

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF OCTOBER 6, 2005 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James Laier, Vice-Chair
Adline Clarke
Victoria L. Rivizzigno
Ann Deakle
John Vallas

Members Absent

Clinton Johnson
Victor McSwain
Mead Miller (S)
James Watkins
Nicholas H. Holmes, III

Urban Development Staff Present

Richard L. Olsen, Deputy Director of
Planning
David Daughenbaugh, Coordinator of
Urban Forestry
Madeleine Masters, Planner I

Bert Hoffman, Planner I
Trista S. Cole, Secretary I

Others Present

John Lawler, Assistant City Attorney

Jennifer White, Traffic Engineering

Pat Stewart, County Engineering
Beverly Terry, City Engineering

Mr. Plauche stated the number of members present constituted a quorum and called the meeting to order.

The notation *motion carried unanimously* indicates a consensus, with the exception of the Chairman who does not participate in voting unless otherwise noted.

HOLDOVERS:

Case #SUB2005-00177 (Subdivision)

Graceland Subdivision

North side of Howells Ferry Road, ¼ mile± East of the North terminus of Havens Road.
10 Lots / 11.5± Acres

A motion was made by Dr. Laier and seconded by Dr. Rivizzigno to deny this application subject to the following conditions:

- 1) **the proposed subdivision does not address many of the conditions or concerns provided as part of the previous subdivision application;**
- 2) **the proposed private easements do not comply with the intent of Sections VIII.E.1.b. and VIII.E.2.c. of the Subdivision Regulations, and;**
- 3) **documentation has not been provided to justify the request for a private street subdivision.**

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The motion carried unanimously.

Case #ZON2005-01763 (Rezoning)
Gulf Health Properties (Chris Miller, Agent)

6001 Airport Boulevard
(South side of Airport Boulevard, between Wildwood and Pinemont Avenues)

A request for change in zoning from R-1, Single-Family Residential, to B-1, Buffer Business, to allow parking for an adjacent medical and office building.

The site plan illustrates the existing and proposed zoning along with the proposed lot configuration.

Chris Miller, Property Manager for Gulf Health Properties, was present in this matter and presented handouts to the Commission members. Mr. Miller said this was the same application they had submitted and the commission had approved over a month ago. The ownership changed hands and that was the reason they were submitting a new application. He referred to the handout which showed a sufficient buffer of 15 feet, which was more than the 10 feet required, and outside it was 20 feet, which was over the 15 feet required. They felt this was sufficient buffer between their parking lot and the residential property. Mr. Miller also pointed out that Wildwood Avenue does not go all the way through to Airport Boulevard, and therefore would not affect the residential property at all. He said their parking lot was overflowing and people were having to park on the streets. Mr. Miller also mentioned that every other piece of property along Airport Boulevard, including La-Z-Boy, and everybody else in that general vicinity had gotten their zoning variances approved for the same problem.

Brian Maisel, a resident of 755 Wildwood Avenue, which adjoins the subject property, stated he was present for the hearing three months ago and again last month when this matter was heard. Mr. Maisel said the parking would be 15 feet from the bedroom window of his children. Regarding the point about La-Z-Boy that Mr. Miller brought up, he said La-Z-Boy had zoning behind its building. The lot in question goes deeper into the residential neighborhood than La-Z-Boy. The entire back yard of the first house on Pinemont was practically engulfed by the dimension of this parking lot. Mr. Maisel said they would be almost encapsulated on the north and west by a parking lot. He said that was not what they had at La-Z-Boy. He said this was a significant intrusion into the neighborhood. Mr. Maisel said he had been by this site at all times of the day and he had always found available parking spaces. He contended this was not an expansion and intrusion into the subdivision because of the need for parking, but an intrusion for greed for parking. Just because they had purchased the property did not mean that it intrinsically came with a right for rezoning. Mr. Maisel said that the records showed that this building had been expanded two or three times and they were required to provide parking to satisfy the code for each expansion. They satisfied the code each time. Mr. Maisel said the Ordinance says "It is recognized that casual change for amendment to the Ordinance would be detrimental to the achievement of that objective, and it is therefore

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declared to be the public policy to amend this Ordinance only when necessary". He said the greed for more parking was different than the need.

Regarding Mr. Maisel's point that property on Pinemont was being engulfed by this commercial property, Mr. Vallas asked if he felt that he had made this property less desirable or not as desirable to live in from a residential standpoint.

Mr. Maisel said he did feel it affected the value of the property.

