr. Barton replied affirmatively. Mr. Barton stated that the value of the timber that Mr. Zock removed was approximately \$1,100. Attorney Emerick noted that it would be his recommendation to obtain this offer in writing. Mr. Kinley questioned if the agreement would be with all of the landowners, to which Mr. Barton replied affirmatively.

ON MOTION OF MR. YETSKO, SECONDED BY MR. CRAIG CASTEL, THE BOARD UNANIMOUSLY AGREED TO HAVE ATTORNEY EMERICK DRAW UP AN AGREEMENT BETWEEN THE AUTHORITY AND MATT AND TED CASTEL, TO BE EXECUTED BY THE PROPERTY OWNERS, RELATIVE TO THE REMOVAL OF TIMBER FROM THE RESIDENT'S PROPERTY AS DESCRIBED ABOVE. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, AND MR. YETSKO.

Mr. Yetsko questioned if there is ample timber on the property, to which Mr. Barton replied that the amount of timber is more than adequate. Mr. Barton noted that the next time the contractor is in, he will address this.

Attorney Emerick stated that he was also requested to review the mutual road use agreement on the Authority's property; and he and Mr. Barton are still working on this. Mr. Barton commented that he would have all of the deeds to Attorney Emerick within the next week.

Attorney Emerick noted that Mr. Kinley has in front of him a Hunter Access Program Cooperative Agreement with the Game Commission. Attorney Emerick pointed out that, in looking at the statute regarding this, it provides the Authority with certain immunities for use of the property for recreational purposes, such as hunting, fishing, kayaking, boating, etc. Since the property is open for hunting, it would qualify; and the agreement essentially would allow the Game Commission to police the area for the Authority.

Mr. Morgan joined the meeting at this time.

Attorney Emerick commented that, as it relates to the agreement with the Game Commission, he did speak with the Authority's insurance broker; and even if the Authority's immunity kicks in or does not kick in, the Authority would be defended by the insurance company and the Authority would only need to pay the deductible. Attorney Emerick commented that one of the items he is looking at in the agreement is that it says "for the pristine area of the property." He pointed out that, if the Authority has structures or usage facilities on the property, it will have to designate those areas as a safe zone so individuals are not around those areas (if not, there would be a question on whether or not the immunity would kick in). Therefore, Attorney Emerick pointed out, before the agreement is executed, we should review those safe zones with the Game Commission to ensure they are aware. Attorney Emerick pointed out that, once we designate the safe zones, there will be plenty of area for hunting. He commented that the Authority is not required to designate the safe zones, but it is recommended. In addition, Attorney Emerick stated, even though the Authority would have this agreement, the Authority can limit the number of people as well as exclude certain activities, such as ATVs, or exclude certain individuals or actions that the Authority may feel could create a hazard or injury so that the Authority still has control. Attorney Emerick pointed out that there are certain provisions that the Game Commission is permitted or required to provide; i.e., subscription to the Game News, they can come in and do certain feeding of animals, environmental studies, etc. Attorney Emerick commented that, if the Authority opens up the area for hunting, basically the Act states the Authority only owes the duties to a trespasser, which is a very low standard of care; i.e., if a hunter is on the property with the Authority's permission, under the agreement and under the Act, unless there is a hazardous condition that the Authority does not warn them about, that is the only time the Authority would be liable. Attorney Emerick pointed out that his recommendation would be to table this matter until a discussion could be held with Mr. Westover to designate the safe zones. Mr. Cadwallader noted that Mr. Westover will be stopping at the Authority office tomorrow and he will talk with him. Mr. Yetsko questioned how far away from any buildings a hunter must be, to which Mr. Barton replied that it has to be 150

yards from any occupied building. He noted that the Game Commission already has standards relative to occupied and unoccupied buildings.

Attorney Emerick noted that the discounted water service was tabled from the last meeting. Mr. Morgan pointed out that the information he had requested was the information from 2020 to date; however, he received much more information and has not had a chance to review everything. Therefore, he requested that this matter be tabled until the next meeting so that he can thoroughly review the information.

Attorney Emerick reminded the Board that the matter of the Treasurer's bond was tabled by the Board at last month's meeting. He pointed out that, if the Board's final decision is that it does not want the current Treasurer to be bonded, other arrangements will need to be made; however, he cannot recommend, as the Authority's Solicitor, that the Authority have a Treasurer who is not bonded. Mr. Morgan questioned what the options are if he does not want to be bonded, to which Attorney Emerick replied that the Authority would need to have someone on the Board willing to become bonded. Mr. Morgan questioned the other Board members if anyone would be willing to become bonded. He pointed out that Michelle Claar at the Borough handles the money and she is bonded; however, he does not handle the money and he does not think he should be bonded. Mr. Morgan pointed out that none of the Board members handle the Authority money, so he is not sure if any of the Board members should be bonded. Mr. Craig Castel questioned why Michelle is bonded, to which Attorney Emerick replied that every Treasurer he deals with in the various municipalities is bonded. Mr. Kinley questioned Mr. Cadwallader, as Treasurer of Borough Council if he is bonded, to which Mr. Cadwallader replied that he signs checks for the Borough but he is not bonded because he is not the Treasurer, Michelle Claar is the Treasurer. Attorney Emerick pointed out that he cannot go on record advising not having someone bonded. Mr. Kinley indicated that he does not think it is advisable to have no protection plan in place because anything could happen. Mr. Morgan pointed out that he agrees that the Authority needs two individuals to be signing checks; however, he does not feel comfortable becoming bonded because he does not handle the money.

