

October 27, 2022

The Planning Board of the Incorporated Village of Westhampton Beach held its regular meeting on October 27, 2022, at 5:00 P.M. in the Municipal Building, 165 Mill Road, Westhampton Beach.

PRESENT: David Reilly, Chairman  
Ralph Neubauer  
Rocco Logozzo  
Michael Schermeyer  
Larry Jones

Ron Hill, Village Engineer  
Britton Bistran, Village Planner

Anthony C. Pasca, Esq., Village Attorney

Maeghan Mackie, Board Secretary

ABSENT: Brad Hammond, Building & Zoning Administrator

**HOLDOVERS:**

**1. Marios Nikolaidis, 36 Hazelwood Avenue (905-6-1-11.1)** Applicant requests a minor Subdivision review to create a three-lot subdivision on a lot located in the R-4 Zoning district.

Richard T. Hafeli, Esq., appeared on behalf of the application. He said that there is a question regarding the park fee and the date that the appraisal set to; in 2005 the Village adopted the park fee code and in 2011 there was litigation and the park fee was decided it was based on the date of the application. In that case it took six (6) years to work it out.

Mr. Pasca said its to this board to decide; the statue says date of application and I intrept that to cover everything and everyone has done it based on the recent date, the date the appraisal is ordered. If he wants to argue it should be the date of the application, and it may be true that's how it used to be done but this is a decision to this Board. These applications do start and take years and I don't know what the policy would be to get the benefit of the delay, but its for this Board to decide.

Mr. Logozzo asked about the language?

Mr. Pasca said it says date of application, not the date it was first filed but there is enough room to decide whether it's the date it was filed or before you for a decision.

Mr. Reilly asked when it was first filed?

Mr. Hafeli said in 2019.

Mr. Reilly said there was time when this sat.

Mr. Pasca said it will be hundreds of dollars, and there are other applications and that could be tens of thousands of dollars and whatever you decide it will be binding on everyone.

Mr. Hafeli said there's a basic principal; if there's a question that it has to be interpreted in the favor of the property owner and there was litigation in 2011 and the actual fee was not paid for five years

Mr. Pasca said that issue was not litigated.

Mr. Hafeli said yes it was and it was in the park fee and there was reference to it.

Mr. Reilly said did the Appellate Division make a decision.

Mr. Pasca said the Planning Board decision was upheld.

Mr. Reilly asked if there was a legal determination made?

Mr. Pasca said no.

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Mr. Hafeli said if there's a question you have to decide in favor of the application.

Mr. Pasca said not in reference to the fees.

Mr. Neubauer said we need a consistent policy for everyone to feel they've been treated the same. And it has not been recently.

Mr. Hafeli said it was.

Mr. Reilly said what prevents someone from filing something and sits on it for 15 years and then the value goes out.

Mr. Pasca said Patio Gardens will say they did theirs in 15 years.

Mr. Reilly said yes; and we want it now and not later when it was higher or lower.

Mr. Logozzo said if it goes dormant then its subject to the current value.

Mr. Neubauer said we need to address that with the Board of Trustees.

Mr. Reilly said we need a bright line rule, but that leaves a lot of room. What's delay, who is at fault.

Mr. Logozzo said there has to be continuous movement.

Mr. Reilly said there could be a stop due to a Court order.

Mr. Pasca said I encourage a bright line rule.

Mr. Neubauer asked to poll the Board.

Mr. Pasca said it will be date of filing of application, versus now.

Mr. Reilly said the final date prior to approval?

Mr. Schermeyer asked how much it will be?

Mr. Hafeli said it won't be that much money, but in other cases it is.

Mr. Schermeyer said the value of the property in 2011; 2006 was the high point and the property values dropped.

Mr. Hafeli said it was a six year period and the appraised value is based on when it was filed not six years later; and that's being fair. This Village has the biggest park fee on the East End and six years can make a big difference.

