

ENROLLED ORDINANCE 171-57

ADOPTION OF TOWN OF VERNON ZONING CODE AND MAP TO REPLACE
GENERAL COUNTY ZONING IN THE TOWN OF VERNON (ZT-1727A)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Vernon Town Board on September 14, 2016, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the adoption of the Town of Vernon Zoning Code and Map, replacing general county zoning in the Town of Vernon, more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference ZT-1727A, is hereby approved.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Vernon.

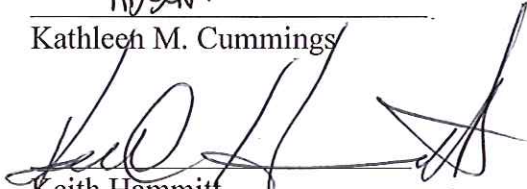
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

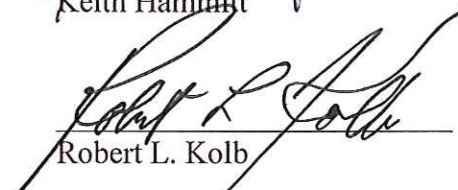
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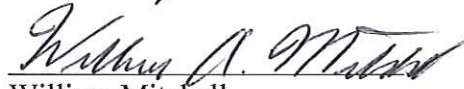
Presented by:
Land Use, Parks, and Environment Committee


David D. Zimmermann, Chair

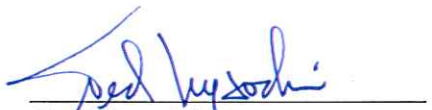
ABSENT
Kathleen M. Cummings


Keith Hammitt


Robert L. Kolb


William Mitchell

ABSENT
Thomas J. Schellinger


Ted Wysocki

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 12/1/16, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

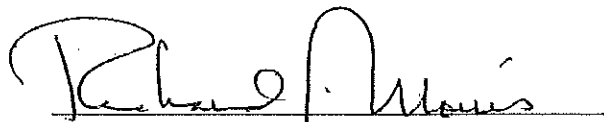
Approved: X

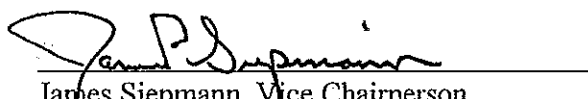
Vetoed: _____

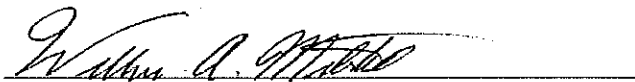
Date: 12-1-16, 
Paul Farrow, County Executive

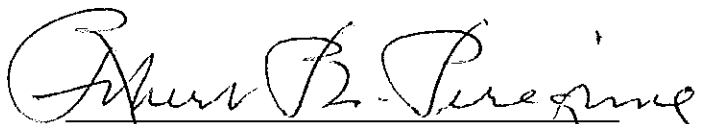
COMMISSION ACTION


The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to adopt a Zoning Code and Map for the Town of Vernon hereby recommends approval of ZT-1727A (Town of Vernon) in accordance with the attached "Staff Report and Recommendation".

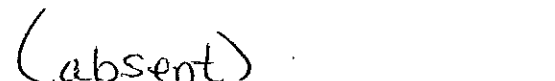

Richard Morris, Chairperson

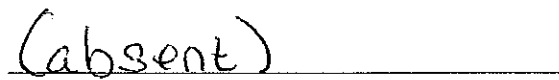

James Siepmann, Vice Chairperson


William Mitchell, Secretary


Robert Peregrine


Gary Goodchild


William Maslowski


Keith Hammitt

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
TEXT AND MAP AMENDMENT

FILE NO: ZT-1727A
TAX KEY NUMBER: N/A
DATE: October 20, 2016
NAME OF PETITIONER: Town Board of Vernon
Town of Vernon Hall
W249 S8910 Center Dr.
Big Bend, WI 53103

NATURE OF REQUEST:

Consider approval of a new Town of Vernon Zoning Code and Map, which would replace General County Zoning within the Town of Vernon.

