

PRESENT: K. Shiflett, Chairman
W.F. Hite, Vice Chairman
J. Curd
B. Garvey
K. Leonard
E. Shipllett
T.K. Fitzgerald, Director of Community Development
K. Bullerdick, Associate Planner

ABSENT: T. Cole
R.L. Earhart, Senior Planner

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, January 11, 2011, at 3:30 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

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The Planning Commission assembled in the Augusta County Government Center to discuss the rezoning and the Source Water Protection Ordinance. The Planning Commission traveled to the following site which will be considered by the Commission:

1. Dharti, LLC- Rezoning

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After returning from the Dharti, LLC site visit, the Commission reconvened with Mrs. Earhart in attendance. Mr. Fitzgerald and Mrs. Earhart gave an overview of the Source Water Ordinance and answered any questions the Commission had. It was also noted the Wilson Office Park rezoning request had been deferred until February at the owners' request.

PRESENT: W.F. Hite, Chairman
J. Curd, Vice Chairman
T. Cole
B. Garvey
K. Leonard
K. Shiflett
E. Shipplett
T.K. Fitzgerald, Director of Community Development
R.L. Earhart, Senior Planner
K. Bullerdick, Associate Planner

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, January 11, 2011, at 7:00 p.m. in the Board Room, Augusta County Government Center, Verona, Virginia.

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DETERMINATION OF A QUORUM

Mrs. Shiflett stated as there were seven (7) members present, there was a quorum.

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INTRODUCTION OF NEW MEMBER

Mrs. Shiflett welcomed William Garvey to the Planning Commission representing the South River District. She stated he was replacing Steve Bridge whose term on the Commission expired in December.

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ELECTION OF OFFICERS

Mrs. Shiflett presented the nominating committee report. She placed into nomination the names of Wayne Hite as Chairman, James Curd as Vice Chairman, and Becky Earhart as Secretary.

Mr. Cole moved the nominations cease.

Mr. Leonard seconded the motion, which carried unanimously.

Mr. Shiplett moved, seconded by Mr. Cole to elect the slate by acclamation. The motion carried unanimously.

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MINUTES

Mr. Curd moved to approve the minutes of the Regular Meeting on November 9, 2010 as received.

Mrs. Shiflett seconded the motion, which carried unanimously.

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NEW BUSINESS

Dharti, LLC - Rezoning

A request to rezone with proffers approximately 3.35 acres from General Agriculture to General Business, 0.38 acres from General Agriculture to Multi-family and 0.075 acres from Multi-Family to General Business and to add proffers to 1.17 acres currently zoned Multi-Family Residential owned by Dharti, LLC located on the east side of Lee Highway (Route 11) approximately 0.2 of a mile north of the intersection of Lee Highway (Route 11) and Weyers Cave Road (Route 256) in Weyers Cave in the North River District.

Mrs. Earhart made the following statement, “Members of the Commission, before you consider this matter, I’d like to make a statement for purposes of the State and Local Government Conflict of Interests Act.

Even though the County Attorney has advised me that with the proper disclosure, I could participate in this transaction; as a result of my husband’s company’s interest in property adjacent to the Dharti property, I feel there is a potential for a conflict and therefore I have declined to participate in this transaction and I have also filed a written declaration of interest, as required by the Act.”

Kim Bullerdick, Associate Planner, explained the request. She stated the applicant has submitted the following proffers:

1. If at the time of development 19-147A is zoned General Agriculture, a buffer consisting of a ten foot wide strip of land with a six foot opaque, vinyl privacy fence will be constructed along the adjacent property line of the business portion of the property.

