

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING
1200th MEETING SESSION (2nd OF 2006)

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THURSDAY

FEBRUARY 9, 2006

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The Special Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:17 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
MICHAEL G. TURNBULL	Commissioner (AOC)
KEVIN HILDEBRAND	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Acting Secretary
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OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS	
STEVE COCHRAN	
ELLEN MCCARTHY	Interim Director
ARTHUR RODGERS	
JENNIFER STEINGASSER	

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OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
MARY NAGELHOUT, ESQ.

This transcript constitutes the minutes
from the Special Public Meeting held on February 9,
2006.

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<u>PRELIMINARY MATTERS BY SHARON SCHELLIN</u>		4
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1 P-R-O-C-E-E-D-I-N-G-S

2 (6:17 p.m.)

3 CHAIRPERSON MITTEN: Good evening, ladies
4 and gentlemen. This is a special public meeting of
5 the Zoning Commission of the District of Columbia
6 for Thursday, February 9, 2006. My name is Carol
7 Mitten and joining me this evening are Vice-Chairman
8 Anthony Hood and Commissioners Greg Jeffries and
9 John Parsons.

10 Before we get started, are there any
11 preliminary matters, Ms. Schellin?

12 SECRETARY SCHELLIN: No ma'am.

13 CHAIRPERSON MITTEN: Okay, great. Then
14 we'll turn to the single item that we have on our
15 agenda for proposed action this evening, which is
16 Zoning Commission Case Number 05-24, which is the
17 Eastgate Family Housing PUD. And we received an
18 additional submission today that addresses some of
19 the items that were, I would say, loose ends that
20 had been created by some of the submissions that we
21 got in response to our requests at the conclusion of
22 the hearing, and I guess I'll just open it up for
23 comments, to start with.

24 Mr. Hood?

25 MR. HOOD: Well, Madam Chairman, I'm going

1 to start off and tell the Applicant that I
2 appreciate the list and the tract record in their
3 job creation of the 51% in the LSDBE's and I think
4 this is a well-deserved list. I know that they
5 testified to it. It wasn't that I didn't believe
6 them, but I know they testified to it and I'm glad
7 now that I can see it in black and white. And
8 that's all I have. Thanks, Madam Chair.

9 CHAIRPERSON MITTEN: Thank you. Is there
10 anyone else?

11 Mr. Jeffries, are you ready, or do you
12 want me to go next?

13 MR. JEFFRIES: I'm not ready, Madam Chair.

14 CHAIRPERSON MITTEN: Okay. I guess I have
15 a - there are a couple of things that I think need
16 to be clarified, at least for me. One is about the
17 project phasing. There was an open-ended, I guess -
18 - I'll call it a "request" because it did -- it had
19 come up at the hearing that they would want to
20 develop the project in phases and then in the
21 proposed order, it says that the PUD project may be
22 developed in phases and -- but the phases were not
23 articulated with any degree of specificity, so it
24 still remains open-ended. And then in the letter
25 that we received today, it says, "Construction is

1 projected to be completed in two years. So I don't
2 understand the phasing, how the phasing is intended
3 to be accomplished. So, I don't find the letter
4 instructive as it relates to the phasing.

5 Also, I have a general concern about
6 getting the Urban Tree Park completed within the
7 parameters of the project itself and there was
8 something that came in the submission, on the 26th,
9 I think it was, of January, and this was in response
10 to our specific questions and -- having to do with
11 the access easement and so on, but for the first
12 time, we see that the Applicant is proposing to
13 finish each rear yard with a 6-foot high, board-on-
14 board white vinyl privacy fence. We had really no
15 discussion in the hearing about fences and I'm just
16 concerned not only about the appearance of that, but
17 also about what that does to the easement area in
18 terms of creating a more confined space. So those
19 are some of my remaining concerns.

20 Mr. Jeffries?

21 COMMISSIONER JEFFRIES: My concerns, there
22 is some overlap here. I, too -- I still have some
23 concerns about this access easement. I see, based
24 on what's been sent in, it's going to be sort of
25 natural soil and compounds that harden over time.

