

BALD HEAD ISLAND TRANSPORTATION AUTHORITY
Board of Trustees
Wednesday, December 16, 2020, 9:15 am
Meeting Held Remotely with Simultaneous Communication
Pursuant to N.C.G.S. § 166A-19.24
Minutes of Special Meeting

ATTENDEES

Trustees – Via Teleconference

Susan Rabon, Chair
David Jessen, Treasurer
Andy Sayre
Michael Brown
Rex Cowdry
Jim Powell
Jed Dixon
Robert Howard
Claude Pope
Landon Zimmer
Paul Cozza

Counsel and Clerk – Via Teleconference

Hal Kitchin, McGuireWoods LLP, Counsel to Authority
Dickson McLean, McGuireWoods LLP
Mary Nash Rusher, McGuireWoods LLP
Daralyn Spivey, Clerk for the Village of Bald Head Island, Acting Clerk

Other Participants – Via Teleconference

Ted Cole, Davenport & Company, LLC
Mitch Brigulio, Davenport & Company, LLC
Eric Golynsky, UBS Financial Services, Inc.
Jim Leonard, Mercator
Chad Paul, Bald Head Island Limited
Rebecca Joyner, Parker Poe

I. Call to Order and Welcome

Chair Rabon called the meeting to order at 9:15 a.m. reading the following statement:
Today, once again, we are meeting fully remotely with simultaneous communication, pursuant Section 166A-19.24, a statute enacted by the General Assembly in May. There are a few requirements for conducting a remote meeting pursuant to this statute, and I've been advised by our counsel to explain these at the outset of the meeting.

- i. *This type of remote meeting can only occur when a declaration of emergency has been issued under Section 166A-19.20 of the General Statutes. In Executive Order 116, dated March 10, 2020, the Governor*

declared a state of emergency based on the public health emergency posed by COVID-19, and that state of emergency remains in effect.

- ii. *In order to hold this type of remote meeting, board members are participating by what the statute calls “simultaneous communication,” and the board must have provided the public with notice of the means by which the members of the public can access the remote meeting as that remote meeting occurs. Such notice has been given with respect to this meeting.*
- iii. *Except for trustees who are visible by video, each trustee must identify himself or herself before speaking and when voting. All votes will be taken by roll call.*
- iv. *The statute requires our minutes to reflect when each member joins or leaves the remote meeting. So if you are going to step away from the phone or computer, or are going to leave the meeting, it is important that you let us know so that the Clerk can note that for the record.*
- v. *Any chats, instant messages, texts, or other written communications between members of the board regarding the transaction of the authority’s business during the remote meeting are considered a public record,*
- vi. *Because a remote-only meeting is not consistent with our previously-approved regular meeting schedule, in that the location of the meeting is remote-only instead of the Community Center, which is currently closed, this meeting has been properly noticed as a special called meeting of the Board. If anyone has a question at this point about our procedure, I’m sure our counsel can try to answer it.*

With no questions posed to Counsel, this completes the opening remarks.

- I. **Roll Call:** Ms. Spivey called the roll with those listed above as present and confirming the existence of a quorum.
- II. **Ethics Statement:** Chair Rabon read the following ethics statement: *Under the State Government Ethics Act, the Board Chair is required to remind all members of their duty to avoid conflicts of interest or appearance of conflicts of interest. If any member has a conflict or appearance of a conflict of interest with respect to any item on the agenda, please state this for the record and refrain from inappropriate participation on that item. Does any member of the Board have anything to state for the record?*

Mr. Sayre is concerned with an issue of ethics as he is the Mayor of the Village of Bald Head Island and serves as a member of Council. Mr. Kitchin does not see issue with working with both the Village and the Authority and it poses no conflict of interest.

III. Approval of Minutes from December 8, 2020 Special Meeting of the Board of Trustees: Mr. Cozza made the motion to adopt the minutes included as Attachment 1 to the Agenda Packet as written. Mr. Powell seconded the motion with the roll call vote as follows: Mr. Brown: Aye, Mr. Cowdry: Aye, Mr. Cozza: Aye, Mr. Dixon: Aye, Mr. Jessen: Aye, Mr. Howard: Aye, Mr. Powell: Aye, Mr. Pope: Aye, Mr. Sayre: Aye, Mr. Zimmer: Aye, Chair Rabon: Aye. Motion carries (11-0).