PUBLIC HEARING DATE:

September 14, 2016.

PUBLIC REACTION:

There were no comments from the general public. During the public comment period, three Town Supervisors and the Town Clerk spoke in support of the amendments, while another Town Supervisor stated that he wanted to let Town residents know that Vernon processes building permits in a very timely way and he suggested that is not the case with the County in providing zoning permits.

TOWN PLAN COMMISSION ACTION:

At their meeting of September 14, 2016, the Town of Vernon Plan Commission unanimously recommended approval of the proposed Town of Vernon Zoning Code and map.

TOWN BOARD ACTION:

At their meeting of September 14, 2016, the Town of Vernon Board unanimously approved the proposed Town of Vernon Zoning Code and Zoning Map in accordance with the recommendation of the Town Plan Commission (see attached Exhibit "A", Town Ordinance).

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY (WCCDP) AND THE TOWN OF VERNON COMPREHENSIVE PLAN:

The proposed Town Zoning Code complies with the recommendations of the County Development Plan and the Town of Vernon Smart Growth Comprehensive Plan. For instance,

the code provides sufficient protections for natural resources, addresses the suitability of poorly drained soils relative to basement protection, and provides for a wide range of housing choices.

BACKGROUND, SUMMARY AND ANALYSIS:

In 2011, the Town of Vernon first requested Waukesha County approval of a new Town Zoning Code, which would repeal the Waukesha County Zoning Code relative to the Town of Vernon. The Town's request was submitted simultaneously along with parallel requests from the Towns of Genesee and Oconomowoc. County Parks and Land Use Staff conducted a thorough review of each of the three towns' codes and requested and received additional data from the three towns.

In 2012, the Planning and Zoning Division Staff prepared a detailed staff report that recommended denial of each of the three proposed town codes based upon a number of identified technical deficiencies and policy concerns. The Town withdrew their request shortly after receipt of the County Staff Report and Recommendation and indicated that the Town wished to have time to review the staff report and address concerns prior to advancing a revised draft. Genesee and Oconomowoc similarly withdrew their requests upon receipt of similar County Staff Reports. Genesee re-submitted a revised Town Code that was approved by the County Board in June 2015. At this time, the Town of Vernon is advancing its new zoning code for County approval.

In August 2015, the Town of Vernon submitted a revised draft code to the Planning and Zoning Division Staff and the Town Planner has since met and communicated with County Planning and Zoning Division Staff on multiple occasions to work towards a revised final code and map that is acceptable to both the Town and County. The Town has addressed all recommendations offered by County Planning Staff. The Town is now seeking County approval of the revised Town Zoning Code dated September 14, 2016 pursuant to Ch. 60.62(3) of the *Wisconsin Statutes*. Corporation Counsel Staff has advised that, pursuant to this statutory provision, the subject request is appropriate for the County to consider and act upon. Specifically, 60.62(3) requires the approval of the County Board to effectuate a Town Zoning Ordinance.

Since the time of the initial 2011 code submittal, State law was amended (2013 Wisconsin Act 287) which had the effect of providing Waukesha County with the continuing role of approving all Town zoning amendments (text and map) even if all towns in the County adopted their own zoning ordinances at some point in the future. Parks and Land Use Staff believes that this law change helps to ensure that the County Development Plan is preserved as a tool to guide future land use decisions and address issues of Countywide importance that may transcend municipal boundaries.

