

**MINUTES FOR ONE (1) PUBLIC HEARING OF THE
PLANNING & ZONING BOARD
HELD TUESDAY, APRIL 7, 2009; 7:30 P.M.
CITY HALL AUDITORIUM, 110 RIVER STREET, MILFORD**

The Chair called to order the Public Hearing of the Planning and Zoning Board at 7:30 p.m.

A. PLEDGE OF ALLEGIANCE

B. ROLL CALL

Members Present: Frank Goodrich, Mark Bender (left 8:30), Janet Golden, Kim Rose, Kevin Liddy, Susan Shaw, Victor Ferrante, Jeanne Cervin, Chair.

Not Present: Kathy Patterson, Gregory Vetter, Sr.

Staff: David Sulkis, City Planner; Emmeline Harrigan, Assistant City Planner; Phyllis Leggett, Board Clerk.

C PUBLIC HEARING CLOSSES BY 5/12/09

1. **598 WEST AVENUE (ZONE CDD-1)** Petition of Barrett Outdoor Communications, Inc. for approval of a Special Permit and Site Plan Review for the reduction and relocation of commercial advertising signs on Map 42, Block 304, Parcel 1A, of which Riverbrook, LLC is the owner.

John Knuff, Esq., 147 Broad Street, Milford. Present on behalf of Barrett Outdoor Communications. Also present, Bruce Barrett, principal of Barrett Outdoor Communications and Ray Paier, Professional Engineer from Westcott and Mapes, Inc.

This is a Special Permit application pursuant to Sec. 5.3.6.7 to remove three existing outdoor signs on properties located on Erna Street and replace them with one sign located at 598 West Avenue, which is the location of a portion of Gloria Commons, which is under construction.

This is probably the first application to be presented under this regulation. The application results from the close cooperation of two abutting landowners and the foresight that they utilized in combining to submit this application. The application is also motivated by the applicant's commitment to the environment. The applicant is making a much larger concession than required by the regulations. It will also help local businesses, particularly those in Devon, while being invisible to anyone other than those traveling southbound on I-95. Described this as a "win-win" situation for all parties involved.

Bruce Barrett, Principal and Co-Owner of Barrett Outdoor Communications, 381 Highland Street, West Haven. Stated he is also a resident of Milford.

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Displayed large photos of the map of Gloria Commons and the existing billboards located on Erna Street on an elevated piece of land at the end of the street. Those signs are proposed to be removed. Showed the proposed location of the new sign. Over the years the three signs were very visible from the highway. Gave the history of these signs' visibility due to the cooperation between the water company who pruned and maintained all the land from 1963 when the sign was first built. This was done as part of the maintenance of the watershed. Barrett pruned the trees along the edge of the highway, because under State law, any business next to the highway has a right to prune the trees. (Showed photos of how the signs looked in the 1970s.)

The water company sold the property in the late 1980s where the signs are located and the trees stopped being pruned. Gradually the sign disappeared behind overgrown trees. Barrett anticipated someone buying the property who would eventually take the trees down and that is what happened. The sign is now visible from the highway. The only trees blocking the area now are the State trees. By removing any more trees, it adversely affects Gloria Commons. (Showed photos of how the sign area looks today.)

Barrett's intention is to take all three signs down and build a smaller sign up against the highway behind the pump station. This would be advantageous because it faces Exit 34 (southbound on I-95) in Devon and it can promote Devon business. Asked Ray Paier to do an elevation study to make sure the sign was high enough to be seen but not so high that it would be an eyesore and inappropriate to the area. Showed a map with a person standing at the entrance of Gloria Commons looking up at the sign. It shows his sight line is blocked by the pump station, so he cannot see the sign. The sign will be blocked from most positions. It will be visible, but not from every angle. There is a whole bunch of trees between West Avenue and the sign's location by the pump station. When driving by West Avenue all the pine trees block the sign so it is hidden. The intent of this sign is that it be highly visible from I-95 to southbound traffic, and very hard to find if you are somewhere else because it is not elevated on a hill. It is in a lower area.