Mr. Logozzo said I don't want my answer to dictate future projects; and I'm basing it on this only.

Mr. Reilly said we can't do that.

Mr. Logozzo asked if it's continuous?

Mr. Hafeli said it was with the Board of Health.

Mr. Reilly said we have to make a decision.

Mr. Logozzo said he doesn't want to set a precedent.

Mr. Neubauer said it is the current.

Mr. Jones said it is the current date.

Mr. Reilly said it is the current date. It is going to be based on the meeting date.

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Mr. Pasca said the client asked us to hire the appraisal, but I needed to know the date.

Mr. Hafeli said you haven't approved it.

Mr. Reilly said I agree with the Board Members, and I think the intent is as we set forth I implore the Trustees to clarify it.

MR. Pasca said we have used Patricia Parsons, can we use her?

Mr. Reilly said yes.

Mr. Neubauer asked if we needed a vote?

Mr. Pasca said no.

Mr. Reilly said we will return on November 10.

Motion was made by Mr. Neubauer to holdover the application of **Marios Nikolaidis, 36 Hazelwood Avenue (905-6-1-11.1)** to November 10, 2022; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

**2. 85 & 105 Montauk LLC, 85, 105 Montauk Hwy & 105 Oak St, (905-005-01-012, -053.01 & -052.02).** Applicant requests Site Plan review to construct a two-story restaurant building with associated site improvements including improvements on lots to the West & South, consideration of a change of Zoning District for the Southerly lot with demolition of the dwelling and site build-out for parking with buffer, and site improvements on the Westerly lot including curbing, buffer & access reorientation.

Nicholas A. Vero, Architect appeared on behalf of the application. They received their variance from the Zoning Board of Appeals and there were comments and minor things to review which was moot until they received the variance. I know that I need to talk to the Village Planner and I think Mr. Hill's review is complete with the exception of a site lighting plan.

Mr. Hill asked him to submit the package electronically.

Mr. Reilly said the last site plan I have is October 11, 2019.

Mr. Vero said I will update the site plans and update this Board and I'd like to sit with the Planner and go through her comments, and we've been looking at this for a long time.

Mr. Reilly said the big ticket items were a joint parking plan for Depot Road to Oak Street and make it a merged lot and single site plan.

Mr. Vero said he addressed that.

Mr. Reilly said he wants to assure the buffers to the Southerly residential properties are in there.

Mr. Neubauer asked when they want to tear it down?

Mr. Vero said he will talk to the owners; their application is in to the board of health and they will ask for a resolution for SEQRA. The building size was reduced. And he will submit revised plans to this Board. We can hold it over.

Mr. Reilly asked for when?

Mr. Vero said can we hold it over to November?

Motion was made by Mr. Neubauer to holdover the application of **85 & 105 Montauk LLC, 85, 105 Montauk Hwy & 105 Oak St, (905-005-01-012, -053.01 & -052.02).** to November 10, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**3. Westhampton Inn LLC., 43 Main Street (905-11-1-15)** Applicant requests a Site Plan approval to construct a two-story ten-room hotel building with a covered front entry, rear porte-cochere

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and associated site improvements upon a 0.93 acre parcel located at the South West corner of Main Street and Mitchell Road in the B-1 Zoning District.

James N. Hulme, Esq., appeared on behalf of the application. He said that they are working on their plans still but would like to hold the application over.

Mr. Reilly asked him when he'd like to come back to the Board?

Mr. Hulme said he'd like to return on December 8,

Motion was made by Mr. Neubauer to holdover the application of **Westhampton Inn LLC, 43 Main Street (905-11-1-15)** to December 8, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**4. Prime Storage, 98 Depot Road (905-002-01-019.10).** Applicant requests a site plan review to construct a two-story mini-/self-storage building (10,428 SF) on slab with accessory office as an expansion of an existing storage facility operation. The 3.657-acre property is located on the east side of Depot Road, in the I-1 zoning district.

