

**JAMES/KILMER CONDOMINIUM ASSOCIATION  
BOARD OF DIRECTORS MEETING  
April 27, 2010**

A meeting of the Board of Directors of James/Kilmer Condominium Association (the "Association"), an Illinois not-for-profit corporation, was called to be held on Tuesday, April 27, 2010, in the James House Hospitality Room, 1560 North Sandburg Terrace, Chicago, Illinois, pursuant to By-Laws.

**CALL TO ORDER**

Duane Hickling, President of the Association, called the meeting to order at 7:08 p.m. A quorum was present in that the following directors were present:

Frances Andrews  
Judy Barnes  
David Beck  
Duane Hickling  
Betty Latson  
Dan McNamara  
Tom Meyers  
Dorsey Ruley  
Nancy Slattery

Also present were Richard Vicens, Property Manager, Allan Werth, Site Supervisor, and Thomas Taylor, Vice President, of DK Condo, A Draper and Kramer Company. Barbara A. Roberts acted as Recording Secretary.

**REGULAR OPEN FORUM**

Mr. Hickling asked the unit owners present to defer any comments or questions about the windows replacement project until after Ms. Latson and Mr. Vicens gave their reports, which might answer a number of questions.

Barbara Grodzins, a Kilmer House resident, expressed a desire to ascertain the facts from the Board about several aspects of the lawsuits mounted by Kilmer House against James House, reading from an e-mail distributed by Suzy Ridenour of Kilmer House, one of the plaintiffs in the lawsuits, the statements in which Ms. Grodzins characterized as inconsistent with the facts. The points raised and responded to were as follows:

1. The stay was filed by the attorney for Mr. McNamara and Ms. Ridenour for the good of the whole association. Ms. Grodzins stated that this was untrue and that she would return to this point later.
2. The Association's Declaration states that the reserve funds are to be used for common elements only. Ms. Grodzins stated that the Declaration gives the Board the power to use its discretion to pay for repairs or improvements to limited common elements with capital reserve funds; Mr. Hickling confirmed that this is true.
3. The Board's use of 83.3% of the capital reserves allotted to James House as collateral for the window replacement loan ties up those funds until the loan is repaid, which is not fiscally prudent and would lead to a special assessment in the event of a an unanticipated need for a common

element repair or replacement. Ms. Grodzins stated that the funds used as collateral were never going to be tied up and could be used for unanticipated expenditures, and that this fact was fully discussed at Finance Committee and Board meetings. Mr. Hickling explained that 83.3% is the percentage of ownership of James House unit owners in the Association and consequently the percentage of Association capital reserves allotted to James House; he added that there has been extensive discussion about using this amount as collateral for the window replacement loan. Ms. Latson stated that using those funds as collateral was never going to tie them up, but that they were always intended to be available for capital expenditures, which are ongoing, and that the bankers who were approached about the window replacement loan plans were made aware of this.

4. The Board abuses its fiduciary responsibility to the J/K ownership by retaining high-priced attorneys to fight Kilmer House owners at a cost to date of more than \$100,000.00, by engaging the auditors to conduct the "accounting" study the results of which have yet to be revealed, with the cost of the "witch hunt" against Dan McNamara, and by paying to have petition signatures audited and election results certified. Ms. Grodzins stated that it was the filing of the stays and other lawsuits that was costly to the Association and was the result of misunderstanding and negligence on the part of the plaintiffs. Mr. Hickling confirmed that James House did engage attorneys to manage the stays, and that Kilmer House did the same thing. He stated that if the stays were filed in the belief that 83.3% of the Association's capital reserves would not be available for the ongoing capital reserve expenses of the James/Kilmer Association, then the filings were based on a mistaken assumption. Mr. Hickling added that the Board's responsibility was to make sure the Association could provide financing possibilities for James House unit owners who needed them. Mr. Hickling also stated that the election to remove or retain Mr. McNamara as a Board director is not a Board issue but is rather a response to a petition from unit owners, adding that according to the Illinois condominium Property act, if 20% of the ownership requests an action from the Board, the Board is required to respond. Ms. Andrews stated that auditing signatures on a petition is standard procedure and that the Board would be acting irresponsibly if it did not commission such an audit. Mr. Hickling and Mr. Beck added that the James House attorney fees total \$70,000.00 to \$80,000.00 at this time, one-third of which has been paid by the Association's insurance, for a net expense of approximately \$50,000.00, and further that there was a cap placed on the cost of the appeal.