Ray Paier also prepared a tree trimming map which looks at the scope of trees that have to be pruned in order for the existing signs to be visible. There is proposed construction in this area and all the State edge trees would be pruned, which would be near the balconies of the proposed homes. (Showed the area just described)

This information had been presented to the Devon Revitalization Committee and they have submitted a letter to the Planning Commission in support of this application. (The letter was submitted and date stamped for the file)

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Mr. Knuff: Stated there are three existing legal, nonconforming signs located on the two different properties; one at Erna Street at the top of the embankment and directly adjacent to the Gloria Commons property. One sign looks southbound on I-95 and two are visible to I-95 northbound. As nonconforming signs the applicant has the right to use those signs, to make improvements to them and add new signs. Each is considerably larger than what the regulations currently permit. Regulations permit a sign to be 672 sf. The existing signs are 900 sf, 900 sf. and 1008 sf respectively. All the signs existing and proposed are in the CDD-1 zone and are allowed by Special Permits.

This is an application to remove all three signs and replace them with one sign that conforms to the 672 sf requirement on the Gloria Commons property. The proposed sign is 23.9%, or less than a quarter of the existing signage by square footage. The regulations do not require a 3 for 1 replacement in the number of signs and the regulations do not require a 4 for 1 replacement in square footage. The regulations only require that one sign be replaced.

Bruce Barrett and the owner of Gloria Commons have reached an agreement on an easement to locate the sign on the Gloria Commons property. That is also included in the condominium documents for Gloria Commons. The property owners have been forthright in letting the perspective homeowners know that there could be a sign located on their property. The search for the ideal location of the sign was one where it would not be seen by the Gloria Commons residents; would not be seen by those along West Avenue; would not be seen by those traveling northbound on I-95, only southbound, and they found this location which meets all those requirements.

The application is in compliance with all of the regulations pertaining to outdoor signage except for three:

1. The minimum side yard setback: 20 feet is required and 0 is being provided.
2. Minimum distance from the highway right-of-way, 50 feet is required and 0 is being provided.
3. The maximum height above the ground; 40 feet is the maximum and 46 feet is being proposed.

The rationale for these waivers was explained: There is no abutting property owner to the side yard setback other than the State. It also ties into the 50 foot requirement to the State right-of-way. The Engineering/Public Works Departments do not feel that sight line problems exist. The State does not care how close the sign is to the setbacks. The State DOT was notified of the intention and they have provided no response. Past experience indicates if the

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DOT has a concern about an issue, they will let it be known. Regarding the height, requesting a waiver for the maximum above ground because if it is measured from where the sign is posted, there is a significant change in elevation between the road bed of I-95 and where the sign will actually be placed. The height complies with the maximum height above the street level, but it does not comply with the maximum height above the ground. That is due to the unusual topography.

Mr. Knuff repeated Barrett's commitment to the environment. The company has a number of tenets that they believe in, which they will not violate. Will not use electronic signs; they only buy green power, which is more expensive than buying from UI or CLP. They are working with a manufacturer of LED lights to come up with the actual components that they can use to install on all their signs. Would like to use LED lights on the proposed sign.

Noted for the record: Photos of the placard posted on March 24th have been submitted. Wetlands on the property. Wetland approval was received on 11/19/08. The site is directly adjacent to the pump station. The Sewer Commission has approved the application.

Ray Paier, Chief Engineer, Westcott and Mapes, 142 Temple Street, New Haven, CT 06510. Discussed the engineering aspects of the project, as well as the lighting plan. Coordinated with Waste Water and Public Works to shift the chain link fence five feet to the east which will allow all the existing trees to remain in place. No trees will be cut down. The photometrics plan is totally in compliance with the regulations. Zero-foot candles on the property and along both property lines. Submitted three signed and sealed copies of the photometrics plan. For security a four-foot high, double swing gate vinyl chain link fence is being proposed and a chain link fence along the side for enclosure.

Mme. Chair: Asked Mr. Knuff for clarification as to whether DOT did not respond or responded with having no problem.

Mr. Knuff: DOT did not respond.

Mr. Sulkis: The DOT has never been shy about expressing their opinion about anything. It was not required that they go to DOT. He had suggested it. DOT chose not to comment.

