



**MINUTES OF THE MEETING OF THE
LEON VALLEY ZONING COMMISSION**

March 26, 2013

The regular meeting of the Leon Valley Zoning Commission convened at 6:30 p.m. on Tuesday, March 26, 2013, in City Council Chambers at 6400 El Verde Road, Leon Valley, Texas.

I. Roll Call

Present were Chairman Claude Guerra III, 1st Vice-Chair Wendy Phelps, 2nd Vice-Chair Olen Yarnell, and Members Hal Burnside, Mike Davis Jr., Pedro Esquivel and Alternate Members Phyllis McMillan, Nicole Monsibais and Carlos Fernandez. Absent and excused was Member Carmen Sanchez. Also present was Kristie Flores, Director of Community Development, acting as recording secretary.

In the absence of regular Commission Member Carmen Sanchez; Alternate Member Phyllis McMillian was seated as a voting member.

Also available for the questions was contracted engineer for the City, Sia Sayyadi, P.E.

II. Approval of Minutes – February 26, 2013

Commissioner Pedro Esquivel made a motion to approve the minutes as written. Commissioner Phyllis McMillan seconded the motion, and the motion passed unanimously by voice vote.

III. Conduct a Public Hearing and Consider Zoning Case #2013-389, a Request by Ernesto Ancira, Jr., to Rezone Approximately 6.38 acres of land, Being Lots 4 and 5, Block 1, CB 4429F, of the Ancira-Winton Subdivision, from R-4 (Townhouse) and B-2 (Retail) to B-3 (Commercial) and to Rezone the Property from the Sustainability Overlay to the Commercial/Industrial Overlay, located at 6111 Bandera Road and 5901 Wurzbach Road.

Staff presented the Zoning Case #2013-389, a request by Ernest Ancira Jr., applicant and property owner to rezone approximately 6.38 acres of land, being Lots 4 and 5, Block 1, CB 4429F, of the Ancira-Winton Subdivision, from R-4 (Townhouse) and B-2 (Retail) to B-3 (Commercial) and to rezone the property from the Sustainability Overlay to the Commercial/Industrial Overlay, located at 6111 Bandera Road and 5901 Wurzbach Road. Staff noted the surrounding zoning and the history of the property which indicated that it had slowly rezoned from residential to retail and then to commercial between 1972 and 1998. Staff also noted that the 2009 Master Plan, Section 2aCC, "Bandera Road/Loop 410 Corridor," addressed the area in general noting that zoning in the area consisted mostly of B-2 (Retail) and B-3 (Commercial) and that any B-3 (Commercial) which abuts residential must provide adequate and effective buffering. Staff explained that as a basic planning principle B-3 (Commercial) is not intended to abut R-1 (Single-Family Dwelling), but noted that if commercial zoning is allowed an eight (8) foot fence is required between commercial and residential properties. Staff further explained that other buffering techniques, such as landscaping may also be considered to guard against potential light and noise intrusion. Staff indicated that B-3 (Commercial) zoning is consistent with the adjacent B-2 (Retail) and B-3 (Commercial) zoning which already made up a large area which is platted and developed along Bandera Road and Wurzbach Road. Staff further indicated that per Chapter 14 Zoning, Section 14.02.551b, of the Leon Valley Code of Ordinances the applicant submitted a Traffic Impact Analysis Worksheet which indicated that the

proposed use will generate less than 100 peak hour trips. Staff noted that twenty-eight (28) letters had been mailed to property owners within 200-feet and that two (2) letters were received in opposition to the request, ten (10) letters were received in favor, and one (1) letter was returned undeliverable. Staff also noted that two (2) letters were received in favor outside the 200-foot notification area. Staff presented pictures of the site, concluded the presentation and remained available for questions.

Commissioner Mike Davis Jr., asked staff if there was a utility easement along the property line, staff verified from the plat that there were drainage and sanitary sewer easements. Sia Sayyadi, P.E. addressed the Commission and noted that there is was also a waterline that has also been extended from Wurzbach Road. He explained that there was need for more water easements because the waterline dead ends and the Fire Department presently has to clean out that section of the water line to mitigate hazards, thus the City has approached Ancira about additional easements to clear up these concerns. Mr. Sayyadi did confirm that there are utility easements along Rue Liliane for homes. He also pointed to an area in the middle section of the property that was not builable due to being in the FEMA floodway.