IV. Update and Report of Financial Affairs of the Authority: As presented as Attachment 2 in the packet, there were no comments or questions regarding the financial statement.

V. Administrative Items:

a) Consideration of Resolution Approving the Amendment of the Regular Meeting Schedule of the Board of Trustees of the Bald Head Island Transportation Authority for the Remainder of Fiscal Year 2021: As presented as Attachment 3 in the packet, Mr. Kitchin advised the Board of the necessary change in the regularly scheduled meetings for the remainder of the fiscal year to reflect the “remote-only” schedule. The intent of the document is to lessen the noticing requirements for each meeting and making the default of the meetings to be remote-only. Until the pandemic issues have been rescinded and the Board can once again meet in a public setting, the amended Resolution will stand as the meeting schedule. The Resolution reads as follows:

**BOARD OF TRUSTEES OF THE BALD HEAD ISLAND
TRANSPORTATION AUTHORITY RESOLUTION APPROVING
THE AMENDMENT OF THE REGULAR MEETING SCHEDULE OF
THE BOARD OF TRUSTEES OF THE BALD HEAD ISLAND
TRANSPORTATION AUTHORITY FOR THE REMAINDER OF
FISCAL YEAR 2021**

WHEREAS, Section 1 of Article III of the Amended and Restated Bylaws (the “Bylaws”) of the Bald Head Island Transportation Authority (the “Authority”) provides that the Board of Trustees of the Authority “[f]rom time to time . . . shall establish the time and place for its regular meetings”;

WHEREAS, Section 1 of Article III of the Bylaws further provides that “such regular meetings shall be held no less than quarterly”; and

WHEREAS, on June 17, 2020, the Authority’s Board of Trustees approved a Resolution Approving the Regular Meeting Schedule of the Board of Trustees of the Bald Head Island Transportation Authority for Fiscal Year 2021 (the “Original Meeting Schedule”); and

WHEREAS, the Board of Trustees desires to adopt an amended regular meeting schedule for the remainder of the 2021 Fiscal Year of the Authority.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE AUTHORITY:

1. During the remainder of the Authority’s 2021 Fiscal Year, the Board of Trustees shall hold its regular meetings on the dates set forth below, beginning at 9:15 a.m. During the pendency of any declaration of a state of emergency pursuant to N.C.G.S. § 166A-19.20, these meetings shall be held as remote meetings with simultaneous communication pursuant to N.C.G.S.

§ 166A-19.24. The means by which members of the Board of Trustees may participate in, and members of the public may access, each meeting as that meeting occurs are as follows:

Date	Audio Only:	Audio and Video:
January 11, 2021	(804) 775-1800, then access code 998 073 031 #	https://join.mcguirewoods.com/orion/joinmeeting.do?MTID=180a13819843d7aaedac4b439defa010
February 3, 2021	(804) 775-1800, then access code 996 067 989 #	https://join.mcguirewoods.com/orion/joinmeeting.do?MTID=de309bf888ad5d198ab0b0e676e02bee
March 17, 2021	(804) 775-1800, then access code 991 354 316 #	https://join.mcguirewoods.com/orion/joinmeeting.do?MTID=409b478bc5c355d752706dd7af6ae3de
April 21, 2021	(804) 775-1800, then access code 998 129 238 #	https://join.mcguirewoods.com/orion/joinmeeting.do?MTID=8372a2d10acefd6a9229a4a93c0e53e6
May 19, 2021	(804) 775-1800, then access code 992 631 102 #	https://join.mcguirewoods.com/orion/joinmeeting.do?MTID=908ea96b41a6d8abbfdc7bff7c33ddb2
June 16, 2021	(804) 775-1800, then access code 992 596 915 #	https://join.mcguirewoods.com/orion/joinmeeting.do?MTID=7aec3de8d99b00286d93cbfcf8fc8476

2. The Board of Trustees hereby authorizes and directs the Clerk to the Authority to keep on file, in accordance with N.C.G.S. § 143-312(a)(4), a copy of the regular meeting schedule established pursuant to this resolution.

3. All other acts of the Board of Trustees and the officers of the Authority which are in conformity with the purposes and intent of this resolution and in furtherance of carrying out the intent and purposes of this resolution are hereby ratified, approved and confirmed.

