

IN BOARD OF SELECTMEN  
MONDAY, NOVEMBER 28, 1977

Present: Chairman John C. Powers, Ira M. Potell, and William F. Toomey

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The statutory requirements as to notice having been complied with, the meeting was called to order at 7:30 p.m. by Chairman John C. Powers.

Site Plan #76-171 - Village Green, 29 Hudson Road - Robert Quirk Realty Trust - Request for Extension

Present: Attorney Peter Harrington, representing Coolidge Bank and Trust Co.; Attorney Bernard Rome, also representing Coolidge Bank and Trust Co.; Raymond Johnson, President, Coolidge Bank and Trust Co.; Jack Antaramian, Building Contractor; Zoning Enforcement Agent/Building Inspector Francis E. White; LaMonte Griswold, abutter; and Donald Wagoner, having an interest in the restaurant building

Representatives of the Coolidge Bank and Trust Co. met with the Board for the purpose of discussion relative to extension of the Village Green Site Plan, 29 Hudson Road, said discussion had been continued by vote of the Board on November 21, 1977, to allow receipt from Town Counsel of a determination of the rights of the petitioners representing the bank relative to their request for an extension of Site Plan #76-171, Village Green, Robert Quirk Realty Trust.

Chairman Powers reported that at the November 21 meeting two problems had arisen which were to be resolved by this evening--the first being the right of authority of the foreclosing bank to avail itself of building permits issued to the defaulting creditor in response to claims set forth in letters received from Messrs. Robert D. Quirk and Bruce T. Quirk dated November 8, 1977, and November 7, 1977, respectively, which indicated that they were at issue with the bank with regard to its right to foreclose. Chairman Powers stated that, after some discussion, the Board had agreed to continue the matter for one week to allow Counsel for the bank to assist Town Counsel with certain matters regarding the status of the foreclosing bank.

Chairman Powers stated that the second problem concerned what to do with the site plan that was approved subject to certification of a boundary location which was never carried out.

Chairman Powers reported that Town Counsel has since been furnished with documents which verify ownership of the Village Green property under a deed with mortgage covenants granted by Bruce T. Quirk, Trustee of the Robert Quirk Realty Trust, said deed being recorded in the Middlesex South District Registry of Deeds. Chairman Powers stated that last week the Board was dealing with Town Counsel Pual Kenny who is ill tonight and unable to be present, but that Assistant Town Counsel Thomas French is aware of the situation and is present tonight. Chairman Powers further stated that it was his understanding that the subject matter discussed with Mr. Kenny dealing with the status of Coolidge Bank and Trust Co. has been discussed with Executive Secretary Richard E. Thompson and with Mr. French, and he further stated that he had spoken with Mr. Kenny on two occasions today concerning his conversations with Mr. Harrington during this past week and that Mr. Kenny had reviewed the mortgage and the certificate of entry. Chairman Powers also stated that because of the circumstances of this particular situation, the Board had requested the Executive Secretary to notify

Attorney Bernard Rome of Wasserman and Salter who had previously contacted the Board with regard to the matter, by letter dated November 9, 1977, and all abutters to the property so that they might be aware of tonight's meeting.

Assistant Town Counsel Thomas M. French stated that the question directed to Town Counsel last week had to do with the rights of the bank as to whether or not it is the owner of the property and could perform construction on the site. Mr. French indicated that the mortgage granted by Bruce T. Quirk, Trustee of the Robert Quirk Realty Trust, given to Coolidge Bank and Trust Co. for the Village Green Shopping Center was recorded in the Middlesex South District Registry of Deeds and that the mortgagor agrees to prosecute the construction, alteration or repairs in the event of any unreasonable delay, that the mortgagee, in addition to any other remedy it may have, may enter and complete such construction, alteration or repairs. Mr. French stated that by virtue of the mortgage, the bank holds title to the premises and by virtue of the certificate of entry, the bank also has possession and may, therefore, be considered as owner of the property. Mr. French stated that the Board has both a recorded copy of the mortgage itself and of the certification of entry.

The Board reviewed both documents.

In response to the Board's question, Mr. Harrington reported that Attorney Bernard Rome represents Coolidge Bank and Trust Co. in its financial interests in a number of transactions and that he, Attorney Harrington, represents the bank in the matter before the Board tonight.