Commissioner Hal Burnside noted that the area where the drainage culvert is paved and was concerned with which way the water would flow. Mr. Sayyadi noted that it would flow towards Wurzbach Road.

2nd Vice-Chair Olen Yarnell asked the engineer if a large portion of the area which was grass/field could have a building on it. Mr. Sayyadi noted it could not, but may have pavement on it for parking cars. Mr. Sayyadi noted that there was a building proposed for the site that would be like the newly constructed Volkswagen dealership, that would front along Bandera Road.

Commissioner Mike Davis Jr., noted that with the new building, then the area nearest the residents would be to park vehicles.

Joey Blackmon, the agent for the applicant, 6111 Bandera Road, addressed the Commission and noted that he has worked with Mr. Ancira for 38 years. He explained that Mr. Ancira was committed to in staying in Leon Valley, so much so that he invested \$10 million into the existing Chevrolet and Ancira Volkswagen and he convinced Kia to make Leon Valley their home as well. He noted that \$5 million would be invested into a new Kia facility on 6 acres. Mr. Blackmon explained that they met with neighbors at a series of meetings to discuss concerns and alternatives. He noted that Ancira committed to neighbors to construct a concrete, eight foot (8') fence immediately inside the dealership property line. He also noted that they committed to keeping trees, a 15-foot buffer from the fence line to keep drainage away from the fence, as well as to keep cars away from the fence. He concluded by noting that Ancira wanted to grow their business which would benefit Leon Valley from their new building construction and from the sales tax generated from their parts and services.

2nd Vice-Chair Olen Yarnell asked for clarification regarding the proposed fence. Mr. Blackmon noted that they committed to neighbors to construct the fence from Bandera Road all the way to Wurzbach Road.

Commissioner Hal Burnside asked Mr. Blackmon for clarification regarding the property buffer between the fence and start of the dealership. Mr. Blackmon noted that they would landscape between the back fence and would curb the area 15-feet away for new parking car display and

inventory.

Commissioner Hal Burnside asked about security lighting along the 15-foot buffer zone. Chairman Claude Guerra III also noted the lighting he observed upon the site visit. Mr. Blackmon noted that the lighting would be directional; pointing down or away from residents.

Chairman Claude Guerra III also asked staff about the heritage size trees he saw on the property. Staff noted that they cannot be removed.

2nd Vice-Chair Olen Yarnell asked what the surface of the fence would look like. Mr. Blackmon noted that it would be Fence Crete and would have a decorate look rather than just being a solid concrete fence.

Chairman Claude Guerra III asked what the parking area would be made of. Mr. Blackmon noted it would be asphalt.

Being no further discussion, Chairman Claude Guerra III opened the public hearing at 7:07 p.m.

John and Margie Phelan, 6100 Rue Liliane, addressed the Commission and noted that their concerns were with drainage, loud speaker from the dealership, trees and lighting and they noted that many of their questions were answered in the discussion.

Eluterio Toscano, 6010 Rue Liliane, addressed the Commission noting that his questions were addressed by Mr. Blackmon. Mr. Toscano also answered Commissioner Mike Davis, Jr.'s question regarding the location of the utilities noting that they were in the front of the property along Rue Liliane. He noted his support of Ancira's commercial growth.

Commissioner Mike Davis, Jr., noted that his concern was for residential properties along the adjacent property line and that is why he asked about the utility easement.

Being no further discussion, the public hearing was closed at 7:14p.m.

2nd Vice-Chair Olen Yarnell noted that the request appeared to solve many concerns surrounding the property. He also noted that questions regarding trees, building location, fencing and lighting had been answered.

Chairman Claude Guerra III noted that all of his questions were answered regarding fencing, lighting and trees and that the Commission members and those in attendance were now aware that a building could not be built within that portion of the property that is in the floodway. He additionally noted that a precedent had been set with the Fiesta Dodge property across the street and the boundary was changed from the Sustainability Overlay to the Commercial/ Industrial Overlay which was similar to the request at hand.

Vice-Chair Wendy Phelps made a motion to recommend approval of Zoning Case #2013-389, to include both rezoning requests to rezone from R-4 (Townhouse) and B-2 (Retail) to B-3 (Commercial) and to rezone to the Commercial/Industrial Overlay Zoning District noting that the requests were consistent and compatible with the Master Plan. 2nd Vice Chair Olen Yarnell seconded the motion and the motion passed unanimously by voice vote, 7-0.