No one appeared on behalf of the application. Ted Galante Architect submitted a request to hold the application over to November 10, 2022.

Motion was made by Mr. Neubauer to holdover the application of **Prime Storage, 98 Depot Road (905-002-01-019.10)** to November 10, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**5. 55 Old Riverhead Road LLC, 55 & 59 Old Riverhead Rd (905-004-01-007, -009.02 & -009.03)** Applicant requests site plan approval to construct a multifamily development consisting of 16 (sixteen) senior dwelling units in four two-story townhouse buildings with attached garages, pickleball court, and associated site improvements, upon an assemblage of three parcels totaling 122,001 square feet on the west side of Old Riverhead Road in the HD zoning district.

Heather A. Wright, Esq., submitted a written request to holdover the application to December 8, 2022.

Motion was made by Mr. Neubauer to holdover the application of **55 Old Riverhead Road LLC, 55 & 59 Old Riverhead Rd (905-004-01-007, -009.02 & -009.03)** to December 8, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**6. Firestar Holdings LLC, 14 Rogers Avenue (905-006-02-017)** Applicant requests minor subdivision approval to subdivide a 35,250 square feet lot, improved with a single-family dwelling, into two lots of 18,090 & 17,157 square feet in the R-4 zoning district.

Richard T. Hafeli, Esq., appeared on behalf of the application. He stated that they needed to hold the application over to January 12, 2023, they are waiting on approval from the department of health services.

Motion was made by Mr. Neubauer to holdover the application of **Firestar Holdings LLC, 14 Rogers Avenue (905-006-02-017)** to January 12, 2023; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**7. WHB Development Partners LLC, 107 Old Riverhead Road (905-002-01-019.05)** applicant seeks site plan approval to construct an automotive service station (eight pumps & canopy) with accessory one-story convenience store (4,872 SF) and associated site improvements, upon a 1.6-acre parcel located in the B-3 zoning district.

James N. Hulme, Esq., appeared on behalf of the application, together with Irwin Krasnow. Mr. Hulme said his client submitted the Board of Health approval and he believes they are ready for a resolution.

Mr. Reilly said they think that Mr. Hill and Ms. Bistran should review it.

Mr. Hill said the last plan he saw did not have screening around the vent pipes, but I don't know if it was ever taken care of.

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Mr. Neubauer asked if they can do that before November 10, 2022?

Mr. Krasnow asked if they are referring to landscaping?

Mr. Hill said yes.

Mr. Pasca said we have to look at it and we can let you know what issues are open?

Mr. Hill asked if we have an electronic set of plans?

Mr. Pasca said we need electronic set of plans.

Mr. Hulme said he would like to know if the Building Inspector will allow them to do the site prep work and putting up the fence and typically a call for him.

Mr. Pasca we should wait until November and you can discuss that.

Mr. Reilly said if there are no issues and we can authorize him to do the preliminary things.

Mr. Pasca said they will dictate how far they'd go.

Mr. Hill said submit an electronic version as soon as possible.

Motion was made by Mr. Neubauer to holdover the application of **WHB Development Partners, LLC., 107 Old Riverhead Road (905-2-1-19.5)** to November 10, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**8. Hampton Synagogue Parrish House, 13/15 Brook Rd & 161 Sunset Ave (905-012-01-039, -040, & -043.01)** Applicant seeks site plan approval to construct a two-story parish house with attached pool cabana & mikveh, swimming pool, basketball court, gazebo, storage shed & associated site improvements for Westhampton Synagogue (demolish existing residential structures) on an assemblage of parcels totaling 39,474 square feet in the HC zoning district.

Hermon J. Bishop, Esq., appeared on behalf of the application. Mr. Bishop said they reviewed this extensively and the Board has unofficially approved it and there are no changes to the site plan, all they were waiting on was the Board of Health and they received that and they are asking to close the hearing, subject to a determination.

Mr. Reilly said we would like to review this.