1 By the look of it on this master plan, it still
2 seems rather slight, and I'm just still not fully
3 convinced that it is -- will be really beneficial
4 for the use intended. And then I'm also concerned
5 about this urban park as well. Given that this park
6 is really, of this Master Plan development, this
7 park is a very major proffer. I mean, it really
8 does really set the stage for this overall
9 development, and it would be an outright shame if
10 over the construction period we got to the back end
11 and this park starts to look very different than
12 what's set forth here. So I'm just concerned about
13 delivery of the park as it relates to the rest of
14 the development.

15 And then in terms of these curb cuts, I am
16 certainly not interested in the Applicant going back
17 and revisiting the drawings, but I do like the
18 thought of at least one -- few additional curb cuts
19 being taken away, so I'm -- once we get to the
20 driveway situation, Exhibit 1A is probably what I
21 can sort of get on board with.

22 So, those are effectively, my comments.

23 CHAIRPERSON MITTEN: Thank you. Mr.
24 Parsons?

25 COMMISSIONER PARSONS: I would concur with

1 everything you've said. So we have a dilemma. We
2 can either start to impose what we want, or have a
3 discussion and maybe have the Applicant respond to
4 that possibly in time for our Monday meeting.

5 My view is that the walking trail between
6 the units as it extends down to the -- well, the
7 walking trail continues around from the upper garden
8 to the two tot lots. But as we've observed, it's
9 not continued between the units back towards 51st
10 Street and I think we essentially, as a Commission,
11 concluded that was something that should be done.
12 And I'm not sure from the drawing that that's been
13 shown or responded to. So I think we just ought to
14 say it should happen. It should be of the same
15 surface that is being applied to the rest of the
16 walking trail, as it's called.

17 The fence is -- which is a new item, as
18 noticed -- in response to your inquiry, I guess.

19 CHAIRPERSON MITTEN: Better to know.

20 COMMISSIONER PARSONS: Is the kind of thing
21 that will come because of human nature, wanting to
22 define your space, and I'm reminded of -- don't tell
23 old stories - where we precluded that from happening
24 in a PUD in Northwest. And lo and behold, the Home
25 Owners Association came back within two years,

1 asking for a modification to the PUD to do exactly
2 what's proposed here tonight. I think the white
3 vinyl that's proposed is the thing that's offensive
4 visually to me. I think it ought to be a wood
5 stockade fence that will gray and be more natural in
6 feeling, but that's my thoughts on that.

7 Now ten years, requesting ten years to
8 accomplish this joint effort with the Environmental
9 Conservation Corps -- good people and the Casey Tree
10 people -- it just shouldn't take ten years. But to
11 impose on them two years, I think, is the kind of
12 thing I'd like some -- that's where I come from is,
13 let's get this done. This is a major amenity to
14 this community and it should be done. And there's
15 nothing that really explains why it's going to take
16 so long. It just says it will.

17 So that's where I would come from on that,
18 is to tell us why, why you can't do it in three
19 years or four. Because I sense the burden of this
20 might come upon the home owners --

21 CHAIRPERSON MITTEN: Right.

22 COMMISSIONER PARSONS: -- rather than the
23 developer, and that's wrong.

24 CHAIRPERSON MITTEN: Right.

25 COMMISSIONER PARSONS: Absolutely. These

1 people are not trained professionally or are not
2 going to be organized in such a way that they could
3 work on this. It's got to be the obligation of the
4 developer. So, we either keep the developer in here
5 for ten years or five years, or we get it done.

6 So there's my thoughts.

7 COMMISSIONER JEFFRIES: But let me --
8 Commissioner Parsons, so let me just understand, I
9 mean, clearly -- I mean I don't have a problem in
10 terms of in the phasing, I mean they're looking to
11 get as many of the housing units in place as
12 possible. Are you proposing -- because the concern
13 I have is that this park, in terms of its
14 importance, might lessen over time. I mean, it just
15 will start to sort of slip and so I agree with you,
16 ten years, you know, that seems to be far out, and
17 two years is a little soon, but what's the hammer?
18 I guess I'm not certain about what's going to compel
19 them after all of the houses are in, to do this
20 park?