Ms. Grodzins stated that she was pleased that the study of how operating and reserve expenses are allocated between James House and Kilmer House was performed. She added that she attended a meeting at which the study was discussed and that a summary of the results has, in fact, been available.

Ms. Grodzins concluded by commenting that if Ms. Ridenour and Mr. McNamara had asked questions about the use of reserves as loan collateral or had attended Finance Committee meetings, they probably would not have filed the stays, which, in her opinion, spurred James House owners to circulate a petition to have Mr. McNamara removed from the Board. She added that not filing the stays would have saved the Association money, time and effort, and that, according to her recollection, Mr. McNamara at one point did admit that a mistake had been made in filing the stays.

Ms. Grodzins further stated that she attempted to arrange a meeting between Kilmer House residents and the attorney for the lawsuit, and that she has been attempting to persuade Kilmer House residents to meet with Ms. Latson, Mr. Beck, Mr. Hickling and Mr. McNamara to discuss the entire situation, but that Kilmer House residents' response has been apathetic.

Mr. McNamara stated that, contrary to Mr. Hickling's statement, the Association's Declaration does not say that capital reserves may be used for repair or replacement of limited common elements, and that this is the heart of the lawsuit. He also stated that he did acknowledge his error in not getting proof that

if the reserves were placed as collateral for the Association loan, they would still be available for their intended uses, and that if that information had been available in writing, he would have had no cause to file the stay, adding that his sole purpose in filing the stay was to maintain the integrity of the reserves for the entire Association, and was not to prevent owners from getting financing for their windows. He further stated he did make a mistake and would undo the mistake if he could, and that Ms. Ridenour does not speak for him.

A unit owner asked Mr. McNamara if Ms. Grodzins is a plaintiff in the Kilmer lawsuit; Mr. McNamara responded that she is not. The unit owner asked if the special meeting at which unit owners were to vote on whether to remove Mr. McNamara from the Board or retain him would include open discussion. Mr. McNamara stated his opinion that nothing he could say would persuade those who wanted him removed from the Board to change their minds. The unit owner conveyed her concern that the petition did not reflect the most recent court ruling that a portion of the reserves could be used as collateral for the James House window replacement financing and thus was deceptive. Mr. Beck responded that the petition was circulated before March 23, the date of the court's decision, that it was not the Board's responsibility to correct misstatements in the petition in its cover letter, and that notices were posted throughout the building that the stay was denied. He added that no decision had as yet been made about whether there would or would not be an opportunity for discussion at the special meeting of unit owners. Ms. Andrews added her opinion that it would be inappropriate for the Board to revise the unit owners' petition. Mr. McNamara stated that the statement in the notices that if the motion to stay had not been denied, financing would not have been available was inflammatory. Discussion ensued.

A unit owner asked about the cost allocation study. Mr. Hickling responded that it has been completed, that copies of the complete study are available in the Management Office, and that a PowerPoint summary of the study, which he described as easier to understand than the very detailed full study, will be posted on the Association's Web site soon. In response to a further question, he explained that the study showed how income and expenses were allocated to each building, over a two-year period in the case of operating fund income and expenses, and over a ten-year period in the case of reserve fund income and expenses.

A unit owner reported that James House Elevator No. 1 bounces vertically. He commented that Mr. McNamara should be thanked because his actions have revealed the Board's and the attorney's negligence in the matter of the Kilmer House windows. Mr. Hickling stated that the attorney had nothing to do with how the Kilmer House windows were paid for.