Mr. French reported that entry on the property was made by the mortgagee on September 19, 1977, for the purpose of foreclosing the mortgage and that it was Town Counsel's opinion that the bank has a sufficient interest in the site plan to be properly before the Board tonight.

Executive Secretary Richard E. Thompson read the August 23, 1976, vote of the Board with regard to the site plan, as follows: "To approve the site plan of Robert D. Quirk, Robert Quirk Realty Trust, entitled 'Village Green Shopping Center', drawn by Colburn Engineering, Hudson, MA, dated February 20, 1976, revised July 2, 1976, subject to certification, as soon as possible, of the property lines and the location of improvements by a registered land surveyor."

Mr. French stated that, last week, Mr. Kenny had expressed his opinion that the condition could run with the extended site plan and that immediately after the vote of approval on August 23, 1976, the Building Inspector reinstated certain building permits notwithstanding the subject of condition in the name of the Quirks for completion of work in the Village Green complex. Mr. French stated that it would appear that the condition was therefore and thereafter treated as a condition subsequent and not a condition precedent.

Chairman Powers stated that the Board was not aware that this condition had not been fulfilled until last week, and he asked whether any new building permits had been issued to Mr. Antaramian.

Mr. White responded that no other building permits were outstanding other than those issued to the Quirks.

Chairman Powers stated that he was concerned that a prime condition of the approved site plan had not been completed; he further expressed his concern that,

because of the inordinate delay in compliance, there is some possibility of attack upon the site plan by any interested party and that he was trying to obviate that potential problem. Chairman Powers stated that the Board did have discussion last week dealing with a provision of the Bylaws relating to extending time for completion of the site plan as the Board recognizes the problem that the bank has in trying to complete the site. Chairman Powers stated that he was very unhappy at leaving "open ends" such as uncertainty as to when this survey will be done, and he suggested that there might be some virtue in extending the site plan for a certain time period to allow a workable plan, making it mandatory that the bounds be certified within that time.

Selectman Toomey asked if there were current violations on the site of the expired plan.

Mr. White stated that the only one to his knowledge was the headwall on Mr. Griswold's property.

Selectman Toomey added that there was also the violation of occupancy of the building below the bank during construction of the sewerage system.

Mr. Harrington asked for an explanation of the headwall problem and was told that it was located on Mr. Griswold's property. Chairman Powers stated that the first indication the Board had that the error had not been rectified was last week, that it was his opinion that everyone is anxious to resolve this problem to everyone's satisfaction, and he suggested that the builder work with Mr. Griswold so that trespassing problems would not develop.

All were in agreement.

Selectman Potell stated that he would remain with his position of last week as long as the question of ownership is resolved, that if the property can be brought into compliance, he would be in favor of extending the site plan so that the Town could begin to see the benefits of this shopping area. Selectman Potell stated that his only question would be as to the time limit of the extension.

Selectman Toomey stated that the ownership of the property has been established as well as the fact that there are two violations on the site plan, and he asked Town Counsel to suggest a motion to allow the bank to complete the septic system only and then submit a new site plan application in the proper name.

Mr. French stated that, in his opinion, it is possible to extend the site plan for completion of the septic work, and it is incumbent on the petitioners to correct the violations and to come back with a new site plan application in their name.

Also discussed was closing up the windows in some other areas and in the overhangs of the restaurant building where the pigeons are entering and causing serious contamination.

Mr. White stated that, in his opinion, no site plan approval is necessary for closing in the building as such work is strictly exterior and does not involve the site plan.

After further discussion relative to allowing sufficient but not excessive time for extension of the site plan in order to complete the septic system and secure the restaurant building, it was, on the recommendation of Assistant Town Counsel unanimously

VOTED: To extend Site Plan #76-171 for Village Green, 29 Hudson Road, on behalf of the Coolidge Bank and Trust Co., for a period of thirty days from this date for the sole purpose of completing the construction of the septic system currently under construction on the site and the securing of the building in which deterioration is occurring.

Mr. Griswold asked what will happen to the two drains on the corner of the parking lot that dump onto his property which are shown on the site plan, and he stated that this question was raised at an earlier meeting before the Planning Board (March 23, 1976). Mr. Griswold asked how the Board could approve these two drains which dump on abutting land indiscriminately.

Chairman Powers stated that the Board will wish to hear from the applicants on this subject when they submit their new plan, but that they were not equipped to respond to that question tonight.