Stated the lighting plan had just been received and distributed and he had some questions. Asked about the levels of light elevations.

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Mr. Paier: The levels are at ground level. The lights are 28-feet above the ground. They are all 0 foot candles along the property line at ground level, in accordance with the regulations. Lighting is projected onto the sign. There is no spillage onto the ground.

Mr. Sulkis: It appears that they up lights.

Mr. Paier: The lights are pointing upward onto the sign face.

Mr. Sulkis: Asked if Mr. Paier was aware that the regulations prohibit up lighting in this type of use.

Mr. Knuff: Explained that this type of lighting was used due to the proximity of the billboard to I-95 where the lighting is intense. This should not be a detrimental impact to the surrounding area which is mostly treed. Also incorporating a smaller sign in place of three larger signs that could be lit. Total lighting is being minimized from 3 to 1.

Mr. Liddy: Stated the lighting was upward, which is not allowed in the regulations; the wattage was higher than allowed. The spillage and location of lighting was determined to be harmful to migratory birds. The position of lights should be reconsidered.

Mr. Barrett: Explained the type of lighting that will be used and the new type of bulbs that will be used which produce less wattage and reduce the lighting footprint. The wattage is not a factor anymore in terms of the newer types of lights that will be used. Described the type of lighting that will be used and this sign will be a prototype for this new lighting system.

Mr. Ferrante: Asked how spillage is determined if the lights are facing up.

Mr. Barrett: Explained how his company measures light spillage at night.

Mr. Ferrante: Asked if Mr. Barrett's company would measure the light spillage, should the Planning and Zoning Office get complaints of light spillage from nearby residents.

Mr. Barrett: Stated his company would see that the necessary tests were conducted by an independent source.

Mr. Sulkis: Clarified and corrected Mr. Liddy's interpretation of the type of lighting that was allowed according to the regulations.

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Ms. Rose and Mr. Bender asked about the billboard's proximity to the highway and were there other signs that were as close to the highway.

Mr. Barrett: Described the location of the sign in respect to I-95. Once the application is approved, DOT receives an application which they must approve.

Ms. Shaw: Asked for clarification that the three existing signs will be gone and can never come back.

Mr. Barrett: Confirmed this because the signs were non-conforming and could not be brought back to that location.

Mr. Knuff: Quoted from Sec. 7.2.3. Submitted and read a letter from the Devon Revitalization Committee in support of this application. [Letter is on file at the Planning and Zoning office.]

Mme. Chair: Asked the public if there was anyone to speak in favor.

(No response)

Anyone to speak in opposition?

Gerry Wilson, West Avenue. Walks this area every day. Billboards are eyesores. Attractive nuisances to drivers who should be focused on the road not reading billboards. When Gloria Commons was developed the pine trees were removed leaving the area open to noise from I-95, 24/7. Concrete barriers are needed, not billboards.

Ron Monforte, Gloria Commons. It will be an eyesore from Gloria Commons facing north with lights on it. Property values have dropped by one third. Thought they were going to take down the signs and place another one where it could not be seen by Gloria Commons residents.

Rosie Halliwell, Gloria Commons. Cannot open windows because it is so loud. Almost weekly there is an accident on the highway. So bright from the highway no lights are needed in the house.

Rebuttal:

Mr. Barrett: Studies have been done to determine whether signs are a nuisance. No evidence shown that billboards cause accidents. This is a commercial zone. The Water Company had sold the property to develop condominiums. It was nicer when it was undeveloped and the trees were being pruned.

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Mr. Barrett took the opportunity to explain the location and direction of the billboard to Mr. Monforte.

Mr. Knuff: Stated the property is in the commercial CDD-1 zone. A Special Exception was granted for that property. Very sensitive to the concerns about tree cutting. Have the same concerns about the trees as the residents.

Mr. Ferrante: Who owns the site?

Mr. Knuff: Riverbrook LLC is the owner of Gloria Commons.

Mr. Ferrante: Asked if there was an easement to the Gloria Commons property, for how long and who controls the trees?