Mr. Bishop said they approved the conditions, but they are not recorded because you can't record them they are approved and the maps are signed.

Ms. Bistran asked if there are draft conditions, and can we see them?

Mr. Bishop asked if you want the unfiled copy?

Ms. Bistran said yes.

Mr. Hill said he had no comments, just the dedication of the triangle.

Mr. Bishop said we were going to do an easement, or in the C&R's. There is a corner of the parcel that protrudes into Sunset Avenue and Brook Road and it has been used ever since they have had those roads in existence by the Village, therefore we said this was an assumed dedication and acceptance. We agreed the best way was not an easement but by C&R's.

Mr. Pasca asked where it is?

Mr. Bishop showed him on the map where it is. He asked if this will hold up the approval?

Mr. Pasca said no, we'll do it with Covenants.

Mr. Neubauer asked if they are all on the same page?

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Mr. Reilly said we'll hold it over to November 10 to make sure nothing is outstanding.

Mr. Bishop said we will give the draft C&R's for the Board of Health. Can we close the hearing?

Mr. Pasca said no.

Motion was made by Mr. Neubauer to holdover the application of **Hampton Synagogue Parrish House, 13/15 Brook Rd & 161 Sunset Ave (905-012-01-039, -040, & -043.01)** to November 10, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**9. WH Equity Group LLC, 12, 22 & 80 Montauk Highway & 11 Old Riverhead Road (905-004-01-022.01, -023, -026.03 & -030.01)** Applicant seeks site plan approval to construct a multi-family residential development consisting of forty-eight (48) dwelling units, distributed amongst seventeen (17) buildings, with a community building, swimming pool, on-site sanitary treatment plant and associated site improvements upon an 8-acre assemblage of parcels in the HD & B-2 zoning districts.

James N. Hulme, Esq., appeared on behalf of the application. He said he believes they were going to adopt a referral and they are going to appear before the Board of Trustees next Thursday.

Mr. Pasca said you need to vote on that draft.

Mr. Reilly said we have a report and it is a well written summation of our meetings and we will send that back to the Board of Trustees and this will come off our agenda until you are finished with them.

Mr. Hulme said okay and he thanked the Board for their review.

Motion was made by Mr. Neubauer to adopt the October 27, 2022 report and recommendation as written; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

**10. George Vickers, 25 & 27 Hazelwood Ave (905-004-02-020 & -019)** Applicant seeks lot line modification between adjoining parcels that total 26,897 SF (Existing: 19,773 SF & 7,124 SF) resulting in one lot of 13,304 SF and one lot of 13,593 SF.

Heather A. Wright, Esq., submitted a written request to holdover the application to December 8, 2022.

Motion was made by Mr. Neubauer to holdover the application of **George Vickers, 25 & 27 Hazelwood Ave (905-004-02-020 & -019)** to December 8, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**11. Robert Schoenthal, 22 Bayfield Lane (905-010-06-002)** Applicant seeks minor subdivision approval to subdivide an improved 97,769 SF parcel in the R-1 zoning district into two lots; 57,768 SF & 40,001 SF.

**Status:** *HELDOVER UNTIL January 26, 2023*

**ARB:** *Needed*

**BOT:** *Needed*

**ZBA:** *Granted, May 19, 2022*

**SEQRA:** *Granted, on May 19, 2022, ZBA, Type II*

**SCDHS:** *Needed*

**SCDPW:** *Needed*

**SCPC:** *Local Determination Received*

**FILL APPLICATION:**

**12. 213 Dune Road LLC, 213 Dune Road (905-020-02-005)** Applicant seeks site plan approval to install fill within the floodplain for a sanitary system in conjunction with proposed development of a single-family dwelling on a 55,860 SF parcel in the R-3 zoning district.