#### Town Fathers Forum - 119th Session

A summary of the 119th session of the Town Fathers Forum is attached and is a part of these minutes.

#### Industrial Development Commission Financing Authority - Question of Appointing

Present: Chairman Leon Zola and member Joseph Brown of the Industrial Development Commission

Chairman Powers reported that the 1969 Annual Town Meeting had voted to create an Industrial Development Financing Authority as authorized by Chapter 772, Acts of 1967, that it appears from the State Industrial Finance Board that it was never appointed and that a certificate of organization has never been requested from, or issued by, the State Secretary and that, therefore, the matter is before the Board tonight for discussion with members of the Industrial Development Commission as to whether such appointments should be made or whether the Industrial Development Financing Authority should be abolished.

Chairman Leon Zola reported that in order to be eligible for revenue bond financing the Town must have such an Authority appointed, that appointment of the Authority would in no way entail any financing from the Town.

Chairman Powers asked Mr. Zola if the IDC had received any request for such financing.

Mr. Zola reported that it had not, and that, in his opinion, Sudbury would not qualify for such financing--that it would go instead to depressed towns and those who have lost industry.

Mr. Brown reported that at the time this law was enacted, there was some question at the State level whether the program as submitted by the State would

continue and that, as a result of that question, there was no need for action at that time and it was indefinitely postponed until it might become necessary.

Mr. Zola expressed his opinion that the article to abolish the Authority should be placed in the warrant.

After further discussion, it was on motion by Selectman Potell unanimously VOTED: To direct the Executive Secretary to enter an article in the 1978 Annual Town Meeting warrant to abolish or rescind the action taken under Article 13 of the 1969 Annual Town Meeting; thereby withdrawing the Town's acceptance of the Acts of 1967 or any other acts which would implement such direction.

Award Bids - 1977 Annual Town Report and 1977 Town Meeting Proceedings

Present: Michele Singer, Chairman, Town Report Preparation Committee

Executive Secretary Richard E. Thompson reported that a communciation dated November 23, 1977, had been received from Michele Singer, Chairman of the Town Report Preparation Committee, relative to recommendations for awarding bids for the printing of the 1977 Town Report and the 1977 Town Meeting Proceedings.

After discussion, it was on motion by Selectman Potell, in accordance with the recommendation of the Town Report Preparation Committee dated November 23, 1977, unanimously

VOTED: To accept the bid of Rene Press, Inc., 245 Crawford Street, Fitchburg, Massachusetts, for printing the 1977 Annual Town Report for the Town of Sudbury in accordance with their bid proposal, dated October 25, 1977, of \$25.00 per page; said price to include typesetting of all pages, excluding some full-page financial statements; complete paste-up; and perfect binding;

and it was further

VOTED: To accept the bid of Rene Press, Inc., 245 Crawford Street, Fitchburg, Massachusetts, for printing the 1977 Town Meeting Proceedings for the Town of Sudbury at the cost of \$4.75 per page, in accordance with their bid proposal dated October 25, 1977.

Communication Relative to Lincoln-Sudbury Regional School

Selectman Toomey reported that the Board had earlier received a lengthy letter of complaint dated October 7, 1977, copies of which had been forwarded to the Police Chief and the Superintendent of the Lincoln-Sudbury Regional School. Selectman Toomey reported that a satisfactory response had been received from Police Chief Lombardi dated November 21, 1977, and from Superintendent Levington of the Regional School District, who stated that it had been his decision not to comment upon the above-referenced letter.

Executive Secretary Richard E. Thompson reported that the Board had directed him to convey the October 7, 1977, letter of complaint and a second related letter to Superintendent Levington and other departments and that it was his opinion that Superintendent Levington had felt it inappropriate to comment upon the letter.

as it had been addressed to a member of the Regional School Committee who would be, therefore, Mr. Levington's superior.

After discussion, it was agreed to forward the letter to the Chairman of the Regional School Committee, enclosing copies of the Police Chief's and Superintendent Levington's above-referenced responses and to ask for the Committee's comments and any further action they might wish taken.

Selectman Potell expressed his opinion that the Board, in this matter, could not act in any way other than informally.

Chairman Powers stated that he was of the opinion that the Board would have some jurisdiction with regard to some of the matters in the letter.