Mr. Knuff: Gloria Commons provided an easement in perpetuity and Barrett is responsible for maintenance of the trees. The Board received the information and it is shown which trees will remain.

Mme.Chair: Asked Mr. Sulkis if in view of the new photometric plan that was presented that a consultant be brought in to review it.

Mr. Sulkis: Milford's regulations give photometric standards. They have presented a survey that meets those standards. Asked the Chair what a consultant would be asked to do, such as impose a different standard not within the regulations. That would present a problem. The applicant appears to have responded to all the questions posed with regard to lighting and spillage.

Mr. Liddy: Asked if the billboards would be lit all night.

Mr. Barrett: Depends on the advertiser. Most do not want it lit all night.

Declared the public hearing closed.

[A recess was taken from 8:51 to 8:58]

CONTINUED PUBLIC HEARING CLOSSES BY 4/30/09; exp. 6/24/09

2. **12 FRANCIS STREET (ZONE R-7.5)** Pursuant to Sec. 7.1.3.14 of the City of Milford Zoning Regulations, the Planning and Zoning Board will review and consider whether to revoke the zoning permit issued to Joseph Voll on April 17, 2007, for work to be performed at the property located at 12 Francis Street, Assessor's Map 6, Block 84, Parcel 2, and owned by

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Antoinette Voll.

To be heard at the April 21, 2009 Planning and Zoning meeting.

NEW BUSINESS

3. **55 SMITH'S POINT ROAD (ZONE R-7.5)** Petition of Thomas Lynch, Esq., on behalf of Barbara Blank and Barry Shapiro, for Coastal Area Management Site Plan Review approval to construct a new single family residence on Map 3, Block 90, Parcel 14, of which Barry Shapiro is the owner.

Thomas Lynch, Esq., Lynch Trembicki and Boynton, 63 Cherry Street, Milford. Representing Barry Shapiro, the property owner requesting approval of a Coastal Site Plan Review for the development of the property for construction of a new single-family residence. Paul Holub is the architect of the residence. Gave the history of the property: Application is brought under sec. 5.12 of the regulations for a Coastal Site Plan Review in conjunction with sec. 22a(90) of the Connecticut General Statutes. There was a single family 1.5 story home on the property when it was purchased by Mr. Shapiro in 2006. Obtained the permits to demolish the house and it is now a building lot. Obtained a variance under sec. 5.7.8.3 from the Zoning Board of Appeals, which approved a septic system where sewers were otherwise required. There are no sewers in this area so the home could not be hooked up to any. The Health Department has approved the septic system. The plans conform to the City regulations as well as the State regulations governed by the DEP.

The property consists of over 46,000 SF. The new residence will be two stories which will conform to the height and setback regulations. The house that was demolished had lot coverage of 8%. The proposed dwelling will have a lot coverage slightly higher, but far below what the regulations allow in the R 7-5 zone. The house will be approximately 2900 SF.

Paul Holub, Architect, Country Club Drive, Oxford, CT. Project started as a renovation. Through working with the Planning and Zoning Office, it was determined that the house should be demolished so that FEMA regulations could be complied with. The property is in a V flood plain zone at elevation 13. FEMA requires to get it two feet above that level. The first floor of the house is now at 15 feet. All the concrete structure around it has breakaway panels per velocity zone requirements. The proposed house is almost identical in shape as the old house with the exception of the placement of the garage. Follows similar dimensions to the old house, which the owners liked. Very little earth disturbance in the project. All the City departments and the DEP have approved

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this application.

Mr. Holub described the details of the house and its location via displayed plans.

Ms. Harrigan: Stated the DEP had some comments on the project. Had another issue with a wall. The owner has complied with DEP's requests.

Mr. Liddy: Asked about the septic system.

Mr. Holub: The septic system was designed by Martinez and Couch. It leaches into a new low boy system. The system passed the necessary perk tests and was approved by the Health Department.

There was discussion regarding any potential disturbance of the soil during construction. It was determined there will be minimal, if any, alteration of the site because of the new construction. There will be no impact on the coastal resources as a result of this construct.

Mr. Ferrante: Asked Staff why this was not a prohibited four story house due to the size of the attic and dormers.