So resolved by the Bald Head Island Transportation Authority Board of Trustees, this the 16th day of December, 2020.

Mr. Dixon made the motion to adopt the Amended Resolution included as Attachment 3 to the Agenda Packet. Mr. Powell seconded the motion with the roll call vote as follows: Mr. Brown: Aye, Mr. Cowdry: Aye, Mr. Cozza: Aye, Mr. Dixon: Aye, Mr. Jessen: Aye, Mr. Howard: Aye, Mr. Powell: Aye, Mr. Pope: Aye, Mr. Sayre: Aye, Mr. Zimmer: Aye, Chair Rabon: Aye. Motion carries (11-0).

The undersigned Chair of the Board of Trustees of the Bald Head Island Transportation Authority hereby certifies that the foregoing resolution was adopted by the Bald Head Island Transportation Authority Board of Trustees, at a meeting duly called and held on the 16th day of December, 2020.

b) Update on COVID-19 Response on Ferry Operations: Mr. Paul reported with the Governor's recent order of establishments closing at 10:00PM and after speaking to both the Public Staff and the legal counsel for the Utilities Commission, the decision was made that with the Transportation Company as the only means of public transportation for the Island, will not be seeking a ferry schedule change to adhere to those requirements. As of today, there has not been a single report or positive tests for COVID-19 within the ranks of either Transportation or BHI Limited, nor has there been any information forthcoming from contact tracing. There has been a death among Transportation staff, however, was not related to COVID-19. Mask compliance is going well among ridership.

VI. Overview of Bond Issuance Process: Mr. Golynsky reported the pricing of the bonds is expected in the second week of January. Through this process, the underwriter must also perform the due diligence required. The Offering Documents will be shared with the investors to better make informed decisions regarding their purchases. There will also be a marketing period to better identify and canvas possible investment targets. Communications with those investors will be in the two (2) week period along with a one-on-one dialogue with potential investors. This will be a unique and diligent process as there is no other market to model from.

VII. Closed Session: At 9:56 a.m., Chair Rabon entertained a motion to convene in Closed Session, based on the following: (i) to prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or the United States, including without limitation Section 132-1.2 of the North Carolina General Statutes, or not considered a public record within the meaning of Chapter 132 of the General Statutes; or (ii) to consult with an attorney employed or retained by the Authority in order to preserve the attorney-client privilege between the attorney and the Authority or (iii) to discuss the Authority's position in negotiating price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease. Mr. Zimmer made a motion to enter Closed Session with Mr. Powell seconding the motion and a roll call vote as follows: Mr. Brown: Aye, Mr. Cowdry: Aye, Mr. Cozza: Aye, Mr. Dixon: Aye, Mr. Jessen: Aye, Mr. Howard: Aye, Mr. Pope: Aye, Mr. Powell: Aye, Mr. Sayre: Aye, Mr. Zimmer: Aye, Chair Rabon: Aye. Motion carried (11-0).

Board Entered Closed Session at 9:56 a.m.

Open Session Resumed at 10:50 a.m.

Chair Rabon stated that she would entertain a motion to authorize the trustees who are working with our Financial Advisor to receive the third and final indicative rating and then

to make a decision regarding whether to move forward to the LGC with either a rated or a non-rated financing. Trustee Powell made the motion with Mr. Cozza seconding and a roll call vote as follows: Mr. Brown: Aye, Dr. Cowdry: Aye, Mr. Cozza: Aye, Mr. Dixon: Aye, Mr. Jessen: Aye, Mr. Howard: Aye, Mr. Pope: Aye, Mr. Powell: Aye, Mr. Sayre: Aye, Mr. Zimmer: Aye, Chair Rabon: Aye. Motion carried (11-0).