Proposed Code Provisions

The proposed code is generally modeled after the Waukesha County Zoning Code that was in effect until September 27, 2016 and most zoning districts carry the same name and basic regulations as those which existed within that version of the County Code. Other new provisions mirror the recently adopted Town of Genesee Code, as the towns partnered to create "model text" for this effort. County Staff communicated to the Town that a number of the provisions of

the County Code were in process of being updated as part of a larger Shoreland zoning update project, but because those amendments were both numerous and still unapproved at the time of those discussions, the Town expressed a preference to proceed with the subject code that was similar in nature to the then-existing County Code. However, the Town did incorporate some provisions of the new County Code effort. Most notably, the Town has mimicked the County's revised AD-10 and RRD-5 District language that was significantly updated to reduce the complexity of those districts. The Town has indicated that they will consider the appropriateness of incorporating other provisions of the recent County Code amendments if this new Town Code is approved. The proposed Town Zoning Code and map is available for viewing on the Town website at www.townofvernon.org/government/plan_commission (Click Town/County Zoning).

The Town has tailored language in certain sections to deal with specific issues in a new or slightly different way. Examples of such unique changes include a new parking requirements table, revised grading provisions and different accessory building size limitations. The Town has also inserted matrices for permitted and conditional uses. While such changes are different from the County Code, there is often no one right answer for how to regulate the various specific zoning or use provisions within zoning codes. Instead, there is often a preference that is developed based upon practical experience and these preferences typically develop the framework for final code language. The Planning and Zoning Division Staff feel that the specific changes discussed above are appropriate and are in keeping with the recommendations of the County Development Plan. In addition, the Town has brought in new provisions to deal with certain use trends such as electronic signage, portable storage units (PODs) and exterior heating devices and has provided an enhanced table of contents.

The above referenced 2012 staff report raised concerns about the previously proposed establishment of duplicative or less restrictive Town shoreland zoning provisions, zoning map deficiencies and the absence of any industrial or quarry use accommodations, amongst other issues. The now-proposed Town Code has addressed all such major issues of concern. Shoreland areas are no longer proposed to be zoned by the Town and related shoreland provisions have been removed from the Code. The Town requested and County Planning and Zoning Staff agreed to produce a revised zoning map for the Town to help alleviate mapping issues that were identified in the original submittal. Town and County Staff have worked closely together to work through suggested edits and refinements to many other code sections to address other concerns or recent law changes.

History and Applicability of the County Zoning Code

Waukesha County adopted its first general zoning ordinance on June 7, 1946. Five towns (Eagle, Genesee, Oconomowoc, Ottawa and Vernon) elected to participate in the countywide zoning ordinance and each adopted the code independently between 1946 and 1957. In 1959, a more comprehensive general zoning ordinance was adopted by Waukesha County and the same five Towns each adopted the new general county code within that same year. The other Towns within the County adopted their own zoning codes during the 1940s and 1950s. Six of those Towns adopted a model town zoning ordinance that was prepared by Waukesha County Staff.

In 1990 and with the approval of Waukesha County, the Town of Eagle adopted its own zoning ordinance, closely modeled after Waukesha County's existing zoning ordinances. As noted earlier, Genesee adopted its own ordinance in 2015, leaving Oconomowoc, Ottawa and Vernon subject to County zoning. There are currently eight towns within the County that are subject to town zoning ordinances. All shoreland areas (lands within 1,000' of a lake or pond, 300' of a stream or, if further, to the full extent of the associated floodplain) are subject to the County Shoreland and Floodland Protection Ordinance regardless of whether the Town is subject to a Town or County general zoning ordinance.

Shoreland Jurisdictional Areas

Currently, approximately 36% of the Town's acreage is located within shoreland areas and approximately 30% of parcels are partially or fully located within shoreland areas. A good amount of this land is lowland located along the Fox River and within the Vernon Marsh. The proposed Town Code references that said lands will continue to be subject to the Waukesha County Shoreland and Floodland Protection Ordinance.

An analysis of Waukesha County permitting activities over the eight-year span from 2006-2013 revealed that the number of permit applications and violations within Vernon were generally representative of the shoreland/non-shoreland split in acreage within the Town. For instance, of the approximately 20 violation complaints submitted to Waukesha County per year within Vernon during that time span, 75% were related to non-shoreland properties. Similarly, approximately 81% of Site Plan/Plan of Operation reviews during the same time period were non-shoreland.