Mr. Holub: Explained that this is a two-story house with an attic. Three floors are allowed. The breakaway panels are not considered a floor. First floor, second floor and attic. Crawl space is truly a crawl space (approximately 4 feet) and not a basement.

Ms. Rose: Made a motion to approve the application as presented.

Ms. Shaw: Second.

Mr. Goodrich: No beach grass is being disturbed in this project.

Attending seven members voted in favor. Application was approved unanimously.

26-28 BROAD STREET (ZONE MCDD) Petition of Baybrook Remodelers, Inc. for Site Plan Review approval to construct a second floor addition to an existing one-story business structure on Map 54, Block 402, Parcel 14, of which Susan Harris and Peter Spelthoff are the owners.

David Lessig, Architect, Sapienza and Lessig, Campbell Avenue, West Haven. Representing Baybrook Remodelers, the constructor for the owners of the property in question. Application is to build a second floor residence addition

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atop an existing business structure. Also requesting approval of parking adequacy. Described the design of the exterior of the addition via displayed plans and how it will be incorporated into the existing building. There will be a rooftop terrace. There are five striped parking spaces within the property. The owner would like to plant arbor vitae to screen the parked cars from the pedestrian activity that walk up and down on the adjacent property. Requesting a finding of parking adequacy. There is a municipal parking lot behind the property. Parking at this time is not an issue. There are two more parking spaces required to accommodate the proposed residence. Showed floor plans of the existing first floor of the building with office space and a corridor. Some of the office space will be removed to allow for an elevator and stairway going up to the proposed second floor residence. Showed the floor plans for the new residence. Colors of the second floor will match those of the existing building.

Mme. Chair: Asked about the parking adequacy.

Mr. Sulkis: Since the building is doubling in size, more parking is required.

Ms. Shaw: Asked if the parking spaces for the building and residence were marked as such.

Mr. Lessig: The spaces are striped but there is no signage.

Mr. Goodrich: Read from the parking regulations, which does not appear to be a problem to the application.

Mme. Chair: Does not see any problem with this application. Building is already the nicest on the street. No problem with the parking adequacy.

Ms. Rose: Agrees that it is a beautiful building and will enhance the downtown. Made a motion to approve the application.

Mrs. Golden: Second.

Mr. Sulkis: Noted that the proposed row of arbor vitae shortens the length of the parking spaces that are there. Suggested there be a condition to remove the arbor vitae.

Mme. Chair: Asked if there could be smaller plantings in place of the arbor vitae. There appears to be two feet before the property line.

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Mr. Lessig: Stated Mr. Sulkis had mentioned this and the owner is amenable to making a change. He described the parking area along with the adjacent property and the length of the parking spaces.

Mme. Chair: Suggested an amendment be made to the motion.

Ms. Rose: Approve the petition of Baybrook Remodelers, Inc. for Site Plan approval to construct a second floor addition to an existing one story business structure and to work with the City Planner to create a green area in place of the area designed for arbor vitae plantings.

Seven members present voted in favor. The application was unanimously approved.

5. **GOLDEN HILL STREET (ZONE MCDD)** Petition of John A. Wicko, Architect for Coastal Area Management Site Plan Review and Site Plan Review approval to construct a two-family residence on Map 44, Block 390, Parcel 6A, of which Milton Investments LLC is the owner.

John Wicko, Architect, 50 Broad Street, Milford. Application is for a two-family residence, which is a permitted use in the MCDD zone. A Coastal Area Management Site Plan Review is also required. The lot splits the CAM area, and is on the outer fringes of it. The impact of the general resources which is view and water, which in this case is infiltration of any storm water that may be increased. The site is presently vacant. Proposing a two family residence on 7200 SF. There will be increased water runoff which will be addressed through water treatment and two drywells that will take care of any water overflow at the outside fringes of the CAM area. Codespoti and Associates has prepared the site engineering. There will be a two-car garage in the rear of the residence with a parking area for two cars with a turnaround. Removing the parking area presently located in the front. There is an easement for the shared driveway with the adjacent vacant property.