### **APPROVAL OF MINUTES**

Mr. Beck asked if there were any additions or corrections to the minutes of the regular Board meeting held on March 23, 2010. There being none, **David Beck moved that the draft of the minutes of the regular Board of Directors meeting held on March 23, 2010, be approved as presented. Judy Barnes seconded the motion, and it passed, with Tom Meyers opposed.**

Mr. Beck asked if there were any additions or corrections to the minutes of the additional Board meeting held on April 8, 2010. There being none, **David Beck moved that the draft of the minutes of the Board of Directors meeting held on April 8, 2010, be approved as presented. Frances Andrews seconded the motion, and it passed, with Tom Meyers abstaining.**

## **REPORT FROM THOMAS TAYLOR, VICE PRESIDENT, DK CONDO**

Mr. Taylor commended the Board on its innovative team building and accountability approach. He then delivered the report of his first quarterly meeting with the Board pursuant to the Memo of Understanding between the Board and DK Condo, stating that several priorities have been established for the next quarter, including: updating information conveyed to unit owners, including a new welcome package and unit owner package; developing ways to bring in additional income, including formalizing a hearings procedure for rule violations; improving communications through efficient Board meetings and workshops; and developing a more efficient budget process. Mr. Taylor concluded by announcing his intention to distribute the first draft of an accountability checklist.

Mr. Taylor excused himself from the meeting at 7:40 p.m.

## **TREASURER'S REPORT**

Ms. Latson delivered the Treasurer's Report as follows:

For the first quarter ending March 31, 2010, the J/K Association reported total revenue of \$1.206 million. Revenues continue to remain lower than budget by approximately \$36,000.00, owing primarily to lower garage revenue.

Operating expenses were \$1,095,000.00 and were slightly higher than budget at \$17,000.00, because of gas costs. Gas costs were higher than budget by \$42,000.00 and were partially offset by lower-than-budget payroll expense.

As a result, the Association posted revenues over expenses before capital reserve contributions of \$111,000.00, which was \$53,000.00 under budget. After the provision for capital reserves of \$250,000.00, the Association generated an operating deficit of expenses over revenues of \$139,000.00, which is greater than the budgeted deficit of \$85,000.00.

At March 31, 2010, the operating reserve stood at a deficit of \$89,000.00. The capital reserve fund stood at \$5,568,000.00.

The next Finance Committee meeting will take place on April 28. Discussion will center on the unit owner direct charge recommendations, billing of the direct charge, and the letter to unit owners containing this information. With the stay denied, Harris Bank expects to send the Commitment Letter to the Association shortly. The commitment Letter will specify the interest rates needed for the Finance Committee to calculate installment plan payments. The Finance Committee's intention is to distribute that information early in May, with a request for unit owner direct charge commitment decisions to be made by the end of May or the beginning of June. This timing will permit the billing of unit owners by the end of July, with payments due August 1. All of this will be discussed at the April 28 Finance Committee meeting.

Ms. Latson followed her Treasurer's Report with a PowerPoint presentation entitled "Finance Committee Progress on Window Financing/Payment: Payment Schedule Questions." It covered the following topics:

- Key Finance Committee objectives
- What does the James House direct charge cover?
- What doesn't the James House direct charge cover?
- The current plan
- Prepayment options
- Delinquency protection
- Often-asked questions, and their answers

A unit owner asked whether the Finance Committee has determined the amount of the default reserve fund. Ms. Latson responded that the amount is estimated at \$200,000.00, later growing to \$350,000.00. She explained that the initial \$200,000.00 will be funded from vendor discounts given to the Association because of early payments to vendors. Ms. Latson further explained that those unit owners borrowing from the Association will be paying an administrative fee of one-half percent above the Harris Bank loan interest rate, and finally that the payments collected up front will be invested and the interest earned will also be used for the default reserve funding, with any money left over going to future James House limited common element repair or replacement costs.

A unit owner asked if up-front payments for the windows could be made by credit card. Ms. Latson responded that this is not now possible but that DK Condo may make it possible in the future to pay regular assessments by credit card; she added that there would be a three percent surcharge incurred by unit owners each time they paid assessments by credit card, and that there would be a risk to the Association if anyone paying with a credit card were to later dispute the charge.

A unit owner asked if the Finance Committee performed a study about how many units it anticipates may default in order to arrive at the default fund amount; Ms. Latson responded that it did and explained the model that was used.

## **COMMITTEE REPORTS**

### **Window Committee**

Mr. Beck announced that once the replacement window mock-ups are installed in Unit #915, the Committee will inspect them.

### **Infrastructure Committee**

Mr. Hickling announced that the Committee will meet on Tuesday, May 4.

## **MANAGEMENT REPORT**

Mr. Vicens reported on the following:

- As anticipated, the triennial reassessment appeal was denied by the Cook County Assessor, and has now been sent to the Cook County Board of Appeals, which will probably take two to three months to render a decision.
- The chiller rebuild will be completed this week, and the controls are now being updated as part of the original project package.