2. The intersection of Route 11 and the proposed connector street as shown on the rezoning exhibit prepared by Hamrick Engineering has been designed to accommodate up to 250 vehicles per day at the peak hour. Once that capacity has been reached based on the ITE traffic generation rates, additional transportation improvements may be needed. Therefore, once the capacity has been reached and prior to the approval of any building permit for any building accessing Route 11 through this property, the developer shall submit to Augusta County and VDOT, for review and approval, additional traffic analysis, projecting the additional vehicle trips to be generated by any development on the business property and taking into consideration any remaining undeveloped portions accessing Route 11 through this property. In addition, prior to the issuance of said building permits the Applicant or his successors or assigns shall construct or bond any and all road improvements, as required by the findings of the additional traffic analysis.
3. Prior to the issuance of a building permit for the 101st residential unit on the multi-family portion A shown on the rezoning exhibit accessing Route 11 through the property or any development on the business property, Dharti Street will be constructed through the property extending to the boundary line with parcel 19-116.
4. As part of site plan approval for any development on the property sufficient right-of-way and access to a public street will be provided and constructed to parcel 19-147A.

Rupen Shah, Managing Member for Dharti, LLC, applicant for the request, explained the area depicted in yellow (east of the Mongold Property, Tax Map 19-149) zoned Multi-Family Residential has an option contract placed on it and needs additional access. Mr. Shah explained the progress on the existing apartment development on the Multi-Family Residential Zoned parcel east of the request. He explained the area on the sketch showing the apartments has been sold and they are currently in the process of building eighty-four (84) apartment units. He stated a portion of Valley College Drive has already been built and approved, and the four (4) commercial lots in the front of the property (south) will be ready for final grade next week. He further explained the progress on the existing business lots adjacent to the property which will benefit from the second access which is part of this rezoning.

There being no one desiring to speak, Mr. Hite declared the public hearing closed.

Mrs. Shiflett stated the applicant has done what was requested by providing additional access and connections to adjacent properties. She moved to recommend approval of the request with proffers.

Mr. Leonard seconded the request which carried unanimously.

SOURCE WATER PROTECTION ORDINANCE

An Ordinance amending the Zoning Ordinance of Augusta County by adding a Source Water Protection Overlay District and adopting Source Water Protection Overlay District maps depicting Areas 1 and 2.

Mrs. Earhart presented the Commission and public in attendance with a PowerPoint presentation overview of the ordinance. She explained the purpose of the ordinance is to protect public health, safety, and welfare by preventing contamination of water or loss of water in aquifers that serve as County groundwater supply sources, as well as to protect existing sources of drinking water to meet current and future public needs. Mrs. Earhart displayed a map titled "Overall Public Ground Water Sources for the Augusta County Service Authority, the City of Staunton, and the City of Waynesboro SWP Mapset – Map #1". Mrs. Earhart explained Area 1 consists of a 1000' fixed radius around public groundwater supply sources. She stated currently, there are 32 sources identified for protection under the ordinance. Area 2 she explained is a defined area that contributes recharge to the groundwater supply source. At adoption, there will be four Areas 2s including Blue Hole, Dices Spring, Hurdis/ Hershey/Ridgeview wells, and Lyndhurst. Mrs. Earhart also displayed a map titled, "Augusta County Service Authority Public Ground Water Facility Map Hurdis, Hershey, and Ridgeview Wells – SWP Map #12/13" that displayed an example of an Area 2 covered by the ordinance.

With regard to public notification, Mrs. Earhart explained the Virginia State Code requires publication in a local newspaper and notification to impacted property owners. She stated the County has notified owners of property in Area 1 and Area 2 and property owners adjacent to Area 1 and Area 2. She explained Federal Lands are generally in very large parcels and adjacent properties could be located miles away, but State Code still requires notification.

§25-515. Exempted Uses. Mrs. Earhart explained the following uses will be exempt from this ordinance: agricultural and forestry uses with Best Management Practices and normal on-site residential uses.

§25-516. Prohibited Uses in Area 1. Mrs. Earhart gave examples of uses that would be prohibited in Area 1 including class II injection wells, class V injection wells unless EPA permitted, junkyards and demolition facilities, chemical, electrical or electronic manufacturing, quarries and asphalt processing plants, facilities with underground petroleum storage tanks of over 660 gallons, storage of chemicals or petroleum products in structures for subsequent resale to distributors or retail dealers or outlets, machine shops, and vehicle service and repair shops.

§ 25-517. Prohibited Uses in Area 2. She explained class II injection wells, class V injection wells unless EPA permitted, and junkyards and demolition facilities are prohibited uses in Area 2.