Mr. Wicko described the interior and exterior of the proposed residences via displayed plans. The property is in the medical district and although it can be allowed for medical offices, it will be used as a residence. Design of the house is in keeping with the neighborhood.

Ms. Rose: Made a motion to approve the application as presented.

Mr. Goodrich: Second.

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Mme. Chair: This is a nice upgrade to the street.

All attending members voted in favor. Motion passed unanimously.

E. PROPOSED REGULATION CHANGES

Mr. Sulkis: Reviewed the draft of proposed changes he submitted for the Board's review. Asked that a new section be added to Sec. 3.12.5 for prohibited uses to be known as 3.12.5.3 and read as follows:

"Depositing, collection, transferring, processing, or handling of any solid, liquid or gaseous materials for any purpose, including volume reduction, recycling, repackaging or reuse. For the purpose of this section, materials shall include any organic, inorganic or waste product."

Requested this change be incorporated into the regulations as soon as possible.

Mr. Ferrante: Asked what was the purpose of this regulation.

Mr. Sulkis: To keep businesses that do trash hauling and solid waste processing from cropping up in the zone.

Mr. Ferrante: Said he understood the intent but feared this might be too broad.

Mr. Sulkis: This is for the Housatonic Design District. The regulations dictate they do not want those kinds of uses along the water. The present wording is not tight enough.

Mr. Ferrante: Concerned about limiting technology in the organic recycling area.

Mr. Sulkis: We don't want dump trucks and garbage trucks carrying solid waste 24 hours a day to a facility located in the Housatonic River district. There are other areas for those purposes. This district is not appropriate for that use.

Ms. Rose: This is an important item to add into the regulations. Made a motion to move this to regional approval and proceed with a public hearing.

Mr. Goodrich: Second.

All attending members voted in favor. Motion passed unanimously.

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Mme. Chair: The Board will review the remainder of the proposed changes.

F. LIAISON REPORTS

Mr. Goodrich: Attended the Board of Aldermen meeting. They approved the purchase of the Bridgeport Avenue parking lot. Also approved Mr. Sulkis' presentation for the abandonment of a portion of Barbara Drive in the amount of 4,133 SF be transferred to 42 and 48 Barbara Drive. This was supposed to have taken place when a subdivision in the cul-de-sac was approved, but had never been brought before the Board of Aldermen until now.

G. APPROVAL OF MINUTES – (3/17/09)

Mr. Goodrich: Motion to approve.

Mr. Ferrante: Second.

All members voted in favor.

H. CHAIR'S REPORT

DVDs of the meeting will be made and kept in the Planning and Zoning office for viewing purposes by board members as well as the public.

More land use workshops available for those board members who are interested in attending.

Regarding the LEEDS resolution. The Planning and Zoning Board does not have the purview to pass a resolution to the Board of Aldermen regarding building use, since they are a land use board. Can continue this initiative as private citizens who can present the resolution. With consensus, the Board can approve another group who wants to do this, i.e., ECC or the Mayor's Clean Energy Task Force. Can ask Mr. Sulkis to submit a letter to the Mayor.

Described the Clean Energy Task Force. They are currently writing a City energy plan. Ways for the City to save energy. May include the LEEDs resolution to present to the Board of Aldermen. The Board can have an informal liaison to this committee.

City will be receiving stimulus money directed specifically to energy efficiency.

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The State has adopted LEEDS certificate standards in 2006 for new buildings getting state funds over \$2M and renovated over \$1M or more. They are having problems implementing this because of federal and state building codes.

The Chair thanked Susan Shaw for all the work she had done on behalf of incorporating LEEDS into the City. Believes this will be fruitful in the future.

Asked that LEEDS brochures be available to the public in the Planning and Zoning office.

I. STAFF REPORT

Mr. Sulkis: Mentioned the Zoning Enforcement Officer's quarterly report was distributed to the members this evening.

Described to the board some of the many duties the Zoning Enforcement Officer performs in addition to going out on violation inspections.

Mr. Goodrich: Made a motion to adjourn.

Mr. Ferrante: Second.

The meeting adjourned at 10:23 p.m.

Phyllis Leggett, Board Clerk