- A notice will be distributed on April 28 that Phase I of the Window Replacement Project, measuring the windows, will be performed on tiers 3, 5, 7, 9 and 11, and will begin on Monday May 3. The first phase will cover floors 43 to 34 on Monday, May 3, floors 33 to 24 on Tuesday, May 4, floors 23 to 13 on Monday, May 10, and floors 12 to 3 on Tuesday, May 11. Phase II will start on the south side of the building and wrap around tiers 1 and 2, Phase III will start on the east side of the building, covering tiers 4, 6, 8 and 10, and finally Phase IV will cover tiers 12 through 15. Paulette Demers, the Project Coordinator, will be present during all the measuring and will create a checklist of units noting any unusual conditions in the units, such as valences, window treatments, etc., that will need to be dealt with. Town Hall Meetings will be held close to the start of the actual replacement to provide residents with more details about protecting or moving furnishings, removing decorations, removing pets, etc., because the unit windows and doors will be open during the replacement process. The plan is to complete one floor per day in coordination with any façade work that may need to be done in the vicinity of each unit. Mr. Vicens provided more details of how the work will be done, and stated that a detailed notice will be posted on April 28.
- Information will be provided within the next day or two about how the scaffolding will affect viewing of the Air and Water Show and how that will be dealt with.
- The Façade Project has been difficult to administer because Golf Construction now has nine scaffolds instead of six owing to wind conditions. Ms. Demers is now also involved with this project to assist in informing residents about the progress of the project, particularly with regard to clearing balconies.
- During the two projects, no plants may be kept on balconies; information about this will be posted and is also available in the Management Office.

## **ACTION OR DISCUSSION ITEMS**

### **Approve Pet Committee Charter**

**Upon motion duly made by David Beck and seconded by Tom Meyers, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors approve the Pet Committee Charter.  
After discussion, the motion passed unanimously.**

Before the vote was taken, Pet Committee member Carol Abrioux informed those present of the actions taken by the Committee at its meeting on April 26 and before, as follows:

- Revised the registration form and instructions.
- Assisted the Management Office in checking on residents who did not re-register pets, and also assisting front desk personnel with regard to pets.
- Performed research on poop bags, on finding a product to deodorize the dog runs, on using Merrimac Stone instead of pea gravel on the dog runs, on loosening the soil under the Merrimac Stone and installing a plastic liner, and on obtaining ice-melting material that is more pet-friendly. Established that some income is derived from pet registrations.
- Assisted in mediating problems with pets.

Ms. Abrioux mentioned in addition several actions that the Committee feels it can take in future, such as:

- Actually forming an official committee after the charter is adopted; Ms. Abrioux explained that the Committee, as such, consists now of herself and Betsy Ruley, although 23 people attended the meeting on April 26 and many felt that it was a very successful meeting.

- Publishing items in the newsletter to assist in getting pet owners to cooperate with whatever pet rules are established.
- Writing new pet rules; the existing rules were distributed to those attending the April 26 meeting, with a request for their comments and suggestions.

Mr. Beck commended the efforts of Ms. Abrioux and Ms. Ruley, and commented that the Pet Committee should also be concerned about residents who do not own pets, especially with regard to pet rules. He suggested that some non-pet-owners should be included on the Committee; Ms. Ruley agreed with this suggestion. Ms. Latson commented that there should be some Board representation on the Pet Committee. Ms. Barnes noted that at the January Board meeting, she volunteered to serve on the Pet Committee, and agreed that it should include representatives from both buildings and both pet owners and non-pet-owners, adding that a check of records in the Management Office showed that 75% of residents do not own pets. Ms. Andrews expressed concern about how pet rules will be enforced and who is responsible for enforcing them. Ms. Abrioux assured those present that the Committee believes that enforcement is Management's purview and that residents should report infractions to Management. Ms. Ruley stated that there have been problems with this procedure in the past and that reports of infractions should be held anonymous; she added that the Committee is not responsible for enforcing the pet rules. Ms. Ruley also stated that all residents should be informed of the rules, which have not been enforced for some time. In response to concerns expressed by Ms. Andrews and Ms. Ruley, Mr. Beck suggested amending the Pet Committee Charter so that the Committee is not charged with any degree of responsibility for enforcing the pet rules, to which the Board agreed. Ms. Barnes brought up the problem of pet "accidents" in the garage, noting that pet waste is known to damage the floor membrane. Marcie Johnson commented that at the April 26 meeting, both Ms. Abrioux and Ms. Ruley were very clear about not overstepping the bounds of the Board or Management with regard to the pet rules issue, and commended them on their efforts.