Mr. Plauche said if someone else built a house there, then they would be surrounded by this commercial zoning even more than the Pinemont resident because actually they would be looking at a retention pond, not having the benefit of looking at another house.

Mr. Maisel contended that was not necessarily so. He said there would still be a buffer between the parking lot and a house to the north, because he inquired about buying the property. He pointed out that there was a significant number of streets in the Pinehurst subdivision that were not open. He felt there was nothing here today that supported that the property still could not be developed as residential property. Mr. Maisel said the only difference was a developer coming in there and buying the property and extending the road in order to have access to it. It may not be economically feasible to take it the entire distance, but certainly enough to have it buffered so that the lady to the east would have a nice home. There was additional distance between there that would create a buffer.

Mr. Plauche asked if the owner would like to respond.

Mr. Miller stated that they had agreed to put up an 8-foot privacy fence, along with heavy landscaping. They had also agreed to put up shielded lighting. The hours of the medical facility would be from 8 a.m. to 5 p.m., so there would be no traffic in there after 5 or 6 p.m., and it should not affect the quality of life at all for the residents.

Dr. Rivizzigno noted that their diagram indicated that the property abutted the residential house on Pinemont, but she did not see any vegetation there or any kind of buffer.

Mr. Olsen said he could not see anything denoting an 8-foot privacy fence, and asked where that would be on the plan.

Mr. Miller pointed out where the fence would be. He said they would not have the landscaping buffering along Pinemont because he did not think there was enough room along there. The whole parking lot would be surrounded by an 8-foot privacy fence.

Ms. Deakle said the buffer would appear as if it was a contiguous part of the residential property.

Mr. Miller said that was correct. It would actually be an improvement, because all it was now was woods. Actually, it was wetlands.

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Mr. Vallas felt the house on Pinemont would benefit from the 20-foot buffer.

Ms. Deakle asked if she understood that the fence would be on the east side of the property, and then there would be a 20' foot buffer on the east side of the fence before you get to the property line of the east residential lot.

Mr. Olsen said there would be an 8-foot privacy fence entirely, and then the vegetative buffer.

In deliberations, Mr. Vallas noted that in developing the property to the west, the developers were required to provide buffers to try to satisfy the concerns of the residents.

A motion was made by Mrs. Deakle and seconded by Mr. Vallas to recommend this change in zoning to the City Council subject to the following conditions:

- 1) **completion of the subdivision process prior to the issuance of any permits;**
- 2) **full compliance with Section VLA of the Zoning Ordinance (parking requirements);**
- 3) **the provision of a buffer between the site and residential properties, as shown on the plan presented at the meeting;**
- 4) **denial of access to Wildwood Avenue; and**
- 5) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2005-00195 (Subdivision)
Mobile Medical Group Subdivision

6001 Airport Boulevard
(South side of Airport Boulevard, between Wildwood and Pinemont Avenues)
1 Lot / 1.38± Acres

(See Case #ZON2005-01763 (Rezoning) Gulf Health Properties (Chris Miller, Agent) – above for discussion.)

A motion was made by Mrs. Deakle and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) **completion of the rezoning process prior to the issuance of any permits;**
- 2) **the dedication of sufficient right-of-way to provide 25' from the centerline of the Wildwood Avenue right-of-way;**
- 3) **the provision of a buffer between the site and residential properties, as shown on the plan presented at the meeting;**
- 4) **the depiction of the 25' minimum building setback lines on the final plat; and**

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- 5) **the placement of a note on the final plat stating that the site is denied access to Wildwood Avenue.**

The motion carried unanimously.

Case #SUB2005-00191 (Subdivision)

McKinley Subdivision

1574 St. Stephens Road

(North side of St. Stephens Road, 170'± East of Dunbar Street)

1 Lot / 0.85± Acres

A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until October 20, 2005, at the applicant's request.

The motion carried.

Case #SUB 2005-00182 (Subdivision)

The Pines of Todd Acres Subdivision

(West side of Todd Acres Drive, 165'± North of Sulin Court, extending to the South terminus of Trinity Road)

45 Lots / 11.9± Acres

Millard Austin, Austin Engineering, was present representing the applicant and addressed item #3 of the recommended conditions of approval requiring a street stub to a landlocked parcel to the west. Mr. Austin said that property was purchased by the Mobile County Water and Fire Protection Authority for a tower, and they had also purchased an easement over to Trinity Road for access. He did not see the necessity of the developer building a street stub at this time. There was an access already provided to that parcel. Mr. Austin said if it could not be approved with the existing easement, he suggested it be approved subject to that 30-foot easement being deeded to the Mobile County Water and Fire Protection Authority so that they would own access to the new private street rather than requiring the developer to build the street.