IV. Consider Zoning Case #2013-390, a Request by Dirt Dealer V., LLC., to Rezone Approximately 1.709 acres of land, Being a Portion of Parcel 29G, ABS 741, CB 4445,

Murchison Remainder Tract, from B-1 (Small Business) to B-2, located at 7430 Huebner Road.

Staff presented the Zoning Case #2013-390, a request by Dirt Dealer V., LLC., to rezone approximately 1.709 acres of land, being a portion of Parcel 29G, ABS 741, CB 4445, Murchison Remainder Tract, from B-1 (Small Business) to B-2 (Retail), located at 7430 Huebner Road. Staff noted the surrounding zoning and the history of the property which indicated that it had been rezoned in 1985 from R-1 (Single-Family) to B-1 (Small Business). Staff also noted that the 2009 Master Plan, Section 7N, "Canterfield Area," addressed the area in general noting residential zoning and mixed use zoning. Staff explained that by land use comparison B-2 (Retail) zoning is consistent with the area and is compatible with the existing B-1 (Small Business) and R-1 (Single-Family). Staff further explained that this is demonstrated by the existing and adjacent B-2 (Retail) of the Church of Latter Day Saints and the Department of Public Safety Mega Center, as well as the corner of Evers Road and Huebner Road and surrounding neighborhoods. Staff noted that B-2 (Retail) is intended to abut residential and act as a buffer. Staff also noted that B-1 (Small Business) zoning does not allow outside storage and limits the buildable area of a building to 3,000 square feet. Staff indicated that B-1 (Small Business) is mostly designed for office and very light service and retail business. Staff also indicated that B-2 (Retail) zoning limits outside storage but does not limit the buildable area of a building; however, both zoning districts are intended to provide goods, services however B-2 (Retail) gives more alternatives for permitted uses and buildable area. Staff noted that per Chapter 14 Zoning, Section 14.02.551b, of the Leon Valley Code of Ordinances the applicant submitted a Traffic Impact Analysis Worksheet which indicated that the proposed use will generate less than 100 peak hour trips. Staff noted that sixteen (16) letters had been mailed to property owners within 200-feet and that one (1) letter were received in opposition to the request, none were received in favor, and none were returned undeliverable. Staff presented pictures of the site, concluded the presentation and remained available for questions.

Chairman Claude Guerra III asked for clarification as to the City well site in relation to the proposed rezoning. Staff and the engineer Sia Sayyadi indicated the location of the well on the site plan. Staff also indicated that the well site is protected by a 150-foot boundary by law for well systems.

Commissioner Pedro Esquivel asked Staff about preservation of the silos on site. He noted that there had been discussion at a Council meeting about preserving them. Staff noted that in speaking to the representatives for the property they indicated that they were will to work with the City in regard to the silos. Staff further noted that there was not presently a definitive plan for the silos.

Chairman Claude Guerra III asked for clarification regarding development and the City well site. Mr. Sayyadi noted that there would need to be a sanitary controlled easement, meaning that developers cannot store chemicals onsite. Staff noted that more than likely the only thing located within the 150-feet would be parking. Mr. Sayyadi noted additional property limitations due to the main water line, drainage requirements, tree preservation and a needed detention pond.

Vice-Chair Wendy Phelps asked if the site was going to be utilized for the storage of bulldozers. Staff indicated that there was not a building plan. Staff also noted that the developer wants to build a building bigger than 3,000 square feet. Chairman Claude Guerra III noted that it was an office building.

2nd Vice Chair Olen Yarnell asked if the dotted line on the site plan was the well site. Staff indicated that it was and that the long road leading from Huebner was the access easement. 2nd Vice Chair Yarnell noted that the water tower had been moved over by Marshall High School for higher elevation and well site remained. Staff noted that was accurate. 2nd Vice-Chair Olen Yarnell also asked for further clarification on the site plan to the rear of the property and staff indicated that it was the area where there was drainage and a natural tree line. Mr. Yarnell noted that it appeared that only the B-2 (Retail) portion of the property would be built on. Staff noted that the B-1 (Small Business) portion of the property would have a detention pond and did have the potential to have a 3,000 square foot building limited by B-1 regulations and uses.