§ 25-518. Special Administrative Permits. Mrs. Earhart stated these permits are to be issued by the Director of Community Development and can be appealed to Board of Supervisors if denied. She explained the use would be permitted administratively within thirty (30) days if the request is not expected to detrimentally affect groundwater quality, if sufficient recharge is not expected to be inhibited or prevented, and the use meets all other ordinance requirements.

Mrs. Earhart explained chemical, electrical or electronic manufacturing, electroplating or drycleaners with hazardous materials are permitted in Area 2s by Special Administrative Permit as long as the parcel is connected to public sewer, they have secondary containment and spill detection and control system for bulk storage of chemicals, as well as a spill containment and prevention plan, and the use is otherwise permitted or the necessary permits are obtained. She stated asphalt processing, quarries, facilities with petroleum tanks, fertilizer storage, machine shops, heavy equipment maintenance or fueling facilities, storage of chemicals or petroleum products for resale, and wood preserving facilities with hazardous materials are also permitted as long as a secondary containment and spill detection and control system for bulk storage of chemicals is provided, a spill containment and prevention plan is submitted, and the use is otherwise permitted or permits are obtained. Mrs. Earhart further stated funeral homes and photo processing labs with hazardous materials are permitted as long as the use is connected to public sewer and the use is otherwise permitted or permits obtained. She stated any of the uses prohibited in Area 1 which do not involve the collection, handling, manufacture, use, storage, transfer or disposal of any hazardous materials are permitted provided the applicant certifies that no hazardous materials are involved and the use is otherwise permitted or permits obtained.

§ 25-519. Minimum lot size. Mrs. Earhart explained this applies only to Area 1. She explained no new on-site sewage systems are to be constructed within 500 feet of a public groundwater supply source and where any part of a new lot is located within Area 1, the minimum lot size is 2 acres.

§ 25-520. Prohibitions on buildings and structures. Mrs. Earhart stated no new buildings or structures shall be constructed within 250 feet of a supply source.

§ 25-521. Criteria for Utilities. With regard to utilities, Mrs. Earhart explained the Health Department will be requested to use the adopted maps prior to issuing permits for new on-site sewage disposal permits or well construction permits. For large water users (10,000 gallons per day/300,000 gallons per month) in Areas 1 and 2, the user must get a Special Administrative Permit from the County. Prior to approval of the permit, the user must also submit a map and narrative. Mrs. Earhart explained in order for the permits to be issued, the well must not be expected to affect the quality of public water supply, to cause a reduction in the volume of water, and sufficient recharge is not expected to be inhibited or prevented.

§ 25-522. Conditional Exemption. Mrs. Earhart explained an exemption is an option if the use or activity is prohibited. She stated the conditional exemption is only to be

issued by the Board of Supervisors if there is good and sufficient cause and the use will not result in an unacceptable possibility of hazardous materials being discharged in the overlay district. Mrs. Earhart further explained the exemption should be the minimum required to provide relief from any hardship. The applicant must submit an Operations and Contingency Plan which includes the types of prohibited uses proposed for the site, the types and quantities of hazardous materials or wastes used or stored on the site, a means to contain or restrict any spillage, a means to contain or remediate spillage, and a means to notify appropriate parties. Mrs. Earhart further stated the plan must be evaluated by a professional engineer or geologist and determined that the use would minimize the risk of contamination. She further explained the application and plan will go to the Service Authority for comment. The Director of Community Development will either approve or deny the Operations and Contingency Plan. If approved, she stated the request for conditional exemption will go before the Board of Supervisors for approval. Mrs. Earhart stated if the plan is denied by the Director of Community Development, the plan and exemption request will then go to the Board of Supervisors for approval. She also noted the exemption, if issued, will be non-transferable.

In conclusion, Mrs. Earhart stated Service Authority Staff are available to answer general technical questions the public may have tonight. She stated site specific questions can be asked, but most likely will need to be researched and an answer provided after this meeting, as she noted nearly 5,000 property owners have been notified therefore staff does not want to give incorrect information.

Mr. Hite asked if there was anyone wishing to speak in favor of the request.