21 COMMISSIONER PARSONS: That's the problem,
22 nothing. And the developer's gone and units are up
23 and running. I can't remember what kind of regime
24 is going to manage this place.

25 COMMISSIONER JEFFRIES: It might be -- I'm

1 not certain.

2 COMMISSIONER PARSONS: Home Owners
3 Association or something. I would agree with him.
4 It's going to take it ten years to make it look like
5 it does on the plans, but not to implement it.
6 That's the problem. Go in there and get rid of the
7 invasive species, plant new trees, get it on its
8 way, and not --

9 CHAIRPERSON MITTEN: I think the solution
10 for it is that, first of all, I think we need to
11 understand how they're going to phase the building
12 of the houses. If they're going to do all that at
13 once, then we need whatever hammer -- that is the
14 hammer, is when is this -- when are the final groups
15 of houses going to be completed and whatever they're
16 proffering has to be completed by that time. So
17 they need to adjust their proffer to what they can
18 do with it. They can have all these great
19 aspirations, but as Mr. Parsons said, it will fall
20 on the backs of the homeowners.

21 COMMISSIONER JEFFRIES: Is it possible that
22 we could -- you know, that there could be some sort
23 of fund, tree -- park fund set up as they go along,
24 as they take these homes down that, at least the
25 monies are in place to really make certain that this

1 park, you know, happens as it is supposed to? I
2 mean I'm just throwing something out here.

3 CHAIRPERSON MITTEN: That's an approach
4 that they could come back to us.

5 COMMISSIONER PARSONS: Yes, that might
6 work.

7 COMMISSIONER JEFFRIES: Because that's a
8 concern I would have. I mean, obviously, if the
9 Applicant could walk us through it a different way,
10 I mean, that's fine, but I just -- there needs to be
11 something that even if they've moved on to something
12 else, that at least the money's there that the
13 ownership could actually step in and hire someone
14 else to complete this, you know, per the order.

15 CHAIRPERSON MITTEN: I wanted to ask just
16 for -- what your reaction is to another issue that
17 was brought up about the fences. And not living in
18 the suburbs, I don't know how people behave, but the
19 idea is that the lot lines at the back row, they'll
20 be touching. Then there'll be an easement, two and
21 a half feet on your side and two and a half feet on
22 my side so that it's five feet wide, and then the
23 fence will go another seven and a half feet from the
24 edge of the easement because the fence is supposed
25 to go ten feet from the property line. Do the ones

1 that are back-to-back. Look at the ones that are
2 back-to-back.

3 So if I'm the kind of person that wants to
4 have a fence around my yard, then I'm probably the
5 kind of person that wants to mow the lawn inside my
6 fence and forget the rest. So I'm just wondering
7 what you all think about just the maintenance
8 because your responsibility, your lot will go all
9 the way back, but your fence will sort of suggest
10 that there's -- you don't have responsibility back
11 there and I'm wondering -- I mean, I see that as a
12 potential maintenance problem that needs to be
13 addressed if we're going to allow fences like that.

14 COMMISSIONER JEFFRIES: So are you saying
15 maintenance of the fence or the area that is between
16 the access --

17 CHAIRPERSON MITTEN: Mowing the lawn and
18 between the fences.

19 COMMISSIONER JEFFRIES: I know they said
20 that A&R was going to deal with the actual path.

21 CHAIRPERSON MITTEN: Do you see what I
22 mean?

23 COMMISSIONER PARSONS: I do.

24 VICE-CHAIRPERSON HOOD: You're saying the
25 fence ends and then you have that area out there,

1 the grass area out there, that nobody will maintain?