VIII. Review of Proposed Terms of Bonds (Including Bond Amounts): As the financing phase is moving forward, an Amended Finding Resolution, the LGC has asked for an inclusion of a par amount equivalent to a principal amount. Parameters will be included, and the amount in today's document is an estimate. Bond parameters will be approved mid to late January when the market is more defined. There is an ability to purchase coupon, dollar price that is paid for the bond and the yield. Investors will have the ability to state the type of coupon they are looking to purchase, leaving control to the underwriter. Different bonds have a different maturity rate. With the different premium rates, the Board may have the ability to purchase \$56M +/- worth of bonds and pay \$52M +/- due to the premium the bonds provided. As the budget is developed, there will need to be enough money in that account. Other account line items will be reviewed and adjusted as needed. The current estimate is to deliver at the bond closing \$56.1M, not exceed \$59M, for LGC approval. There will be three (3) parameters that will be established in the Resolution for the January 11 meeting to include par amount, interest rates and final maturity above which the Board cannot go. Parameters will be set closer to the January 27 deadline. The LGC is keenly aware that only the amounts necessary will be issued.

IX. Review of Terms of Bond Documents: Ms. Rusher advises that Article 2 is where the authorization to issue the bonds are contained. The bond holders will have no other bonds issued unless the set measures in Section 206 are met. Article 4 discussed the proceeds of the bonds. Article 5 is critical part of the indenture as it contains the rate covenants. The usual fund from which interest is paid, capital improvement and operating and maintenance funding will be set. The remainder of the indenture relates to the annual audits, insurances as necessary, and vessel replacement. Mr. Cole advises there may be a degree of fine tuning of the figures as the bond purchase date gets closer.

X. Review of Terms of Underwriting Documents, Including Mercator Feasibility Reports: Ms. Joyner with Parker Poe commented the preliminary offering documents statement. The first is the summary of the documents and the second is the detail of the finance plan. The appendix will include the Mercator report in its entirety. The Bond Purchase Agreement is the contractual agreement for the between the Authority and the Underwriter for the selling of the bonds. Mr. Leonard gave a brief summary of actions to date of Mercator International. Mercator team has visited the site about a year and half ago but were unable to do so again due to COVID restrictions in place. There was no observation of the ferry system during the weekends or during the peak season. The baggage system was reviewed; however no physical baggage was handled at that time. The report accounts for the capacity of the system both seasonal and peak requirements of the

system. Through the analysis of the system, the estimate stands at approximately 540K passengers annually. With COVID restrictions in place, the ferry passenger and the barge usage levels have been higher than the average over the last three (3) years. The housing construction market over the last decade shows an overall increase and expects continuation of that trend of 1.7%. Mr. Leonard offered to conference call with Mr. Pope and Mr. Brown to further discuss the report prepared by Mercator.

- XI. Consideration of a Proposed Amended Resolution Providing for Application to the Local Government Commission for Approval of Bald Head Island Transportation Authority Transportation System Revenue Bonds and Making Certain Findings:** Ms. Rusher explained the LGC asked the Amended Resolution to be adopted again to include the numbers noted. The changes are the \$59M “not to exceed” amount. This is not binding but what is understood to date. The Resolution, included as Attachment 6 to the Board packet, reads as follows:

**BOARD OF TRUSTEES OF THE BALD HEAD ISLAND TRANSPORTATION
AUTHORITY RESOLUTION PROVIDING FOR APPLICATION TO THE LOCAL
GOVERNMENT COMMISSION FOR APPROVAL OF BALD HEAD ISLAND
TRANSPORTATION AUTHORITY TRANSPORTATION SYSTEM REVENUE BONDS
AND MAKING CERTAIN FINDINGS**

WHEREAS, the Bald Head Island Transportation Authority (the “Authority”) is authorized to acquire, own and operate the ferry and ground transportation assets and services provided to Bald Head Island, North Carolina (the “Island”) including, but not limited to, (i) the transportation of passengers via ferry to and from the Island and Southport, North Carolina; (ii) the on-island tram transportation of ferry passengers; (iii) the vehicle parking operation at Deep Point Marina in Southport, North Carolina, and (iv) the tug and freight barge operation which carries supplies and equipment to and from the Island (collectively, as further defined herein, the “System”); and

WHEREAS, the Authority and Bald Head Island Transportation, Inc., a North Carolina corporation (“BHIT”), and Bald Head Island Limited, LLC, a Texas limited liability company (“BHIL”, and together with BHIL, collectively referred to herein as “Seller”) are in the process of negotiating an Asset Purchase Agreement, pursuant to which the Authority will purchase the real and personal property, structures, improvements, buildings, equipment, maritime vessels, vehicles, vehicle parking, trams, shuttle buses, docks, terminals, and other facilities used in the operation of the System (the “Facilities”); and