After discussion, it was the Board's consensus that the Executive Secretary be requested to direct a letter to the Chairman of the Lincoln-Sudbury Regional School Committee, asking for the status of this particular matter before the Committee at this time, so that the Board may forward an informal letter to the author of the above-referenced letter.

#### Minutes

It was on motion unanimously

VOTED: To table consideration of the approval of the minutes of the regular and executive sessions of November 21, 1977, until the Board's meeting on December 5, 1977.

#### 1978 Annual License Renewals - JT's Steak House, Northern Farms Farmstand, and Sudbury House, Inc.

The Board, at its meeting on November 21, 1977, voted to defer consideration of issuing renewal alcoholic beverages licenses to JT's Steak House, Sudbury House, Inc., and Northern Farms Farmstand and Country Store until receipt of additional information relating to possible outstanding taxes and illegal temporary signs.

Information had since been received relative to two of the above-named establishments from the Tax Collector concerning outstanding taxes and was reviewed; said information having been requested by Selectman Toomey as, in his opinion, issuance of the licenses should be considered as a privilege which should not be granted in instances of non-payment of taxes.

Executive Secretary Richard E. Thompson stated that he was in agreement that all alcoholic beverages licenses are a privilege, but that, in his opinion, it should be considered that the holder of the license uses it to earn the money with which to pay his taxes.

Chairman Powers stated that the Board had received an opinion from Town Counsel last year that non-payment of taxes would not be proper grounds on which to refuse a renewal license.

Selectman Toomey stated that he would like further review by Town Counsel before the licenses were approved.

Mr. Thompson stated that action on these items must be completed during the month of November and, in cases in which no action was taken this evening, hearings

must be held, and that it was his opinion that these establishments would not be able to operate after January 1, 1978, as their licenses would not be available at that time.

Mr. Thompson reported that the Tax Collector had informed him after earlier conversation with the owner of JT's Steak House, that he would be in with his payment within a day.

Selectman Potell asked Town Counsel what the legitimate grounds in the opinion of the court were for not granting a renewal.

Mr. French stated that the statute states that such a license may not be granted for cause due to violations of ABCC regulations, or General Laws pertaining to licenses, or conditions of the licenses themselves.

Selectman Potell questioned whether violations of Town Bylaws could be just cause for denial.

Mr. French stated that it would depend on the bylaw itself; that violation of a zoning bylaw would not ordinarily be cause.

Selectman Toomey again expressed his opinion that a moral problem is involved in a case of nonpayment of taxes.

Chairman Powers and Selectman Potell commented on the problem of leaving the Town liable for a possible law suit for loss of business when there seems to be no legal cause for not renewing the licenses.

After further discussion, it was on motion by Selectman Potell

VOTED: To renew the All Alcoholic Beverages and the Common Victualler License for JT's Steak House and to forward the appropriate renewal form to the Alcoholic Beverages Control Commission for approval; said licenses shall be held until payment of fees as required and completion of all work identified by the Director of the Board of Health in his report dated November 21, 1977. In addition, it shall be requested that the Tax Collector aid the Board in its desire to have all outstanding real estate taxes paid before renewal of a license. (Chairman Powers and Selectman Potell in favor; Selectman Toomey opposed.)

On the subject of renewal of the Package Goods Store Wines and Malt Beverages License for Northern Farms Farmstand and Country Store, Executive Secretary Richard E. Thompson expressed the Board's concern regarding illegal temporary signs at that site, and he questioned Assistant Town Counsel as to whether or not the existing violations were of sufficient magnitude to prevent the renewal of the Package Goods Store Wines and Malt Beverages license.

Mr. French stated that such violation, in his opinion, would not be of sufficient magnitude.

Selectman Potell suggested that the Board ask the Zoning Enforcement Agent to begin the required actions relating to the threat of the \$100 per day fine against all violations of the bylaws.

Chairman Powers suggested that the Board preface that action with a meeting with the Sign Review Board, the Building Inspector/Zoning Enforcement Agent, and with Town Counsel to obtain their reaction after the beginning of the new year, and the Executive Secretary was directed to schedule such a meeting.

After further discussion, it was on motion unanimously

VOTED: To renew the Package Goods Store Wine and Malt Beverages license for Northern Farms Farmstand and Country Store and to forward the appropriate renewal form to the Alcoholic Beverages Control Commission for approval; said license shall be held until payment of fee as required and completion of all work identified by the Board of Health in its report dated November 21, 1977.