In deliberations Ms. Deakle asked if someone wanted to access that northernmost parcel to the west, what was to stop them from putting in some shells and driving over them.

Mr. Olsen said that between City Engineering and Urban Development, they would look at that either as a private road or something that did not necessarily comply with the Zoning Ordinance since it was providing access from, at this point, a residential property to something else. If it were deeded to the other property owner, then it would actually become part of their deeded road frontage that they could eventually use if they came in for a one-lot subdivision to incorporate them together.

A motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

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- 1) the placement of a note on the final plat stating that Lots 18 and 33 (which are corner lots) are limited to one curb cut each, with the size, location and design to be approved by Traffic Engineering;
- 2) the placement of a note on the final plat stating that Lots 1 and 11 are denied direct access to Todd Acres Drive;
- 3) dedication and construction of new roads to meet COM Standards;
- 4) the area noted as a 30' easement be deeded to the property to the west to provide real property frontage on a public street (as offered by the applicant's representative), to comply with sections V.D. 4;
- 5) the placement of a note on the final plat stating that maintenance of the detention/common area will be the responsibility of the property owners;
- 6) full compliance with Engineering comments (Flood zone designation is incorrect; FEMA maps indicate property is located within the x-shaded flood zone. A minimum finished floor elevation must be designated for all lots within the x-shaded flood zone. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit); and;
- 7) the placement and labeling of the 25-foot minimum setback lines on the final plat.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2001-00241 (Subdivision)

(File #S2000-218)

Crichton Commerce Place Subdivision (formerly M & E Subdivision)

North side of Moffett Road, 610'± West of Western Drive extending to the East side of Crichton Street.

11 Lots / 15.7± Acres

A request for a one-year extension of a previous approval was considered.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant.

After discussion a motion was made by Dr. Rivizzigno and seconded by Dr. Laier to deny this request.

The motion carried unanimously.

Case #SUB2002-00246 (Subdivision)

(File #S95-130)

Creeklime Subdivision

Northwest corner of Higgins Road and Shipyard Road, and running through to Interstate 10.

28 Lots / 227.0± Acres

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A request for a one-year extension of a previous approval was considered.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request.

The motion carried unanimously.

Case #SUB2002-00153 (Subdivision)

Summit Subdivision

Eastern terminus of O'Hara Drive, 650'± East of Twelve Oaks Drive.
99 Lots / 41.0± Acres

A request for a one-year extension of a previous approval was considered.

Don Williams, M. Don Williams Engineering, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request.

The motion carried unanimously.

Case #SUB2004-00196 (Subdivision)

Tangle Brush Subdivision

South side of Ward's Lane at the South terminus of Whitestone Drive, extending to the North side of the CSX Railroad right-of-way.
56 Lots / 23.4± Acres

A request for a one-year extension of a previous approval was considered.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request.

The motion carried unanimously.

Case #SUB2002-00151 (Subdivision)

Blackwell Oaks Subdivision

South side of Blackwell Nursery Road South, ½ mile± West of Snow Road.
65 Lots / 23.0± Acres

A request for a one-year extension of a previous approval was considered.

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After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request.

The motion carried unanimously.

GROUP APPLICATIONS

Case #ZON2005-01854 (Planned Unit Development)

Louise Place Subdivision, Unit Two

Area bounded by the centerline of McMurray Street (to be vacated), McNeil Avenue, South side of Gulver Street (to be vacated), and Louise Avenue.

A request for Planned Unit Development to allow reduced lot sizes and widths, reduced front yard and side yard setbacks, and increased site coverage in a single-family residential subdivision.

The site plan is surrounded by single family residential dwelling, with vacant property to the West.

(Also see Case SUB2005-00203- Louise Place Subdivision, Unit Two- see below)

Mr. Plauche stated that these applications were recommended for holdover.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. Mr. Coleman said they had reconfigured proposed Lot 2. They had also checked with the developers of the subdivision to the south regarding stormwater detention that comes off of this property. He was told that those lots were accounted for in the stormwater detention. Other than that, Mr. Coleman said they did not have any problem with it and would like to go ahead and have it heard today.

Mr. Olsen said Mr. Coleman did submit a copy of a revised plat, but it was not in time to modify the plan.