WHEREAS, in connection with the purchase of the Facilities, the Authority expects to enter into a Ferry and Barge Facilities Operating and Transition Services Agreement with Seller, acting as the Management Company, pursuant to which Seller will continue to operate the System and will transition such operations to the Authority; and

WHEREAS, the Authority proposes to issue its Transportation System Revenue Bonds, Series 2021 in the principal amount currently expected not to exceed \$59,000,000 (the “Series 2021 Bonds”) (a portion of which may be issued as taxable bonds) pursuant to the Ferry Transportation Authority Act, Article 29 of Chapter 160A of the General Statutes of North Carolina, as amended (the “Enabling Act”) and The State and Local Government Revenue Bond

Act, General Statutes of North Carolina Section 159-80 et seq. (the “Revenue Bond Act”), and a bond order to be adopted by the Authority (the “Bond Order”), and to apply the proceeds of the Series 2021 Bonds to (a) pay a portion of the purchase price for the acquisition of the Facilities from the Seller; (b) fund a debt service reserve and operating and maintenance reserve fund; (c) fund working capital for the Authority; (d) pay capitalized interest on the Series 2021 Bonds; and (e) fund certain costs of issuance of the Series 2021 Bonds (collectively, the “Project”); and

WHEREAS, the Series 2021 Bonds will be issued under a General Trust Indenture between the Authority and U.S. Bank National Association, as Trustee (the “General Indenture”), and supplemental indentures setting forth for the terms of the Series 2021 Bonds; and

WHEREAS, it is anticipated that the Series 2021 Bonds will be sold in a negotiated sale to UBS Financial Services Inc. and PNC Capital Markets, as underwriters (the “Underwriters”); and

WHEREAS, the Authority has identified as its financing team UBS Financial Services Inc. and PNC Capital Markets as co-managing underwriters; Parker Poe Adams and Bernstein LLP as Underwriters’ counsel; Davenport & Company as financial advisor; McGuireWoods LLP as issuer’s counsel and bond counsel, U.S. Bank, National Association, as bond trustee; and Mercator International LLC, as feasibility consultant (collectively, the “Financing Team”);

WHEREAS, the Authority wishes the Chair and Treasurer of the Authority, working with the Authority’s financial advisor, to file with the Local Government Commission of North Carolina (the “LGC”) an application for its approval of the Series 2021 Bonds on a form provided by the LGC, to request that the LGC approve the negotiation of the sale of the Series 2021 Bonds, and to make certain findings therefor;

NOW, THEREFORE, the Board of Trustees of the Authority, in a special meeting duly called and held on December 8, 2020, does hereby resolve as follows:

1. The Series 2021 Bonds in the amount of approximately \$59,000,000 are to be issued by the Authority for the purpose of providing funds to finance the costs of acquiring the Facilities and paying other costs of the Project. The use of the proceeds of the Series 2021 Bonds is necessary in order to meet the Authority’s charge under the Enabling Act to acquire and operate the existing ferry transportation system in its service area. The Series 2021 Bonds shall be a special obligation of the Authority, the principal of, premium, if any, and interest on which shall be payable solely from the revenues of the System, which will be pledged under the Bond Order and the General Indenture.

2. The Chair and Treasurer of the Authority, with the advice of bond counsel and the financial advisor, are each hereby authorized, directed and designated to file an application with the North Carolina Local Government Commission for its approval of the issuance of the Series 2021 Bonds.

3. The Chair and Treasurer of the Authority and the Authority’s Finance Officer, working with bond counsel and the Authority’s financial advisor, are each hereby authorized and directed to take all actions in furtherance of the issuance of the Series 2021 Bonds.

4. The Board acknowledges that the feasibility studies being developed in connection with the issuance of the Series 2021 Bonds indicate that the rates for the use of the System, including in particular the passenger ferries to and from the Island, the tug and freight barge operation to and from the island, and the parking facility located at the Deep Point Marina will need to be increased beginning in fiscal year 2022, and agrees to implement such fee increases as may be required to

meet the financial covenants contained in the documents authorizing the issuance of the Series 2021 Bonds.