Mr. Kinley questioned if the Board could table this matter until the reorganization in January and see if the individual voted as Treasurer at that time would be willing to be bonded. However, this would be three to four months of liability if something happens. Mr. Beyer noted that it was his understanding that, if there was anything stolen, being bonded does not mean they would come after the person bonded, but that they would only assist in getting the funds back. Mr. Morgan pointed out that there is personal information requested on the form to be filled out to become bonded; and he does not feel comfortable with providing that information. Mr. Craig Castel questioned if the individual to be bonded has to be a Board member, to which Mr. Morgan replied that Chris and Joy do not want to be bonded either. Attorney Emerick indicated that we could talk with the insurance company about the Authority waiting until January to make a decision on someone being bonded. Mr. Yetsko requested that Attorney Emerick speak with the insurance company to seek their opinion. Mr. Kinley questioned if the insurance rates could go up without having someone bonded, to which Attorney Emerick replied that this could be a possibility but that he would check. Mr. Kinley further questioned if the insurance carrier could decide not to cover the Authority if someone is not bonded, to which Attorney Emerick replied that this could also be a possibility but it is less likely. Attorney Emerick indicated that he would report back at the next meeting.

Mr. Yetsko questioned why he received a call from Mrs. Ringler recently questioned if he agreed to Messrs. Mark and Craig Castel to sign checks, to which Mr. Cadwallader replied that this was not to sign checks but that it had to do with the grant money site. Mr. Craig Castel explained

that this had to do with the grant website; and they are awaiting an email to come through regarding this.

X. FORESTER'S REPORT

Mr. Barton informed the Board that the marking of the property is finished in the forested area of the Authority's property. He needs to complete County Line Road and Cooney Road as yet; and this should be completed within the next few days.

Mr. Barton reported that the former Sunoco pipeline (now Buckeye) that is about a mile into the watershed is completely uncovered in some areas for about 50-100 feet. Mr. Barton has taken some photos; and he has been in contact with the former Sunoco representatives to have the pipeline covered up. He noted that we were told in the past that there is something in the line that, if you were exposed to it, it is very dangerous. Mr. Kinley questioned if this would be the responsibility of Sunoco to repair at their expense, to which Mr. Barton replied that he would think so. Mr. Barton noted that he would keep the Board apprised of this situation.

XI. UNFINISHED BUSINESS

- Treasurer's Bond

Tabled earlier in the meeting.

- Food Pantry/Historical Society Letters – Non-Profits

Tabled earlier in the meeting.

XII. NEW BUSINESS

- Grant for Benscreek Impoundment Project

Discussed earlier in the meeting.

- MMO Pension Contribution

ON MOTION OF MR. MORGAN, SECONDED BY MR. CRAIG CASTEL, THE BOARD UNANIMOUSLY APPROVED THE MMO PENSION CONTRIBUTION AS PRESENTED. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, MR. MORGAN AND MR. YETSKO.

- Game Commission Hunter Access Program Cooperative Agreement

Discussed earlier in the meeting.

XIII. GOOD OF THE ORDER

- Summer Help Bonus

Mr. Kinley commented that Mr. Bilchak had approached him recently relative to providing a \$100 bonus to the summer help employees because of the amazing job they have been doing over the summer. Mr. Bilchak had pointed out that the summer workers the Authority has had

this year have been the most amazing employees and they do not have to be checked on and are great employees. In fact, Mr. Kinley pointed out, one of the employees could perhaps decide that they wanted to stay with the Authority. Mr. Bilchak had suggested that the Authority provide a \$100 bonus for the summer help at Christmas time and that next year it may entice them to come back. Mr. Kinley stated that he agrees with what Mr. Bilchak is saying in that next year, if they return, we would not have to provide any guidance, etc. Mr. Kinley pointed out that we are still two crew members down; and we really need to find someone that is willing to stay with the Authority after graduation. Following further discussion, it was agreed that this matter be tabled until the next meeting so that all Board members were present for discussion of this matter.

ON MOTION OF MR. MORGAN, SECONDED BY MR. YETSKO, THE BOARD UNANIMOUSLY AGREED TO TABLE THIS MATTER FOR DISCUSSION AT THE NEXT MEETING. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, MR. MORGAN AND MR. YETSKO.

XIV. EXECUTIVE SESSION

ON MOTION OF MR. MORGAN, SECONDED BY MR. YETSKO, THE BOARD UNANIMOUSLY AGREED TO GO INTO EXECUTIVE SESSION AT 7:50 P.M. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, MR. MORGAN AND MR. YETSKO.

XV. RECONVENE OF REGULAR SESSION

ON MOTION OF MR. MORGAN, SECONDED BY MR. YETSKO, THE BOARD UNANIMOUSLY AGREED TO RECONVENE INTO REGULAR SESSION AT 8:20 P.M. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, MR. MORGAN AND MR. YETSKO.

XVI. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS, ON MOTION OF MR. YETSKO, SECONDED BY MR. CRAIG CASTEL, THE BOARD ADJOURNED THE MEETING AT 8:21 P.M. BOARD MEMBERS VOTING AFFIRMATIVELY INCLUDED MR. CRAIG CASTEL, MR. KINLEY, MR. MORGAN AND MR. YETSKO.

XVII. NEXT MEETING

The next meeting will be held on Thursday, October 1, 2020 at 7:00 p.m.

Respectfully submitted,

Sharon Squillario
Recording Secretary