On the subject of renewal of the All Alcoholic Beverages License, the Common Victualler License, the Automatic Amusement Devices License, and the Weekday Entertainment License for Sudbury House, Inc., after discussion, it was on motion by Selectman Potell

VOTED: To renew the All Alcoholic Beverages License, the Common Victualler License, the Automatic Amusement Devices License, and the Weekday Entertainment License for Sudbury House, Inc., forwarding the appropriate renewal form to the Alcoholic Beverages Control Commission for approval; said licenses shall be held until payment of fees as required and completion of all work identified by the Board of Health in its report dated November 21, 1977. In addition, the Tax Collector is being requested to aid the Board in its desire to have all outstanding real estate taxes paid before annual renewal of a license. (Chairman Powers and Selectman Potell in favor; Selectman Toomey opposed.)

Selectmen's 1978 Annual Town Meeting Articles (Non-Monied)

Present: Peter Anderson, proponent of an article relative to designation of Landham Road as a "scenic roadway"

The Board, at its November 14 meeting, reviewed non-monied articles for the 1978 Annual Town Meeting for possible sponsorship. A list of articles discussed at that time had been prepared for the Selectmen's review tonight for their decision as to whether or not to proceed with each one so listed.

Mr. Thompson reported that a letter dated November 28, 1977, from Harold Cutler had been submitted to him at 7:30 p.m. tonight by Peter Anderson relative to the final recommendations of the majority of the Committee for Landham Road reconstruction (twenty-four foot width). The letter also set forth the recommendation of the minority of that Committee which was a plan based upon the State DPW's design for a thirty-foot roadway with one-foot berms on either side and a three-foot clear space beyond that berm. The letter stated that it is imperative that a "scenic road" designation remain available in order to ensure that State funding is not jeopardized and that, therefore, an article for the Annual Town Meeting should be included requesting that that designation be made.

Mr. Thompson reported that Mr. Anderson had, this morning, brought a communication to Town Counsel asking for his comments on the preparation of the petition article that would be submitted. Mr. Thompson stated that statute provides that only the Planning Board, the Conservation Commission, or the Historic Districts Commission can initiate a scenic road.



Selectman Toomey commented that this article is not properly before the Board.

Chairman Powers stated that the Landham Road Advisory Committee is anxious that the article be included in the warrant and wishes an answer from Town Counsel as to how to proceed with a petition article.

After discussion, the Selectmen indicated their concurrence that the article designating Landham Road as a scenic roadway be inserted in the warrant as a petition article.

The above-referenced list of non-monied articles proposed was then reviewed and it was agreed to proceed with the following articles:

- 1) Amend Bylaws, Article V (A) - Removal of Earth
- 2) Abolish Citizen's Task Force
- 3) Abolish Industrial Development Financing Authority
- 4) Abolish or Consolidate Historical Commission/Historic Structures Commission
- 5) Amend Bylaws, Article III, 2, Town Affairs - Submission of Annual Report
- 6) Sale of Tax Possession Parcel No. 164
- 7) Bylaw: Elected Officials/Time of Taking Office--no final decision-- Board is awaiting report from Town Counsel
- 8) Amend Bylaws, Article V, 3, Control of Dogs
- 9) Amend Bylaws, Article XII, 1, Town Property
- 10) Change Name of Rice Street to Rice Road

#### Anti-Recession Fiscal Assistance Funds

The Board received a copy of a communication dated November 17, 1977, from Town Accountant John H. Wilson relative to Federal Revenue Sharing funds - State and Local Fiscal Assistance Amendments of 1976, which enclosed a sample letter to the Director of Federal Revenue Sharing requesting a waiver to delay expenditure of these funds until the 1978 Annual Town Meeting and the reasons for this request.

After review of the above-referenced communication, it was on motion by Selectman Toomey unanimously

VOTED: To authorize the Executive Secretary to request a waiver from the Director of the Office of Revenue Sharing of the six-month time period for expending anti-recession fiscal assistance funds, received July 1977 in the amount of \$4535, to extend that period for an additional 100 days.