Commissioner Burnside noted that there appeared to be constraints on the property, which prompted the owner to try to use the portion they are requesting for rezoning

Commissioner Pedro Esquivel noted that there has been considerable discussion on the traffic impact by Council in regard to Huebner and Evers and the affect of the DPS Facility. Mr. Esquivel wanted to be sure that the traffic impact for this project was being considered in addition to what was already being studied. Staff noted that the traffic impact would be considered and City Staff and the property owner and potential developers were aware or would be made aware of the impact. Staff noted that the focus for the evening needed to be whether B-2 (Retail) was consistent and compatible with the Master Plan and surrounding zoning, not a particular use. Mr. Esquivel reiterated that he just wanted to make sure that traffic and school zones were measured.

Sia Sayyadi noted that the property as B-1 (Small Business) could be platted into several lots with 3,000 square foot buildings, with necessary parking, site plans and driveways. Staff noted that if the property was platted separately State law required access to each site with proper utility development. Mr. Sayyadi noted that the property owner was trying to make the best use of the property from that site as B-2 (Retail) with only one (1) building.

Tony Saucedo, agent for the applicant, addressed the Commission and noted that he did not have any addition information to add and would remain available for questions.

Chairman Claude Guerra III noted that the Land Use Statement stated that they wanted to construct an "office" building larger than 3,000 square feet but then went on to note that the letter stated that they wanted to rezone to utilize other uses within the B-2 (Retail) zoning district. Chairman Claude Guerra III felt that this was contradictory to his first statement in the letter. Mr. Saucedo noted that he did not know what the use of the property would be until after they had a buyer for the property. He also noted that they needed to maintain the access easement and wanted to preserve the remaining trees. He further explained that they would be limited by how much parking is required for the use as to what type and size of building would be constructed.

Staff noted that the property was also protected by the Sustainability Overlay regulations.

Chairman Claude Guerra III noted that his concern is based on the controversy with the neighboring DPS Office. Commissioner Pedro Esquivel agreed that the statement that rezoning was being requested to construct an office building was misleading. He explained that if it was not going to be an office building as stated and something else from the B-2 (Retail) then it should have remained ambiguous on the application.

Staff noted that the applicant has expressed that they would like to build an office building larger than 3,000 square feet; however, staff also noted that the Commission needed to be aware that

the applicant did not have to build an office building and if the property was rezoned to B-2 (Retail) it could be another type of building such as retail. Staff commented that the matter at hand was whether B-2 (Retail) was consistent and compatible with the Master Plan and surrounding zoning.

Commissioner Mike Davis Jr., noted that he had no issue with the current zoning of B-1 (Small Business). He also noted that the property owner should have known what the property was zoned when they purchased it and what uses were allowed.

Commissioner Hal Burnside asked Staff if parking could be built on the B-1 portion. Staff noted it could.

2nd Vice Chair Olen Yarnell noted that there is always a chance that the developer may not do as they may have noted in an application or the plans fall through all together.

Commissioner Mike Davis Jr., noted that the area has a great deal of sensitivity and a concept for the site would be helpful. Mr. Saucedo noted that they were not in that stage of planning for the property and were aware of the sensitivity in the area which is why they were maintaining the B-1 (Small Business) buffer to shelter the surrounding properties.

Per the Chairman's request Staff read some of the uses allowed in B-2 (Retail) some of which were: alcoholic beverage sales (no on-premise consumption), alteration and apparel, animal clinic, antique store, appliance (minor), appliance repair, art gallery and other such uses.

Being no further discussion, Chairman Claude Guerra III opened the public hearing at 8:05p.m.

Roland Perez, 6534 Hoofs Lane, addressed the Commission and noted his opposition to the proposed rezoning noting addition concerns with traffic and noise from trash pick-up has he already experienced weekly from the pick-up at the Church. He explained that he was opposed to the original rezoning from R-1 to B-1, when neighbors were told that there would be a greenbelt and a fence. Mr. Perez noted that although promises were made by the developer when the request for B-1 (Small Business) was considered, they never followed through. Mr. Perez commented that he understood that the Commission needed to consider development that would bring revenue to the City but he did not want it to be at the cost of the residents who would have to endure light and noise pollution from whatever was developed.

Sandy Perez, 6534 Hoofs Lane, asked if there would be any buffer between them and the development. Staff noted that there was at least one hundred feet (100') between them and the proposed development as well as the remaining B-1 (Small Business) buffering.