Sandy Greene, 123 Foxwood Lane, Mt. Sidney, stated she owns two parcels in Area 2. She thanked staff for their efforts in researching and drafting the ordinance and noted the importance of source water awareness and protection.

Mr. Hite asked if there was anyone wishing to speak in opposition to the request.

Edgar Hurdis, 46 Horseshoe Circle, Stuarts Draft, stated he is in support of source water protection, but the proposed draft is too harsh. He stated he owns property in Areas 1 and 2 and the regulations are too restrictive and will devalue properties as they will be harder to sell. He noted the proposed ordinance is a violation of property owner rights. He recommended other alternatives to be researched such as requiring alternative sewer systems to be installed in these areas, or running public sewer to them. He concluded by stating he regretted selling the Service Authority the land for the well.

Kenny Mays, 842 Horseshoe Circle, Stuarts Draft, explained he operates a landscaping business and asked how the adoption of this ordinance will effect his business.

Sally Burger, 665 Dry Branch Road, Churchville, explained almost the entire 8.5 acre tract she owns is located in Area 1, across Dry Branch Road from two wells. She stated she has a private well and is in support of protecting the source water however the

proposed requirements are too restrictive. Ms. Burger commended staff on their time and research drafting the ordinance. With regard to the prohibitions on new buildings and structures in Area 1 SWPO Districts she stated 250 feet is a fair distance. She recommended a 250' radius from the well instead of 500' for the restriction on new on-site sewage systems. She objects to the proposed 1,000 foot fixed radius for Area 1 SWPO Districts. She recommended 500 feet as a fair distance. Ms. Burger also stated she objects to the two (2) acre minimum lot size in Area 1 SWPO Districts when the countywide minimum requirement is only one acre. She stated these requirements will further devalue impacted properties and will be a burden for resale value. Ms. Burger concluded by stating the proposed restrictions are enough without having the additional requirement of the two (2) acre minimum lot size in Area 1 SWPO Districts. She asked the Planning Commission to recommend against the proposed Source Water Protection Ordinance as drafted.

John King, 5 Jordan Place, Churchville, explained he owns two (2) lots located on Taliaferro Road in Churchville. Mr. King stated his son wishes to eventually build on one of those lots and he has some questions regarding on-site septic.

William Wolfe, 182 Dices Spring Road, Weyers Cave, stated he is opposed to the 1,000 foot fixed radius for Area 1 SWPO Districts. Mr. Wolfe explained he owns a farming operation on Dices Spring Road near Naked Creek and Dices Spring Creek. He stated he has placed portions of the farm in conservation easements. He discussed the requirements that already govern his farm due to the conservation easements and stated the farm is already complying with State and Federal requirements such as having to submit a Nutrient Management Plan, annual DEQ inspections, and abiding by regulations of the EPA. He explained he eventually wishes to give one acre lots to his children, but the proposed 1,000 foot radius encompasses the majority of the farm and will require him to make those lots two (2) acres each, thus limiting the number of building sites on the farm. He asked the Commission to consider the adverse effect the proposed 1,000 foot radius will have on property owners.

John Hostettler, 1248 Cold Springs Road, Stuarts Draft, explained he owns five (5) acres. He first questioned why he received notification. He explained he currently has a Special Use Permit for a sawmill operation and asked how the proposed ordinance will effect his business.

Harold Alexander, 53 Cooper Drive, Stuarts Draft, stated he is not speaking against the proposed ordinance, but he owns property on Blue Hole Lane and asked how the proposed ordinance will impact his property.

David Fitzgerald, 147 Wayne Avenue, Stuarts Draft, stated he is in Area 2 for the Hurdis, Hershey, and Ridgeview Wells and indicated requiring the submission of a nutrient management plan is not practical or cost effective for small farms. Mr. Fitzgerald asked how the proposed district will impact using wells for the irrigation for farmland. He stated the proposed 1,000 foot fixed radius for Area 1 SWPO Districts is too large of an area and too restrictive to have a two (2) acre minimum lot size

requirement. He asked the Commission to recommend considering land topography as a way to determine distance.