**Status:** *HELDOVER UNTIL November 10, 2022*

**13. First Dunes Development 496 LLC, 496 Dune Road (905-016-01-019)** Applicant seeks approval to subdivide a 28,234 SF parcel in the R-3 zoning district into two lots for single-family dwelling use of 13,211 & 15,022 SF, thereby abandoning the preexisting nonconforming use of eight seasonal cottages for rent.

James N. Hulme, Esq., appeared on behalf of the application and they are before the ZBA and he thinks it should be held over to December, as they are still waiting for a determination from the Board of Zoning Appeals.

Motion was made by Mr. Neubauer to holdover the application of **First Dunes Development 496 LLC, 496 Dune Road (905-016-01-019)** to December 8, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**14. 10 Mitchell Owner LLC, 10 Mitchell Road (905-011-02-003)** Applicant seeks site plan approval to construct a full second-story addition for two two-bedroom apartments & convert first floor to a forty-four (44) seat restaurant with exterior walk-in & associated site improvements upon a 5,290 SF parcel in the B-1 zoning district.

Heather A. Wright, Esq., submitted a written request to holdover the application to December 8, 2022.

Motion was made by Mr. Neubauer to holdover the application of **10 Mitchell Owner LLC, 10 Mitchell Road (905-011-02-003)** to December 8, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**15. Rogers Ave Associates, North Side of Rogers Ave (905-003-01-007.01 through -007.07)** Applicant seeks final site plan approval to construct 48 dwelling units in 12 buildings (11 townhouse groupings & 1 two-family dwelling) with private community center, pool & pickleball courts for multifamily development with on-site sewage treatment plant upon a 9.355-acre assemblage of parcels in the MF-20 zoning district.

Frank A. Isler, Esq., appeared on behalf of the application, together with Bryan Grogan PW Grosser. Mr. Isler said that they last appeared before this Board and they were hoping to resolve the Engineering issues and the only open item was C&Rs and those were prepared and sent to Anthony Pasca and we're working on the park fee and then we have to the County Department of Health; we appeared before the ARB and they submitted a report to this Board. We are hoping to conclude our session and you are satisfied with the site plan engineering and I know there was one item left to review by Mr. Hill.

Mr. Hill said they are fine, the stop signs.

Mr. Reilly said the ARB did send a report and they are on board with the application.

Mr. Isler said they asked for actual samples of the materials they are using and they did review all of that and sent this report to you.

Mr. Reilly asked if the Engineering and Planning were worked out?

Mr. Pasca said there are issues about the park fee and they have to work them out before they can request a decision.

Mr. Isler said they want to confirm the site plan is behind them, and they know the covenants and the park fee are still outstanding.

Mr. Pasca said he hasn't reviewed them yet; we don't lock the C&Rs until we have a decision.

Mr. Reilly said the site plan is complete in his eyes.

Mr. Isler said can we put it down for November 10 and if we aren't ready we can hold it over?

Mr. Reilly said yes.

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Motion was made by Mr. Neubauer to holdover the application of **Rogers Ave Associates, North Side of Rogers Ave (905-003-01-007.01 through -007.07)** to November 10, 2022; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

**16. DRL Irrevocable Trust & Carol Schecter, 12 Potunk Lane & 42 Stevens Lane (905-011-01-003.02 & -007)** Applicants seek to modify the lot line between adjoining parcels by conveying a 1,125 SF “triangle” of land from 12 Potunk Lane to 42 Stevens Lane.

James N. Hulme, Esq., said the Board of Health discovered 12 Potunk and 10 Potunk were subdivided in 1986 and that was not approved by the Board of Health so we’re working with the neighbor to cooperate with us to apply to them and then evaluate this?

Mr. Reilly said okay. He asked when they think they would like to return to this Board?

Mr. Hulme said that he would like to hold the application over to December 8.

Motion was made by Mr. Neubauer to holdover the application of **DRL Irrevocable Trust & Carol Schecter, 12 Potunk Lane & 42 Stevens Lane (905-011-01-003.02 & -007)** to December 8, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**17. Westhampton Landings, 30 Mitchell Road (905-011-04-051)** Applicant seeks modification of the site plan approval for upgrades to the landscaping, hardscaping & exterior lighting for the existing multi-family development upon the 4.26-acre parcel in the MF-20 zoning district.