Acceptance of Gift - Sudbury Education Association Scholarship Fund

The Board received a communication dated November 23, 1977, from the President of the Sudbury Education Association which stated that their earlier award of two \$50 scholarships to Mr. Arthur Walker's Summer School had been forwarded to the Sudbury Summer School and had since been awarded to needy students.

Executive Secretary Richard E. Thompson reported, on the advice and recommendation of Town Counsel and Town Accountant, that, in order to comply with the statute, it was necessary that the gift be accepted by the Town.

It was therefore on motion by Selectman Potell unanimously

VOTED: To accept a gift of \$100 for the Summer School program of the Sudbury School Department from the Sudbury Education Association Scholarship Fund to be applied to the Summer School program of the Sudbury School Department.

Wayland Sanitary Landfill

Chairman Powers reported on his recent meeting with the Wayland Board of Selectmen Chairman Marcia Crowley relative to that town's proposal for an access road for their proposed sanitary landfill. Chairman Powers reported that Wayland has purchased, or will purchase, a private drive from Waters Manufacturing Co., a portion of which lies within the Town of Sudbury and that Wayland's proposal is to use that private drive for access to its landfill which lies behind Sudbury's landfill. Chairman Powers stated that Wayland does not seem to feel it will have a "traffic stacking" problem such as Sudbury presently has at times with regard to entering the landfill area, and he and the other Board members expressed their concern that there would be a "traffic stacking" problem entering the Wayland landfill and the cross-over of traffic as these access roads are located within a short distance of one another. Chairman Powers stated that the Police Safety Officer will be asked to review the subject.

Chairman Powers stated that, at the meeting, he expressed the Board's concerns about maintenance on the road and stated that, if it becomes a public road, Sudbury does not want to maintain or be liable for that portion which lies in Sudbury.

Selectmen Potell and Toomey were in agreement.

Selectman Toomey expressed his absolute opposition to Wayland's proposal as it concerns the cross-over and stacking of traffic into both landfill areas.

Selectman Potell was in agreement, and, after further discussion, it was agreed to request a report from Police Chief Lombardi relative to traffic concerns and counts as well as a report from the Safety Officer.

Permanent Landscape Committee - Loring Parsonage, Heritage Park

The Board received a list of recommendations dated November 21, 1977 from the Permanent Landscape Committee regarding plantings in front of the Loring Parsonage and in Heritage Park.

The Executive Secretary reported that there was sufficient money in the Heritage Park account for the recommendations made in the aforementioned letter, and Chairman Powers commented that the recommendations do not conflict with the plan to be undertaken in the Spring.

After discussion, it was on motion unanimously

VOTED: To authorize the Executive Secretary to expend a sum not to exceed \$150 from the Heritage Park account for plantings in Heritage Park as described in the Permanent Landscape's November 21 letter.

Selectman Potell suggested that the Committee be requested to supply the Selectmen with a time frame for the work.

It was further

VOTED: To concur with the plan as presented and to authorize the Executive Secretary to expend a sum from the appropriate account with regard to the Committee's above-referenced recommendations for plantings at the Loring Parsonage.

#### 1977 UNICEF Halloween Campaign

The Board received a communication dated November 21, 1977, from Edith Creter, 1977 U.N. Day Chairman, League of Women Voters, which reported that the final figure as of that date was \$481.93, which represented a 21% increase in contributions over last year.

It was on motion unanimously

VOTED: To direct the Executive Secretary to send a letter of appreciation to Mrs. Creter for her work on behalf of the League of Women Voters as Chairman of the UNICEF campaign.

#### New England Telephone - Extended Service

The Board received a communication dated November 21, 1977, from New England Telephone which set forth development and usage data in the Sudbury exchange for the month of July 1977 in connection with the trial of experimental Expanded Community Calling Service. Executive Secretary Richard E. Thompson reported that the trial period is over, and he recommended that Counsel should make recommendations and fight for the original petition or agree with the present status.

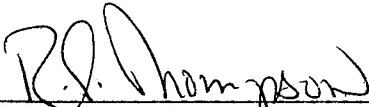
Selectman Potell suggested that the Board revert to its stand for extended local service.

Chairman Powers requested that Town Counsel review the matter and make recommendations on the same.

There being no further business to come before the Board, it was on motion unanimously

VOTED: To adjourn the meeting at 10:55 p.m.

Attest:

  
Richard E. Thompson  
Executive Secretary-Clerk