#### **Ratify Locking In Electricity Rates for Two Years**

**Upon motion duly made by Tom Meyers and seconded by David Beck, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors ratify its previous approval via e-mail to lock in electricity rates with Exelon Energy for a period of two years beginning on or about January 11, 2011, and ending on or about January 10, 2013, at a cost per kilowatt hour of \$0.05671. After a brief discussion, the motion passed unanimously.**

Preceding the vote, Mr. Hickling explained that the e-mail vote was taken because electricity rates are volatile, and that the Board authorized Ms. Latson and Mr. Werth to lock in the most favorable rate. Mr. Meyers asked about changing the beginning date to December 31 instead of January 11.

#### **Approve A Policy Regarding Garage Parkers in Arrears**

**Upon motion duly made by Judy Barnes and seconded by Frances Andrews, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors approve a policy that, effective June 1, 2010, monthly parkers who are 60 days or more in arrears will have their decals removed and will be required to pay the hourly parking rate until they become current, if they wish to continue to park in the garage.**

Preceding the vote, the Board discussed at length the duties of the garage manager, Eddie Main, with regard to delinquent parkers, and the contractual responsibility of Standard Parking, as well as Mr. Main's efforts to solicit more business and therefore more revenue for the garage; it also included means of dealing with delinquent parkers, including towing, and Mr. Main's efforts to secure payment from delinquent parkers. Ms. Andrews described the various means of dealing with delinquent parkers that she discussed with Mr. Main and Mr. Vicens, including towing and removing decals, and conveyed Mr. Main's preference for removing decals. Further lengthy discussion ensued, including how many delinquent parkers there are and why, how the decals may be removed and how parkers will pay for parking when the decals are moved, Standard Parking's policies elsewhere, the number of delinquencies, how many consistent offenders there are, parkers complaining to the Board, Mr. Main's requests for advice or authority from the Board, whether or not the Board should change its parking policy including actions with regard to delinquent parkers, how much notice delinquent parkers receive, and evicting delinquent parkers. Mr. Meyers suggested reviewing parkers' leases with the garage and enforcing the terms of the leases, including revoking parking privileges if the parkers are not complying with the terms of their leases, with which Mr. McNamara agreed. Ms. Latson asked if the situation with regard to parkers in arrears is worse than with other arrearages in the Association. Ms. Andrews responded that the number of arrearages is typical but that Mr. Main raised the issue with her and with Mr. Vicens. A unit owner raised a question about the Garage Committee, to which Ms. Andrews responded that such a committee does not in fact exist, but that she has spoken with Angus Shorey, who has handled garage matters in the past. Mr. McNamara suggested that while it may be difficult to remove parkers' decals, it is not difficult to not honor them, as there are so few delinquent parkers, and Ms. Andrews stated that the letter proposed by Mr. Main would state that delinquent parkers would lose their parking spaces and be moved to the bottom of the waiting list for spaces.

Ms. Barnes withdrew her motion. **Upon motion duly made by Dan McNamara and seconded by Judy Barnes, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors approve a policy that effective June 1, 2010, monthly parkers who are 60 or more days in arrears will have their decals removed or no longer honored and will be required to pay the hourly parking rate until they become current, and if they have a permanent parking space, they will lose that space and go to the end of the waiting list for parking spaces. After further brief discussion, the motion passed unanimously. A roll-call vote was requested, the results of which were as follows: Dorsey Ruley–No, Tom Meyers–Yes, David Beck–Yes, Frances Andrews–Yes, Judy Barnes–Yes, Betty Latson–Yes, Nancy Slattery–Yes, Dan McNamara–Yes. The motion passed.**

During the discussion preceding the vote, Mr. Beck suggested reviewing the situation in five or six months to evaluate the effectiveness of the Board's action; the Board agreed.