Martha Stout, 42 Old Forge Lane, Weyers Cave, stated she owns approximately eight (8) acres adjacent to Dices Spring. She explained she has also deeded four (4) acres to her son and asked how the proposed ordinance will affect his lot as well as the sale of future lots. She asked if the Service Authority has plans to extend public sewer in the Weyers Cave area to help protect the water supply.

Lyle Evelsizer, 298 Augusta Farms Road, Waynesboro, stated he owns property adjacent to Blue Hole. Mr. Evelsizer stated the proposed ordinance decreases the value of his property. He asked staff for a more thorough explanation of the proposed changes and stated there needs to be more communication between staff and property owners.

A.D. Shinaberry, Deerfield, stated the well that serves the community is on his property and he is opposed to the proposed 1,000 foot fixed radius. He stated he is in support of clean water, but thinks the 1,000 foot fixed radius for Area 1 is too restrictive.

There being no one else desiring to speak, Mr. Hite declared the public hearing closed.

Staff was asked to address the concerns and comments submitted by citizens as appropriate.

Jennifer Hoover, Augusta County Service Authority, stated there were many good comments and concerns. She stated staff will be available after the meeting to answer what questions they can tonight. She recommended citizens contacting the office for site specific questions and concerns. With regard to the 1,000 foot fixed radius, Ms. Hoover explained the proposed 1,000 foot fixed radius for Area 1 was a recommendation proposed in 1996 by the Environmental Protection Agency (EPA) as the most critical area to the well. Ms. Hoover further explained the distance for Area 2 was actually recommended initially to be a mile radius, but after further review, it was determined scientific delineations for Area 2 was more accurate and those studies have been prepared for four (4) of the Service Authority's sources. Ms. Hoover stated the Authority will review concerns and requests regarding reducing the proposed minimum required 1,000 foot fixed radius in Area 1 SWPO Districts and the minimum 500 feet requirement from a public groundwater supply source for the construction of new on-site sewage systems and the minimum two (2) lot requirement.

Mr. Garvey asked if the 1,000 fixed radius was in effect today.

Ms. Hoover explained there is not an ordinance in the county now, but it is a recommendation under the Virginia Department of Health Source Water Protection Program dating back to 1996.

Mr. Leonard asked with regard to agriculture, as long as Best Management Practices are used, will farmers be required to submit Nutrient Management Plans.

Ms. Hoover answered yes, as long as those practices were used agriculture is exempt.

Mr. Cole asked if engineered septic systems are permitted within the 1,000 foot radius and if there is still a minimum two (2) acre lot requirement.

Ms. Hoover referenced Chapter 11 of the Augusta County Code in regard to the requirements for engineered septic systems.

With regard to minimum required distance of 500 feet for new on-site sewage systems constructed within 500 feet of a public groundwater supply source in Area 1 SWPO Districts, Mr. Shipplett asked how the distance was decided.

Ms. Hoover answered the consultants originally recommended 1,000 feet, but after further research and discussion, the number was reduced. With regard to reducing the distance even more, Ms. Hoover stated it would have to be further researched.

Mr. Garvey explained as a new member to the Planning Commission he is not as familiar with the details of this proposal as the other members. As a representative of the South River District, Mr. Garvey noted Stuarts Draft has the second largest aquifer in the state. He stated he is concerned with property owner rights and recommended deferring the proposed ordinance until further research on the impacts on the property owners is researched. Mr. Garvey stated he cannot support the proposed ordinance as written until the numbers regarding the proposed 1,000 foot fixed radius and the minimum required distance of 500 feet for new on-site sewage systems constructed from a public groundwater supply source are confirmed.

Mr. Leonard stated the Service Authority and staff have worked extensively and invested many resources in researching the proposed ordinance. He stated more resources need to be put into researching the proposed numbers regarding the proposed 1,000 foot fixed radius and the minimum required distance of 500 feet for new on-site sewage systems before the draft goes before the Board of Supervisors on January 26, however he can recommend approval of the draft as written.