No one appeared on behalf of the application; Charles Russo requested to hold the application over to November 10, 2022.

Motion was made by Mr. Neubauer to holdover the application of **Westhampton Landings, 30 Mitchell Road (905-011-04-051)** November 10, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**NEW APPLICATIONS:**

**18. 104 Westhampton LLC, 104 Main Street (905-012-04-032)** Applicant seeks waiver of subdivision approval to replace the expired two-lot subdivision, originally granted to “Kevin Butler” on October 8, 2020, of the improved 10,606 SF parcel in the B-1 zoning district.

James N. Hulme, Esq., appeared on behalf of the application.

Mr. Reilly said he thought this was a resubmission to reapprove a subdivision?

Mr. Hulme said we’re reconverting the apartment and that application is a waiver and can’t be filed until the subdivision is finished and the repair application and can be heard.

Mr. Pasca asked if this was advertised?

Mr. Hulme said yes.

Mr. Pasca said you can readopt the October 8, 2020 decision with all conditions stated therein to be applicable to the current applicant and that sets forth all of the covenants and conditions and transfers that resolution to the new owners.

Mr. Hulme said the ZBA renewed their variances.

Mr. Reilly asked if there were any public comments.

There were no public comments or questions.

Motion was made by Mr. Neubauer to grant the extension request of **104 Westhampton LLC, 104 Main Street (905-012-04-032)** ; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**19. Ray Lindenbaum, 62 Seaford Lane (905-015-03-015.03)** Applicant seeks site plan approval to install fill within the floodplain in conjunction with the installation of an upgraded sanitary system for an existing single-family dwelling, upon a 40,000 SF parcel in the R-1 zoning district.

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Joshua Rosensweig, APD Architects appeared on behalf of the application. They are installing a new IA system at the existing residence, it's not a lot of fill and there are no unwanted slopes.

Mr. Hill said he did not go to the site yet, but he doesn't see that there's a lot of fill for it.

Mr. Rosensweig said there is not a lot of grading and drainage being done and it's not a lot of fill at all.

Mr. Hill asked if this property had fill before?

Mr. Rosensweig said he is not sure; the house was a cottage and there were modifications done to that and the cottage.

Motion was made by Mr. Neubauer to holdover the application of **Ray Lindenbaum, 62 Seafield Lane (905-015-03-015.03)** to November 10, 2022; seconded by Mr. Logozzo and unanimously carried 5 ayes, 0 nays, 0 absent.

**20. WHB Parlato LLC, 6 Parlato Drive (905-011-02-043.01)** Applicant seeks waiver of site plan approval to install a gas firepit in the southeast section of front lawn for a waiting area for the existing restaurant upon the 16,898 SF parcel in the B-1 zoning district.

Ashleigh Wedell appeared on behalf of the application.

Mr. Reilly said I know this is a waiver of site plan, but there are safety issues and I presume there is a fire code. Will they hard pipe the gas?

Mr. Hill asked if they are putting a concrete pad down?

Mr. Reilly said he is not crazy about it, the yard is not large it's very close to the road and traffic and I think it has to be managed. I'm concerned its going to be an overflow and adults out there with drinks?

Mr. Neubauer asked if they are doing service there?

Ms. Wedell said no.

Mr. Reilly said Mr. Hammond has to review the zoning issues.

Motion was made by Mr. Neubauer to holdover the application of **WHB Parlato LLC, 6 Parlato Drive (905-011-02-043.01)** to November 10, 2022; seconded by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.

Motion was made by Mr. Neubauer to adjourn the meeting at 5:58 p.m.; seconded by by Mr. Jones and unanimously carried 5 ayes, 0 nays, 0 absent.