New/expanded Town Responsibilities

The Town has long had a role in administration of zoning. The Town has a Plan Commission and Town Planner and the existing County zoning scheme called for joint public hearings conducted with the Town and required the recommendation of the Town for various planning matters (zoning amendments, conditional use requests, site plans). The Town will take on many additional tasks in proposing to exercise town zoning. The Town is designating the Town Building Inspector as the Zoning Administrator charged with processing zoning permits and pursuing ordinance compliance. These are functions that were previously provided by County Planning Staff. The Town Planner and Engineer are identified as having review and permit issuance responsibilities for other planning activities such as site plan review, conditional use review, processing of rezones and review of grading proposals, etc. The list below is reflective of service areas that the Town will need to expand or create if the subject request is approved.

- ***Town Board of Adjustment.*** The Town Code provides provisions for a Town Board of Appeals. The Town will need to appoint members and begin convening meetings that had previously been handled by the County Board of Adjustment. Because smaller, substandard lots of record are relatively uncommon in Vernon it is expected that the Town would see relatively few variance requests in the future.

- *Zoning maps.* The Town retained Waukesha County Planning and Zoning Staff to prepare the Zoning Map for the new Town Code and the County is willing to continue to provide Zoning Map services going forward.
- *Zoning Violations.* County Planning Staff currently pursues zoning violation enforcement in all parts of Vernon. Town Staff has been designated within the code as the entity that will pursue violation enforcement. Legal assistance will need to be obtained from the Town Attorney rather than the Waukesha County Corporation Counsel Office for those violations where Staff cannot resolve a dispute or obtain voluntary compliance with the code.
- *Zoning Permit Administration.* Town staff has been designated to review and issue all zoning permits. Town Staff will need to analyze basement elevations in conjunction with Land Resources and Environmental Health Staff with regards to high groundwater conditions, review plat and Certified Survey Map restrictions for individual lots and review natural resource inventories to ensure that permits are consistent with recorded documents and existing ordinances and that natural resources are protected.
- *Zoning Approvals.* Town staff will need to prepare public hearing notices, submit requisite fees and notices to the local newspaper and disseminate mailings to nearby owners and other regulatory staff for conditional use, rezoning and variance requests. Town Staff will also now fully process variance, conditional use, rezoning and site plan applications and will be responsible for issuing requisite permits and decision sheets.
- *Ordinance Amendments.* It is expected that Town Staff would draft text amendments in consult with the Town Attorney.
- *Records management.* County Planning Staff currently maps the boundaries of Planning/Zoning applications and is in the process of migrating records into a system that links file records to the GIS system. The ultimate goal will be to provide computer access to these file records by the general public. Historic zoning records dating to the origins of County Zoning are housed by Waukesha County. The Town and County are working together on scoping out a pilot project that would allow for Town records to be accessed similarly from the Waukesha County GIS site. If successful, the County would extend this invitation to other towns within the County to leverage resources and make information more accessible to all.
- *Agency coordination.* County Planning Staff currently works closely with other County divisions and departments when reviewing zoning applications to ensure that septic, separation from groundwater, storm water and erosion control, highway access and parks acquisition issues are addressed relative to individual projects. The Town will need to consider how best to coordinate such review with these cooperating offices.

RECOMMENDATION:

The Planning and Zoning Division Staff recommends **approval** of the Town of Vernon's request to adopt its own Zoning Code. The revised code complies with key recommendations of the County Development Plan and the previously identified issues of concern have been resolved.

The Town's final code text appropriately omits shoreland zoning provisions and recent law changes ensure the County's ability to be able to effectively implement the recommendations of the County Development over time.