**Approve A Policy Regarding Caregiver Parking**

**Upon motion duly made by Judy Barnes and seconded by David Beck, the following resolution was made:**

**BE IT RESOLVED, that the Board of Directors approve a policy that effective June 1, 2010, non-live-in caregivers for residents will be charged the monthly motorcycle rate, presently \$70.00, for caregiver parking, and live-in caregivers for residents will be charged the regular monthly rate, presently \$150.00, for caregiver parking. After a brief discussion, a roll-call vote was requested, the results of**

which were as follows: Dan McNamara–Abstain, Nancy Slattery–Yes, Betty Latson–Yes, Judy Barnes–Yes, Frances Andrews–Yes, David Beck–Yes, Tom Meyers–No, Dorsey Ruley–No. The motion passed.

During the discussion preceding the vote, Mr. Meyers stated his opinion that \$70.00 is too much for an occasional caregiver or for the resident to pay, and that the caregivers will park elsewhere. Ms. Andrews responded that short-term parkers may park elsewhere, and that the policy is intended for those who use caregivers seven days a week and possibly multiple caregivers. She added that other associations that she researched make no provision at all for caregivers, and that she wished to formalize the parking rule in line with James/Kilmer's other efforts to accommodate its residents. Mr. McNamara suggested charging short-term caregivers \$5.00 or \$10.00, an idea that Ms. Andrews agreed to explore if a desire for such a charge is brought to her or Management's attention. Discussion ensued about the area where caregivers used to park.

**Approve Locking In Gas Rates**

Upon motion duly made by David Beck and seconded by Tom Meyers, the following resolution was made:

**BE IT RESOLVED, that the Board of Directors ratify the action taken by Board Treasurer Betty Latson and DK Condo Site Supervisor Allan Werth to lock in gas rates with Exelon Energy for a period of one year for the months of January through August 2011 with the election to convert 85% of the monthly contract volumes to a fixed price of \$0.608 per therm, and for the months of September through December 2011 with the election to convert 70% of monthly contract volumes to a fixed price of \$0.608 per therm, in accordance with a contract signed by Allan Werth on April 27, 2010, and approved by Betty Latson. After a brief discussion, the motion passed unanimously.**

Preceding the vote, Mr. Hickling explained the reason for the conversion to fixed prices of 85% of the monthly contract volumes for part of the year and 70% of the monthly contract volumes for the remainder of the year.

Ms. Latson asked that the Board discuss whether it would like to determine a target price to lock in for gas for 2012. A lengthy discussion ensued about a reasonable target price and how much of the monthly contract volumes to lock in for what period, taking into account best estimates about future gas prices as well as the expected effect on heating costs in James House of more thermally efficient windows. Mr. Werth explained how gas purchases are made.

During the discussion, Mr. Ruley excused himself from the meeting.

Upon motion duly made by David Beck and seconded the Frances Andrews, the following resolution was made:

**BE IT RESOLVED, that the Board of Directors authorize Board Treasurer Betty Latson and DK Condo Site Supervisor Allan Werth to lock in gas rates with Exelon Energy for 2012 at a target price of \$0.550 per therm for 65% of the past year's average monthly usage. The motion passed unanimously.**

**Approve Remodeling Requests**

Upon motion duly made by Judy Barnes and seconded by David Beck, the following resolution was made:

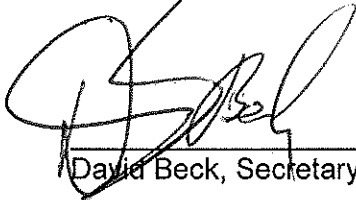
**BE IT RESOLVED**, that the Board of Directors approve the remodeling of Units #1204, #2001, #2002, #2409, #3101, #3102, #3107 and #4001, according to the requests submitted by the unit owners that have been reviewed and found to be in compliance with the Association's rules, regulations and conditions, and that will be subject to ongoing inspection by the Association's Chief Engineer. The motion passed unanimously.

Ms. Latson and Mr. Beck suggested that Gina Zehr and Barbara Grodzins, co-chairs of the Banker Event Subcommittee, sign and send a letter of thanks to the banks that participated in the Banker Events on April 7 and April 17. Mr. Hickling and the Board agreed.

**ADJOURNMENT**

There being no further business to come before the Board, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,



David Beck, Secretary