Being no further discussion, Claude Guerra III closed the public hearing at 8:10p.m.

Chairman Claude Guerra III noted to Mr. Perez that the Zoning Commission's responsibility was to make zoning recommendations on zoning cases, not for economic development.

2nd Vice-Chair Olen Yarnell noted that as long as the property remains vacant there will be zoning case considerations. He further explained that anytime anyone lives up again a property that is zoned anything other than residential this will always be something that they will need to deal with. He added that the owner was leaving the B-1 buffer.

Commissioner Hal Burnside noted that he was concerned neighbors and gradual deterioration of the area based on the uses allowed in the B-2 (Retail) zoning.

Commissioner Phyllis McMillan noted that even if the property is not rezoned to B-2 (Retail) there could still be a building constructed on the B-1 (Small Business).

Staff noted there were development constraints on the property due to the well site and the required drainage. Mr. Sayyadi noted that the detention pond was estimated at \$60,000. He further explained that the City might have a very active part in the installation in order to protect the well site.

2nd Vice-Chair Olen Yarnell asked how many 3,000 square foot building could be placed on the property. Mr. Sayyadi addressed the question and noted that with proper platting a rough estimate was fifteen (15) buildings because the total acreage of the B-1 (Small Business) is six (6) acres and 3,000 square feet is not very large.

Chairman Claude Guerra III reiterated that he felt that the letter submitted by the applicant was misleading and for that reason he had doubts and hesitancy about the rezoning.

Commissioner Pedro Esquivel made a motion recommending denial of Zoning Case #2013-390 noting that it does not protect the property rights of owners of real property. Vice-Chair Wendy Phelps seconded the motion and the motion passed 5-2.

IN FAVOR OF THE MOTION

Commissioner Hal Burnside
Commissioner Mike Davis Jr.
Commissioner Pedro Esquivel
Chairman Claude Guerra III
Vice-Chair Wendy Phelps

AGAINST THE MOTION

2nd Vice-Chair Olen Yarnell
Commissioner Phyllis McMillan

V. Consider Specific Use Permit Case #2013-271, a Request by Jonathan King, Applicant, to Operate a “Kennel,” in a B-3 (Commercial) zoning district within the Sustainability Overlay, Being Lot 56, Block 3, CB 5784, Leon valley Addition – Glass Service Subdivision, located at 6737 Poss Road, Building/Suite #300.

Staff presented the Specific Use Permit Case #2013-271, a request by Jonathan King, applicant to operate a “Kennel” in a B-3 (Commercial) zoning district within the Sustainability Overlay, being Lot 56, Block 3, CB 5784, Leon Valley Addition – Glass Service Subdivision, located at 6737 Poss Road, Building/Suite #300. Staff noted the surrounding zoning and the history of the property which indicated that there had been several Specific Use Permit requests for the buildings at 6737 Poss Road including: office/warehouse, church, and banquet hall. Staff also noted that the 2009 Master Plan, Section 4CC, “Grissom Road Corridor,” addressed the area in general noting B-3 (Commercial) zoning and consolidation of properties in the area. Staff explained that operation of a “kennel” appears to be consistent and compatible with the area. Staff further explained that the B-3 (Commercial) zoning district is designed to be more intense in nature and can include service facilities such as kennels to provide services to existing and surrounding districts. Staff went on to note that the B-3 district also allows outside display and storage of merchandise and limited outside services (such as dog runs). Staff also noted that although B-3 is not intended to abut R-1 (Single-Family) in some instances it does and this is one

such occasion. Staff stated that there is a single-family home which fronts and accesses from Sawyer Road. Staff explained that where commercial does abut residential adequate and effective buffers are required. Staff further noted that there was an existing tree lined buffer on the residential side and a fencing buffer from the commercial side. Staff noted that per Chapter 14 Zoning, Section 14.02.551b, of the Leon Valley Code of Ordinances the applicant submitted a Traffic Impact Analysis Worksheet which indicated that the proposed use will generate less than 100 peak hour trips. Staff noted that six (6) letters had been mailed to property owners within 200-feet and no letters were received in opposition to the request, none were received in favor, and none were returned undeliverable. Staff presented pictures of the site, concluded the presentation and remained available for questions.