The Town and County Planning Staff worked together closely to ensure that the final presented code complies with applicable State Statutes and that the code will be an effective regulatory tool for the Town. County Planning Staff also believes that the proposal for the Town to administer more permits locally will provide additional efficiencies as individuals will be able to obtain both building and zoning permits locally at the Town Hall. The Town will also take some of the burden of zoning administration away from County Planning Staff for non-shoreland areas. For example, violation enforcement is an area that County Staff currently must devote much time to. With the change in administration, it is expected that more time will be freed up for County Planning and Zoning Staff to work on more long range planning projects and the more complex shoreland zoning matters. With Town and County Planning Staff working together successfully to bring the proposed code to its final form, it is hoped that similar cooperation will continue in the future as the Town and County consider additional ways to improve ordinances, processes and land use tools. The Town and County's collaboration on the proposed Town zoning map and the project being considered to make Town records accessible via the County GIS site demonstrate continued opportunities for sharing of resources and collaboration going forward.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Attachments: Exhibit "A" (Town Ordinance No. 2016-13)
Proposed Town of Vernon Zoning Code dated September 14, 2016 available for viewing at www.townofvernon.org/government/plan_commission (Click Town/County Zoning).

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SEP 26 2016

EXHIBIT "A"

DEPT OF PARKS & LAND USE

STATE OF WISCONSIN

TOWN OF VERNON

WAUKESHA COUNTY

ORDINANCE NO. 2016-13

**AN ORDINANCE TO ADOPT A ZONING CODE
AND MAP FOR THE TOWN OF VERNON**

WHEREAS, at the April 2, 1957 Annual Town Meeting, the Town Board for the Town of Vernon was authorized and directed by the electors to exercise all powers relating to villages and conferred on Village Boards by Chapter 61 of the Wisconsin Statutes excepting such power, the exercise of which would conflict with the Statutes relating to Towns and Town Boards; and

WHEREAS, Sections 60.62(1) and (2) of the Wisconsin Statutes provides that a town board has been granted authority to exercise village powers may adopt zoning ordinances under Section 61.35 of the Wisconsin Statutes provided, however, that if the county in which the town is located has enacted a zoning ordinance under Section 59.69 of the Wisconsin Statutes, the exercise of such authority is subject to approval by the town meeting or by a referendum vote of the electors of the town held at the time of any regular or special election; and

WHEREAS, the Town of Vernon is wholly located within the County of Waukesha, which has adopted a zoning ordinance under Section 59.69 of the Wisconsin Statutes; and

WHEREAS, Section 60.10(2)(h) of the Wisconsin Statutes grants authority for a town meeting to adopt a resolution in a town located in a county which has enacted a zoning ordinance under Section 59.69 of the Wisconsin Statutes, to authorize the Town Board under Section 60.62(2) of the Wisconsin Statutes to enact town zoning ordinances under Section 61.35 of the Wisconsin Statutes; and

WHEREAS, pursuant to Section 60.12(1)(c) of the Wisconsin Statutes, at a regular meeting of the Town Board held on March 24, 2016 the Town Board for the Town of Vernon voted to call for a Special Town Meeting, beginning at 7:00 p.m. on April 21, 2016 at the Town of Vernon Town Hall to request authority by the Electors of the Town of Vernon to exercise village zoning authority under Wis. Stat. § 60.10(2)(h); and

WHEREAS, notice of the Special Town Meeting on April 21, 2016 at the Town of Vernon Town Hall to consider authorizing the Town Board to adopt zoning ordinances pursuant to Section 60.10(2)(h) was duly published as a Class 2 notice by the Town Clerk not less than 20 days nor more than 15 days before the April 21, 2016, Special Town Meeting in fully compliance with the requirements of Sections 60.12(3) and (4); and

WHEREAS, notice of the Special Town Meeting on April 21, 2016, at the Town of Vernon

Town Hall to consider authorizing the Town Board to adopt zoning ordinances pursuant to Section 60.10(2)(H) was duly noticed by the Town Clerk pursuant to the open meetings law; and

WHEREAS, at the April 21, 2016, Special Town Meeting, the electors for the Town of Vernon, by resolution which is general and continuing, granted approval under Section 60.10(2)(h) of the Wisconsin Statutes for the Town Board of the Town of Vernon to exercise certain zoning authority and the authority to adopt zoning ordinances for the Town of Vernon under Section 61.35 of the Wisconsin Statutes and directed the Town Attorney to prepare a formal written resolution;