In deliberations, Mr. Vallas asked if the staff was okay with them voting with the revised plat.

Mr. Olsen said that because of the detention issues, they did need some comment or guidance from Ms. Terry of Engineering because they did not have at this point any documentation that McArthur Place included the detention.

Ms. Terry noted that even if they included detention volume or calculations for their runoff and their detention pond, there was no dedicated drainage easement from Louise Place through their property. They would have to get a hold harmless agreement from the McArthur Place property owners association for the increase and concentrated runoff.

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After discussion a motion was made Dr. Rivizzigno and seconded by Dr. Laier to holdover this application until October 20, 2005, to allow the applicant to submit documentation regarding the provision of detention.

The motion carried unanimously.

Case #SUB2005-00203 (Subdivision)

Louise Place Subdivision, Unit Two

Area bounded by the centerline of McMurray Street (to be vacated), McNeil Avenue, South side of Gulver Street (to be vacated), and Louise Avenue.

10 Lots / 2.5± Acres

(For discussion see Case ZON2005-01854 – Louise Place Subdivision, Unit Two – Planned Unit Development – above)

After discussion a motion was made Dr. Rivizzigno and seconded by Dr. Laier to holdover this application until October 20, 2005, to allow the applicant to submit documentation regarding the provision of detention.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2005-00204

Alverson Commercial Park Subdivision

163 and 175 Alverson Road South

(East side of Alverson Road South, 590'± North of Airport Boulevard).

1 Lot / 3.9± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mrs. Clarke to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and**
- 2) the placement of the 25-foot minimum setback lines on the final plat.**

The motion carried unanimously.

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Case #SUB2005-00201

Halls Mill Creek Division Subdivision, Resubdivision of Lots 7 & 8

3730 and 3742 Belle Isle Lane North

(North side of Belle Isle Lane North, 200'± East of Belle Isle Lane).

2 Lots / 2.5± Acres

A representative of the applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mrs. Clarke to approve the above referenced subdivision subject to the following condition:

- 1) the approval of all applicable federal, state and local agencies prior to the issuance of any permits.**

The motion carried unanimously.

Case #SUB2005-00200

Hillwood Subdivision, Resubdivision of Lot 1

159 Hillwood Road

(Southwest corner of Old Shell Road and Hillwood Road).

3 Lots / 1.7± Acres

A representative of the applicant was present and concurred with the staff recommendations.

Joelyne Trehern, a resident of #1 Springhill Trace, said the proposed subdivision was right across the street from her property. She said she did not mind them subdividing the property, but asked if they were going to put a large fence around it like the Morrisette compound.

Mr. Olsen explained that the Morrisette compound that was referred to was a PUD and that was the reason that fence was allowed. This application was not a PUD, but simply a subdivision. Any fence proposed on this property would have to meet the Zoning Ordinance, which does not allow a fence higher than three feet in the required 25-foot setback off of Old Shell, or in the 20-foot setback that would be required along Hillwood.

Mrs. Trehern said she was down here a few months ago and the Planning Commission approved the applicant putting up an 8-foot wall 10 feet away from Old Shell Road.

Mr. Vallas said that was the Board of Adjustment, and he thought this new application would replace that plan.

Mr. Olsen said he was not aware of the Board of Adjustment approving such a variance.

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Mr. Vallas said that originally this resident was going to keep this house and build a pool and fence. The adjoining property then became available and the resident bought another residence to do his plan and decided to subdivide his property into three lots.

Mr. Olsen said the site plan would be different than what was approved by the Board of Adjustment and it would no longer be valid and Urban Development would not issue a permit for that fence.

Mrs. Trehern also asked about stormwater detention requirements.

Mr. Plauche explained that the applicant could not dump his water onto the adjoining property. They have to take care of their own drainage water and have some type of retention. Also, if they did any work in the right-of-way of Old Shell Road or Hillwood, they would have to get a permit.

Chris White stated that he and his wife owned the parcel in question and the property next door on Hillwood, where they would be living. He just wanted to reaffirm that the previous plan was completely separate from this and they no longer want to retain this as their primary residence. They would not be building the wall they had previously proposed. He said they understood that this plan supercedes the previous plan and if they wanted to build a wall they would have to come back for approval. Mr. White said they fully understood the stormwater requirements and would retain the water within the site.