2 COMMISSIONER PARSONS: Well, no -- but I
3 think the issue is --

4 CHAIRPERSON MITTEN: Well, I think it's
5 human nature -- it would be human nature not to
6 maintain it.

7 VICE-CHAIRMAN HOOD: Well, I don't know if
8 I exactly agree with that because if I had that
9 opportunity, first of all, I would want to be able
10 to get out the back and if you don't maintain it,
11 and what winds up happening, you'll have some
12 neighbors like human nature -- it happens everywhere
13 -- somebody's going to probably cut -- maybe three
14 or four neighbors are going to cut that whole path
15 and that's just the way that works. I've seen it.
16 I know. I mean, that's just how it works. You have
17 some who are irresponsible, like you're saying, and
18 they're not going to take care of it, but you have
19 some that want to maintain it and keep it up. But
20 you're right, it does leave that room for okay, I
21 don't need to be bothered with that. That's outside
22 of my fence. But you have some good neighbors, like
23 all of us in this room, who will go out there and
24 cut it and take care of it. To me, that's not a big
25 thing. I think it'll get done.

1 COMMISSIONER PARSONS: And certainly,
2 there's going to be a community maintenance of other
3 public spaces.

4 CHAIRPERSON MITTEN: Yes.

5 COMMISSIONER JEFFRIES: I'm just wondering
6 if A&R Management's going to sort of -- it doesn't
7 say it, but it just seems -- it says here that the
8 access easement will be maintained by Eastgate
9 Residents Association, of which 125, okay - and then
10 maintenance will be contracted to the professional
11 management company, A&R Management. I mean, it
12 doesn't say about that patch, the grassy knoll,
13 who's going to take care of that, but you know, I
14 would imagine that that would also be part of the
15 responsibility, given that it's just adjacent to it.

16 CHAIRPERSON MITTEN: The thing that bothers
17 me, you know, I guess I've sort of made peace with
18 the fact that -- of the configuration, you know, and
19 I'm open to entertaining Exhibit 1A as the favored
20 choice, but this is -- everything about this is
21 suburban. And then when the fences came in, that was
22 just kind of like the clincher. And I understand
23 why, with the grade that's not conducive to having
24 alleys, but there's so many, to me, things that are
25 distinctly suburban as opposed to distinctly urban

1 that are created as a result of not having the
2 alley, and that it's just unfortunate, and I want to
3 make it clear now and I'll make it clear when we
4 talk about it again perhaps on Monday, is I don't
5 want people modeling after this. There's a unique
6 reason why this needs to be configured this way,
7 because of the topography, and I wouldn't want to
8 see people emulating this.

9 COMMISSIONER JEFFRIES: Yeah, Madam Chair,
10 you know, I also have some ambivalence around it.
11 It really does give the feel of sort of suburban,
12 but unfortunately, I think the neighborhood is not
13 like Adams Morgan or Shawl or --

14 CHAIRPERSON MITTEN: I know.

15 COMMISSIONER JEFFRIES: -- you know, so
16 it's not sort of infield development, but at the
17 same time, you would really still like to see some
18 aspects of it where they could to sort of maintain
19 the grid and I think they're trying to do this along
20 Queen's Stroll Road. I mean, they're trying to at
21 least deal with the outside, but I do find this area
22 to be somewhat of a hybrid. It's not quite, as we
23 know it, to be sort of gritty, sort of infield area,
24 and it's not quite totally suburban. It's somewhere
25 in the middle. I know we had this problem with

1 Skyland Shopping Center, the same thing. You know,
2 there were people who wanted it to look sort of like
3 14th Street, and I'm like, yeah, but it's a shopping
4 center. So, I understand your comments though, that
5 it does -- that we certainly should not be sending
6 the message to the development community that this
7 kind of suburban prototype is, you know, the best
8 master plan.

9 CHAIRPERSON MITTEN: What you've just said
10 is exactly right. When I say "suburban" in this
11 context, I'm using it figuratively, and there are
12 constructively good suburban developments, but this
13 -- it's what you said, it's this kind of suburban
14 prototype and there's a lot of things about this
15 that are less than desirable and it's a kind of
16 suburban development that I just don't think we
17 should be encouraging if we can avoid it. So I
18 think what I would like to advocate for is that we
19 take Mr. Parsons' advice and that we give a little
20 bit more time perhaps for the Applicant to react to
21 some of what we said tonight. I think that -- let
22 me just run down sort of trying to capture the
23 issues and ask for some specific things.