WHEREAS, following the formation of tentative recommendations a public hearing was held by the Town Board upon due notice as required by Wisconsin Statutes Section 62.23(7)(d)(1)(a); and

WHEREAS, the Town Board has received a recommendation from the Town Plan Commission in favor of adopting the ordinance to create a Zoning Code and Map for the Town of Vernon; and

WHEREAS, the Zoning Ordinance that is hereby adopted has been available for public inspection for not less than two weeks before its enactment, and shall be published as a code pursuant to Wisconsin Statutes Section 66.0103; and

WHEREAS, The Town Board of the Town of Vernon having carefully reviewed the recommendation of the Town Plan Commission, being fully informed and advised, having determined that all procedural requirements and notice requirements have been satisfied, having determined that the Zoning Ordinance and Map are consistent with the recommendations found in the Town of Vernon Comprehensive Plan, having given the matter due consideration, and having based its determination on the effect of the adoption of such Zoning Ordinance and Map on the health, safety and welfare of the community, and having given due consideration to such municipal issues as noise, dust, smoke and odor, and others, hereby determines that the Zoning Code and Map adoption will be a benefit to, and will not be contrary to, the public health, safety and general welfare of the Town of Vernon.

NOW, THEREFORE, the Town Board of the Town of Vernon, Waukesha County, Wisconsin, DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The Town of Vernon Zoning Code attached hereto and incorporated herein as Exhibit A, is adopted as the Zoning Code for the Town of Vernon, Waukesha County, Wisconsin.

SECTION 2: The Town of Vernon Zoning Map attached hereto and incorporated herein as Exhibit B, is adopted as the Zoning Map for the Town of Vernon, Waukesha County, Wisconsin.


SECTION 3: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

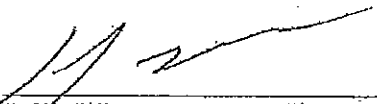
SECTION 4: EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as a Code of Ordinances pursuant to Wisconsin Statutes Section 66.0103, immediately upon the approval of the Waukesha County Board of Supervisors pursuant to Wisconsin Statutes Section 60.62(3).


Dated this 14th day of September, 2016, in the Town of Vernon



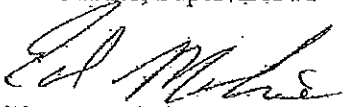
Thomas G. Bird, Chairperson



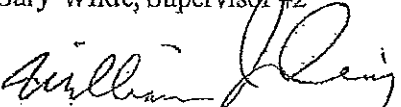
Jeff Millies, Supervisor #1



Gary Wilde, Supervisor #2




Ed Moline, Supervisor #3



William Craig, Supervisor #4

ATTEST:



Karen L. Schuth
Town of Vernon Clerk
Waukesha County

Published and Posted on September 16, 2016

Roll Call	Discussion	Voting...	Results	Agenda	Setup	Options	
D1 - Kolb			AYE				
D2 - Zimmermann			AYE				
D3 - Morris			AYE				
D4 - Batzko			AYE				
D5 - Dondlinger			AYE				
D6 - Walz			AYE				
D7 - Grant			AYE				
D8 - Michalski			AYE				
D9 - Heinrich			AYE				
D10 - Swan			AYE				
D11 - Howard			AYE				
D12 - Wolff			AYE				
D13 - Decker			AYE				
	D14 - Wood		AYE				
	D15 - Mitchell		AYE				
	D16 - Crowley		AYE				
	D17 - Paulson		AYE				
	D18 - Nelson		AYE				
	D19 - Cummings		AYE				
	D20 - Schellinger		AYE				
	D21 - Zaborowski			Notified			
	D22 - Wysocki			Notified			
	D23 - Hammitt			Notified			
	D24 - Whittow			Absent			
	D25 - Johnson			AYE			
171-0-058	Passed (21 Y - 0 N - 4 Absent)					2/3 Vote	>