After discussion a motion was made by Mr. Vallas and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **Lot C is denied access to Springhill Trace;**
- 2) **the removal of an existing structure prior to the recording of the final plat;**
and
- 3) **full compliance with Engineering comments (*Stormwater detention is required for this site. Common area for detention should be shown on the preliminary plat. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit*).**

The motion carried unanimously.

Case #SUB2005-00202

Leighton Commons Subdivision

East side of Riviere du Chien Road, 240'± South of the South terminus of Lloyd Station Road.

64 Lots / 19.2± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and addressed the staff's recommended condition #6. Mr. Coleman said it was their understanding from reading the staff report that the piece of property to the north was

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owned by the same person to the north of it and had frontage on a public street. They do not feel, therefore, that they have to let him have frontage on their street.

Mr. Vallas asked frontage on which property to the north and Mr. Olsen stated this property (on the screen above).

After discussion a motion was made by Mr. Vallas and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **placement of a note on the Final Plat stating that Lots 1-4 and Lot 64 are denied direct access to Riviere du Chien Road and Lloyd Station Road;**
- 2) **depiction of the 25-foot minimum building setback line in compliance with Section V.D.9. of the Subdivision Regulations;**
- 3) **revision of the plat to reflect provision of access to detention areas via easement or dedicated street;**
- 4) **no permits are to be issued for street construction in Leighton Commons until a new application showing a corresponding street stub has been submitted for the expired Leighton Place Subdivision to the south;**
- 5) **adjustment of the property line corners at the street intersection with Riviere du Chien Road, in conformance with Section V.D.6. of the Subdivision Regulations;**
- 6) **placement of a note on the Final Plat stating that maintenance of the detention basin common areas, and any other common areas, are the responsibility of the subdivision's property owners, and;**
- 7) **approval of all applicable federal, state and local agencies regarding the potential wetlands and floodplain issues prior to the issuance of any permits.**

The motion carried unanimously.

OTHER BUSINESS:

Request for vacation of a portion of Tanner Road, East of Schillinger Road

Mr. Olsen explained this request for the vacation of roughly a 300-foot section of right-of-way. He said the only issue the staff had was that there were multiple lots of record along the section that was requested for vacation. Their only frontage was on that right-of-way. If the vacation occurred, would technically become landlocked parcels. They were all under the same ownership, so the staff would suggest that a condition of vacation be that those properties be incorporated into a single legal lot of record via a subdivision.

Ms. Deakle asked what happened to all of those lots that were plotted out to the east of it.

Mr. Olsen said those lots had access from McKinley Avenue. He did not know if they were going to fight the vacation, because it is easier for them to access from Schillinger.

Pat Stewart, County Engineering, pointed out that the right-of-way on Schillinger Road was not accurate, and the County wanted full dedication for the major street.

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Mr. Olsen said that would have to be a part of the subdivision application when they came in.

Mr. Vallas stated that they would have to get the consent of all the affected property owners that have access. Even if the Commission approved it, if one person objected, the County could not vacate it.

Mr. Lawler said that was not necessarily so. One person can object to it. The method of vacating streets changed about a year ago, and up until that time all abutting property owners were given notice and given an opportunity to come in and object, and then if they were cut off from a more convenient access to their property by the closing, they had a right to claim damages in that proceeding. With the new law, the only thing you do now when you vacate is give notice to all the affected property owners so they can come in to the governing body and voice their objection if they want to. Mr. Lawler said the governing body can go ahead and vacate if they want to, and then it would be incumbent upon the objectors if they wanted to file some kind of action in court to try to block it. It makes it more difficult for the property owners. They could still get compensation, but it's a lot different that it was before.

After discussion a motion was made by Ms. Deakle and seconded by Mr. Vallas to recommend the vacation provided that the applicant submits a subdivision application to make the affected properties a legal lot of record on the north and south sides of the vacation application.

The motion carried unanimously.

Call for public hearing

Mr. Plauche announced that a public hearing would be held on November 3, 2005, to consider an amendment to the Major Street Plan component of the Comprehensive Plan to remove a portion of Girby Road Extension from Campground Creek to Dawes Road, and to add a portion from Campground Creek to Hillcrest Road.

Mr. Olsen said there had been several requests from developers and property owners in the area whose property would be impacted by this proposed Major Street. He said a part of the proposed road would run along through the floodway and therefore could never be built due to environmental issues. The staff, therefore, recommended this amendment.

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There being no further business, the meeting was adjourned.

APPROVED: November 17, 2005

Victor McSwain, Secretary

Terry Plauche, Chairman

tc/ms