24 One is we need to understand exactly how
25 this will be phased. If it's intended that this

1 will be completed within the typical parameters of
2 what we require in terms of getting a building
3 permit within two years and starting construction
4 within three, that's not phasing. So if there is
5 some phasing intended, we need to have that
6 specifically articulated.

7 We need to have whatever it is about the
8 Urban Tree Park that can be delivered within the
9 parameters of the completion of construction, that
10 needs to be proffered, not something that's not
11 achievable within that time frame.

12 It's been suggested that the vinyl fencing
13 is not appropriate and that stockade fence would be
14 more appropriate. I would advocate for that as
15 well, if -- wood stockade, if we have to have
16 fences, then I suppose those would be better.

17 The -- I don't know what more we're
18 looking for on the access easement and the
19 maintenance of it or the material of it, if there's
20 anything more that we want on that.

21 COMMISSIONER PARSONS: Well, I would hope
22 that they would extend this walking trail surface
23 east/west in these two areas to the public alley.
24 It's now shown as grass. From the tot lots east to
25 the public alley.

1 CHAIRPERSON MITTEN: Okay, so that would
2 deal with one access easement area.

3 COMMISSIONER PARSONS: And the one on the
4 south side as well, don't you think?

5 CHAIRPERSON MITTEN: Oh, the walking path
6 goes to the southern tot lot. It doesn't go -- it
7 does not go behind the houses that are numbered 108,
8 107, 106, 105.

9 COMMISSIONER PARSONS: Oh. Well, what I
10 was trying to do is, this new site plan shows -- the
11 new site plan, I think it's new, L-A-1. It's
12 different from the one from the hearing. It shows
13 these pathways or access ways in gray. There are
14 three of them. Actually, one is shown -- let's take
15 them from the bottom, from the south side. One is
16 shown in gray, and for some reason, it stops about
17 halfway to the -- two-thirds of the way to the
18 alley.

19 CHAIRPERSON MITTEN: Yes.

20 COMMISSIONER PARSONS: The second one is
21 shown in beige.

22 CHAIRPERSON MITTEN: Right, that's a --

23 COMMISSIONER PARSONS: I hope I'm being
24 specific enough.

25 And the third one is shown in green. I'm trying to

1 get them all into a paving pattern or pavement
2 material that is shown from the walking trail to the
3 tot lot at the north side.

4 CHAIRPERSON MITTEN: Okay. Let me just be
5 clear then. I understand what you're looking for on
6 the north side is that the trail itself, that
7 basically that five-foot easement become a part of
8 the trail to connect to 51st Street.

9 COMMISSIONER PARSONS: Through the public
10 alley and parking lot.

11 CHAIRPERSON MITTEN: Okay. Then there is
12 no such opportunity for connection at the middle and
13 at the south because the path is more to the west.
14 It doesn't connect. Do you see this over here? It
15 doesn't --

16 COMMISSIONER PARSONS: Well, I --

17 CHAIRPERSON MITTEN: So, are you advocating
18 that whatever that material is that's used for
19 paving become the paving material for the 5-foot
20 access easement, whether or not it connects to the
21 walking path?

22 COMMISSIONER PARSONS: Well, let's look at
23 the submission.

24 CHAIRPERSON MITTEN: Okay.

25 COMMISSIONER PARSONS: If I understand what

1 these lines are, I'm going from the public alley now
2 with my finger, extending west. There's a double
3 line that shows it here.

4 CHAIRPERSON MITTEN: Yes.

5 COMMISSIONER PARSONS: But it also shows a
6 similar pair of lines going between houses.

7

8 CHAIRPERSON MITTEN: Yes.

9 COMMISSIONER PARSONS: All right?

10 CHAIRPERSON MITTEN: Yes.

11 COMMISSIONER PARSONS: So what I had in
12 mind was that, those double lines which were
13 designed for that purpose, would be paved in some
14 fashion.