5. In connection with the application to the LGC, the Authority hereby makes the following findings:

- a. The issuance of the Series 2021 Bonds is necessary and expedient to finance the cost of the Project.
- b. The Project is feasible.
- c. The amount of debt to be incurred in connection with the Project and the fees to be paid in connection therewith are sufficient but not excessive for the purpose of acquiring the Facilities and the initial operation of the System.
- d. The increase in rates necessary to pay debt service on the Series 2021 Bonds will not be excessive.
- e. The Authority has not defaulted on any debt obligation.
- f. The Authority follows the debt management guidelines of the North Carolina Local Government Commission.
- g. The Series 2021 Bonds can be marketed at a reasonable interest cost to the Authority.

6. The Authority hereby requests the LGC to sell the Series 2021 Bonds in a negotiated sale to the Underwriters pursuant to § 159-123 of the North Carolina General Statutes.

7. The Authority hereby requests the LGC to approve the Authority's Financing Team in connection with the issuance of the Series 2021 Bonds.

8. All actions of the officers of the Authority in furtherance of this resolution are hereby ratified and confirmed. This resolution shall take effect immediately.

Mr. Zimmer made a motion adopt the Amended Resolution with Mr. Powell seconding the motion and a roll call vote as follows: Mr. Brown: Nay, Mr. Cowdry: Aye, Mr. Cozza: Aye, Mr. Dixon: Aye, Mr. Jessen: Aye, Mr. Howard: Aye, Mr. Pope: Aye, Mr. Powell: Aye, Mr. Sayre: Nay, Mr. Zimmer: Aye, Chair Rabon: Aye. Motion carried (9-2).

The undersigned Chair of the Board of Trustees of the Bald Head Island Transportation Authority hereby certifies that the foregoing resolution was adopted by the Bald Head Island Transportation Authority Board of Trustees, at a meeting duly called and held on the 16th day of December, 2020.

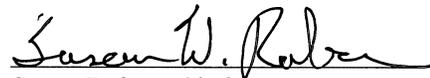
XII. Discussion of Budget Amendment to be Presented Prior to Transaction Closing and Implementation Thereafter: Mr. Jessen reminded the Board the FY 20/21 budget was adopted before any consideration of the acquisition. The purpose of the Amendment will be for the inclusion of the operating expenses revenue of the ferry, barge, parking and general administrative items for February 1, 2021 to June 30, 2021. The intent is to present the budget at the January 11, 2021 meeting; however, it will not be adopted until the February 3 currently scheduled meeting.

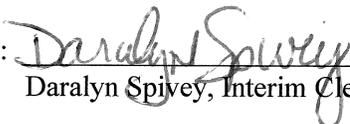
XIII. Discussion of Financing Calendar Going Forward: Mr. Cole reported in addition to what has been covered will be a continuation of the work toward formalizing the rating, a scheduled meeting with the LGC will be held tomorrow to cover due diligence and agenda preparation for the January 5th meeting, working with the Board for agenda preparation for the January 11 meeting. Once these are completed, pre-marketing of the bonds will begin on January 27th with Closing forthcoming. Dr. Cowry requested the Resolution for review that will be in the January 11th meeting and updated scenario spreadsheet that matches the Resolution be distributed in advance for time to review.

XIV. Other Business: Chair Rabon advises the next Authority meeting will be January 11, 2021 at 9:15AM and will be held remotely.

Clerk's Note: Mr. Cozza left the meeting at 11:34 a.m.

XV. Adjourn: Mr. Powell made the motion to adjourn with Mr. Zimmer seconding and all in favor with a roll call vote as follows: Mr. Brown: Nay, Mr. Cowdry: Aye, Mr. Cozza: Aye, Mr. Dixon: Aye, Mr. Jessen: Aye, Mr. Howard: Aye, Mr. Pope: Aye, Mr. Powell: Aye, Mr. Sayre: Nay, Mr. Zimmer: Aye, Chair Rabon: Aye. Motion carries (10-0). Chair Rabon adjourned the meeting at 11:50 a.m.


Susan Rabon, Chair

Attest:  (SEAL)
Daralyn Spivey, Interim Clerk



Trustee Powell moved to approve the foregoing, Trustee Howard seconded, and the motion was passed by the following vote:

Ayes: Trustees: Brown, Cowdry, Howard, Jessen, Powell, Rabon and Sayre

Nays: None

Not Voting: N/A

Board Action Control Number: 2021 - _____