Mr. Curd supports the need to protect the County's water supply. He stated he empathizes with effected property owners but regardless of these changes, someone will be affected. He stated if the proposed numbers are reduced, the impact may be less, but no matter how low they are, people will still be impacted. Mr. Curd noted this ordinance is a step in the right direction and he can support the proposed ordinance with the recommendation that the proposed 1,000 foot fixed radius, the minimum required distance of 500 feet for new on-site sewage systems constructed from a public groundwater supply source, and §25-519 with regard to the minimum lot size requirement, be studied to see if they can be reduced.

Mr. Shipplett stated he agrees with Mr. Curd. He moved to recommend approval of the Source Water Protection Ordinance as drafted. He further recommended the Board of Supervisors consider reducing the proposed 1,000 foot fixed radius for Area 1 and the minimum required distance of 500 feet for new on-site sewage systems constructed near a public groundwater supply source, if it is determined by the Augusta County Service Authority to have no adverse impact on protecting the public water supply.

Mr. Curd seconded the request.

Mrs. Shiflett stated she thinks the ordinance needs to move forward. While she empathizes with those impacted, water sources cannot be replenished and we can not do without. She stated this matter is extremely important and she supports the state's recommendations to keep the water clean and drinkable and if the state thinks 1,000 feet is the appropriate number, she is inclined to agree. She concluded by stating the county has a duty to protect the water supply.

Mr. Hite agreed with Mrs. Shiflett with regard to the need to protect the county's water sources. He stated time and money have been invested in the research of the ordinance therefore he can support the proposed ordinance as written. He suggested sending it to the Board of Supervisors and if they feel they can reduce the 1,000 foot and 500 foot distances, let them make that decision.

The motion carried a 5-2 vote with Kitra Shiflett and Taylor Cole opposed.

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NEW BUSINESS

Stephen N. Bridge - Resolution

Mr. Hite stated Mr. Bridge has completed his term of office on the Planning Commission. He asked Mrs. Earhart to read the resolution.

Mrs. Shiflett moved, seconded by Mr. Leonard to approve the following resolution recognizing Mr. Bridge for his service and asked for Mr. Bridge to be invited back so they could publicly recognize him and present him with the resolution. The motion passed on a unanimous vote.

WHEREAS, the County of Augusta in consideration of the long and dedicated service of Stephen Bridge; and

WHEREAS, Mr. Bridge diligently and faithfully served the citizens of Augusta County for eight years in the capacity of a public servant; and

WHEREAS, Mr. Bridge was appointed to the Augusta County Planning Commission in January 2003 and completed his service in December 2010; and

WHEREAS, the Augusta County Planning Commission is desirous of expressing their appreciation and thanks to Mr. Bridge for his dedicated service on this commission.

NOW, THEREFORE BE IT RESOLVED that the Augusta County Planning Commission does hereby publicly thank Mr. Bridge for his service which he has so aptly fulfilled with diligence and concern for the citizens of Augusta County.

BE IT FURTHER RESOLVED, that this resolution be adopted by the Commission, recorded in its minutes, and a copy forwarded to Mr. Bridge.

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MATTERS TO BE PRESENTED BY THE PUBLIC

Kenny Mays, 842 Horseshoe Circle, Stuarts Draft, stated he received a letter regarding regulations for on-site sewage and asked if staff or the Commission were familiar with the letter.

Mr. Fitzgerald directed Mr. Mays to the Staunton-Augusta Health Department for further information.

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STAFF REPORTS

A. CODE OF VIRGINIA – SECTION 15.2-2310

Mrs. Earhart reviewed with the Commission the requests coming before the BZA.

Mr. Hite asked if there were any comments regarding the upcoming items on the BZA agenda.

11-03 Daniel K. Croft Estate 1/2 and French Moore 1/2

This property is located in an Agricultural Conservation Area in the Comprehensive Plan and located in close proximity to agricultural uses.

Mrs. Shiflett moved the Board of Zoning Appeals consider public safety and the use becoming a nuisance and having a negative impact on adjacent agricultural uses.

Mr. Cole seconded the request. The motion carried a 6-1 vote with Mr. Shipplett opposed.

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There being no further business to come before the Commission, the meeting was adjourned.

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Chairman

Secretary