The leasing agent for the property addressed the Commission and noted a correction that Mr. King's business would only be taking up 3,000 square feet of Building #2 not Building #3. She further explained that this was the rear of the building in the same space as the glass service building all of which are located at 6737 Poss Road.

Jonathan King, applicant, addressed the Commission and noted that he did not have any comments but was happy to answer questions.

Commissioner Phyllis McMillan thanked Mr. King for the thorough information he provided regarding kenneling.

Commissioner Hal Burnside asked for clarification on the on the dog to employee ratio. MR. King noted that if the facility was to capacity at thirty (30) dogs then two (2) employees would be required.

Chairman Guerra III asked if employees would stay overnight. Mr. King noted that they would not stay over night. Chairman Claude Guerra III also asked whether Mr. King has operated a kennel before. Mr. King noted that they have a facility in Junction, Texas. Chairman Claude Guerra III asked how Mr. King selected Leon Valley. Mr. King commented that he lived nearby and a good opportunity and location had presented themselves.

Commissioner Mike Davis Jr. asked Mr. King about whether there would be training outside. Mr. King noted that there would be no group training. He noted his business would provide private training inside the building and there would be outings to local pet stores as well as going outside occasionally to train for distractions. Mr. King further explained that he would train the dog for 2-3 weeks and then after they are trained then a month and a half to two months to instruct pet owners.

Commissioner Pedro Esquivel asked if there would be a veterinarian on call. Mr. King noted during business hours he was going to approach Leon Valley Veterinary Services and he also noted that Southwest Animal Clinic on 1604 would be utilized after hours.

Chairman Claude Guerra III asked how long people leave their pets for boarding. Mr. King noted that the average is 4-5 days. Chairman Claude Guerra III asked who would handle all the feeding and watering. Mr. King noted that he and his staff would do all the feeding and watering.

Chairman Claude Guerra III noted that the building would be air conditioned. Mr. King noted that he would be installing an air conditioner because the building did not presently have one.

2nd Vice-Chair Olen Yarnell noted that the letter of request stated that parking would be utilized from the Poss Center and he asked whether parking was adequate because had been a concern with an event center request that the Commission considered in the past. Mr. King noted that he only needed 4-5 parking spaces; staff noted that he was only required 12 spaces which the site provides.

Chairman Claude Guerra III asked about a sprinkler system. Mr. King noted that he spoke to Luis Valdez who noted that there would not need to be a sprinkler system for a 3,000 square foot space.

Commissioner Hal Burnside asked about barking and noise. Mr. King noted that the kennels were insulated for noise, and noted that there was also the already existing buffer of the building walls for noise.

Being no further discussion, Chairman Claude Guerra III opened the public hearing at 8:55p.m., being no one in the audience to speak the public hearing was closed at 8:56p.m.

2nd Vice-Chair Olen Yarnell asked what would happen if Mr. King's business got bigger and he needed more space. Staff noted that he would have to be expanding by 50% or greater before he would have to come back to the Zoning Commission for further Specific Use consideration.

Commissioner Pedro Esquivel made a motion to recommend approval of Specific Use Permit Case #2013-271, for operation of a "kennel" in a B-3 (Commercial) zoning district within the Sustainability Overlay noting it protected the property rights of owners of real property. Vice Chair Wendy Phelps seconded the motion and the motion passed unanimously by voice vote, 6-1.

IN FAVOR OF THE MOTION

Commissioner Hal Burnside
Commissioner Pedro Esquivel
Chairman Claude Guerra III
Commissioner Phyllis McMillan
Vice-Chair Wendy Phelps
2nd Vice-Chair Olen Yarnell

AGAINST THE MOTION

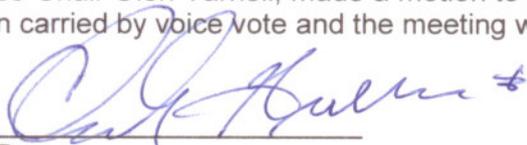
Commissioner Mike Davis Jr.

IV. Executive Session in Accordance with the Texas Local Government Codes

There was neither item, nor action necessary for this session.

VII. Adjourn

2nd Vice-Chair Olen Yarnell, made a motion to adjourn, seconded by Commissioner Hal Burnside. The motion carried by voice vote and the meeting was adjourned at 9:02p.m.



CHAIR



STAFF