15 CHAIRPERSON MITTEN: Well, what they
16 proposed to do is pave it with this compacted dirt
17 or compacted -- what's it called?

18 COMMISSIONER JEFFRIES: Yeah, it's a steam-
19 rolled natural soil and compound that hardens.

20 COMMISSIONER PARSONS: Which is fine, but
21 it's not shown on the drawing. I guess that's my
22 point.

23 CHAIRPERSON MITTEN: Oh, I see. Okay.

24 COMMISSIONER PARSONS: I'm fumbling here,
25 but it's shown in green and that doesn't show --

1 CHAIRPERSON MITTEN: Okay, let me try this.

2 COMMISSIONER PARSONS: So it's a graphic
3 problem.

4 CHAIRPERSON MITTEN: Okay, let me just make
5 it clear though. When they show the walking path
6 and it's in, like it looks like a taupe or tan color
7 --

8 COMMISSIONER PARSONS: That's right.

9 CHAIRPERSON MITTEN: That indicates the
10 kind of material that they're having on the walking
11 path that's a part of the park.

12 COMMISSIONER PARSONS: Right.

13 CHAIRPERSON MITTEN: Do I -- I thought I
14 understood you to say that you wanted that
15 particular material extended east of the northern
16 lot to the parking lot and alley leading to 51st
17 Street?

18 COMMISSIONER PARSONS: Because I thought
19 they were the same.

20 CHAIRPERSON MITTEN: Okay, so now you're
21 okay.

22 COMMISSIONER PARSONS: Okay.

23 CHAIRPERSON MITTEN: So now what you want
24 is just a depiction with a specific color for the
25 compacted soil or whatever?

1 COMMISSIONER PARSONS: Correct.

2 CHAIRPERSON MITTEN: We want a different
3 color so it's clear where it's supposed to be. Is
4 that fair to say?

5 COMMISSIONER PARSONS: There you go. Good.

6 CHAIRPERSON MITTEN: Okay.

7 COMMISSIONER JEFFRIES: Madam Chair, I'm
8 also thinking, and I'll hear from the rest of the
9 Commissioners -- it might be helpful, because I
10 think at this point I'm having a little bit of
11 difficulty visualizing what this all looks like. I
12 mean, just in terms of the trail, the fences, the
13 building, it might be helpful to get some sort of
14 perspective or some volumetric or something, just as
15 we're looking down this trail and also capturing
16 some of the face of the fences and so forth, I'm
17 just trying to get a sense of what all that looks
18 like because I'm having difficulty visualizing it,
19 and typically I'm prepared that.

20 CHAIRPERSON MITTEN: Okay.

21 COMMISSIONER JEFFRIES: So if we could
22 actually get something like that, and I don't -- I
23 would hope that the Applicant -- it doesn't have to
24 be overtly fancy, just something that could give us
25 some sense of what this looks like. I mean this

1 fence, the yard, I mean, the grassy part.

2 CHAIRPERSON MITTEN: I think that's fair.

3 Okay, so we want to basically see what the back's
4 going to look like. We want to see what the
5 easement, the fence, how's that going to feel, how
6 wide's that going to be, all that?

7 COMMISSIONER JEFFRIES: Right.

8 CHAIRPERSON MITTEN: Okay. And then we'll
9 just consider on Monday your advocacy of Exhibit 1A
10 as the configuration of choice.

11 COMMISSIONER JEFFRIES: I wasn't
12 necessarily -- the other ones didn't throw me off,
13 but this whole notion of going back to the architect
14 and doing roof plans and so forth is just not
15 something that I would be on board with having the
16 Applicant go back and reconsider.

17 CHAIRPERSON MITTEN: Okay. Well, if we can
18 get all those responses by Monday, we'll take it up
19 at our meeting and, if not, we'll schedule another
20 date for a public meeting.

21 So, if there's nothing further, we will
22 now adjourn our special public meeting.

23 Thank you.

24 (Whereupon, at 6:45 p.m., the special
25 public meeting was adjourned.)