

**MINUTES OF REGULAR MEETING**

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<b>Champaign County Environment &amp; Land Use Committee Champaign County Brookens Administrative Center Urbana, IL 61802</b>	<b>DATE:</b> <b>TIME:</b> <b>PLACE:</b>	<b>December 13, 2004 7:00 p.m. Meeting Room 1 Brookens Administrative Center 1776 E. Washington Street Urbana, IL 61802</b>
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**MEMBERS PRESENT:** Jan Anderson, Patricia Busboom, Chris Doenitz, Tony Fabri, Nancy Greenwalt (VC), Ralph Langenheim (C), Brendan McGinty, Steve Moser, Jon Schroeder

**MEMBERS ABSENT:** None

**STAFF PRESENT:** Jeffrey Roseman, John Hall, Susan Monte, Connie Berry, Jamie Hitt, Joel Fletcher

**OTHERS PRESENT:** Alvin Brock, Shirley Willard, Jake Willard, Joe Brown, Dustin Hoke, Steve Willard, Peter Ruedi, Scott Harper, Sherry Newton, Brian Ruedi, Karl Newton, Steve Shoemaker, Rachel Ruedi, Phillip Geil, Hal Barnhart, Elizabeth Cameron, Beverly Seyler, Herb Schildt, Jeff Tock, Chris Copeland

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**1. Call to Order, Roll Call**

The meeting was called to order at 7:03 p.m. The roll was called a quorum declared present.

**2. Approval of Agenda**

Mr. Moser moved, seconded by Mr. Schroeder to approve the agenda as submitted. The motion carried by voice vote.

**3. Minutes of Previous Meeting (June 29, 2004; September 15, 2004; October 4, 2004; and November 18, 2004).**

**Ms. Greenwalt moved, seconded by Ms. Anderson to approve the June 29, 2004; September 15, 2004; October 4, 2004; and November 18, 2004 minutes as submitted. The motion carried by voice vote.**

**4. Public Participation**

1 Mr. Steve Willard, who resides at 552 County Road 2425N, Dewey, Illinois stated he represents the facility  
2 known as “The Shed”. He said that he was not aware that the property would require a zoning change to  
3 operate “The Shed” and requested a continuation so that he can cooperate with the Planning and Zoning  
4 Department and correct the violations. “The Shed” is an all age music venue for the youth and they strive to  
5 make it a safe environment in not allowing drugs or alcohol. He said that “The Shed” had been in operation  
6 for approximately one year and has continuous growth. He said that he spoke with his neighbors and they  
7 did support the facility although they did request that the music be toned down when the shed doors were  
8 open in the summer months. He spoke to Teri Legner of the Village of Mahomet and she indicated that she  
9 had no concerns. Kevin Furtney, Mahomet Township Road Commissioner was contacted and he indicated  
10 that adequate parking should be available on the property so that the attendees do not park along the  
11 township road therefore rock was placed on the property to provide said parking. Mr. John Jay, Chief of the  
12 Cornbelt Fire Protection District was contacted and he indicated that he is pleased with the setup of the tool  
13 shed which is a 30' x 40' tool shed with two large sliding doors. Mr. Willard stated that “The Shed” is open  
14 on Friday and Saturday nights from 7:00 p.m. to 10:00 p.m. He said that he did make the mistake of  
15 allowing a couple of bands the courtesy of practicing in the facility but the main mission of the facility is to  
16 allow the youth to have a safe, comfortable atmosphere to mingle. He said that the youth are very limited as  
17 to where they can listen to live music unless they purchase expensive tickets through the Assembly Hall. He  
18 said that previously they had only requested donations from those who came but today “The Shed” charges  
19 \$1.00 per person for entry into the facility, which helps pay the bands, and \$1.00 for parking. He noted that  
20 a complaint was received and the Champaign County Sheriff’s office came to investigate and when the  
21 deputies arrived the kids remained calm and no issues were witnessed. He requested that the Committee  
22 allow the facility to remain open during his cooperation with the department to make the facility legal with  
23 the County’s requirements.

24  
25 Mr. Steve Shoemaker, who resides at 405 Avondale, Champaign stated that during his term on the County  
26 Board and a member of this Committee he proposed agenda Item #18. He gave an overview of Item #18 for  
27 the newly appointed ELUC members. He requested that the Committee vote affirmatively on allowing some  
28 form of accessory apartment in the rural districts.

29  
30 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet stated that he and his wife met with Ms. Monte  
31 regarding any issues that they had concerning the proposed RPO district. He said that because of the  
32 ongoing changes to the proposed zoning map and text amendments the current form of proposals were not  
33 available for review. He said that based on the information presented at the October 16, 2004, Zoning Board  
34 of Appeals meeting they strongly oppose the proposals including the creation of the RPO, various protection  
35 buffers and the limitation and definition of buildable area and the maximum disturbed area. Their  
36 opposition is based on the following reasons: 1) It is their opinion that the creation of the RPO exceeds the  
37 authority granted by the Illinois County Zoning Statute. They can find no authorization granted by the  
38 statute which empowers the creation of zoning districts based on resource protection. The State of Illinois  
39 provides several other mechanisms and regulatory agencies to protect the environment and the natural  
40 resources and zoning was never intended to take the place of these other agencies and their regulations; and  
41 2) The proposed RPO and Stream and Drainageway Protection Buffer places significant and burdensome  
42 restrictions on their land which negatively affects its value. The buildable area, the area upon which a home  
43 could be built, cannot include certain types of soils no matter how or why a certain soil type came to be

1 found on the property. He said that a buildable area cannot contain a slope which is more than 30% which  
 2 means that someone could not have a walk-out basement. The buildable area cannot be within 125 feet of a  
 3 stream, no matter what the contour or elevation of the land is within the 125 foot buffer therefore it will not  
 4 be possible to build a home upon a high bluff which overlooks the river. He said that upon a five acre lot  
 5 only one acre of maximum disturbed area and this acre must include the home, driveway and yard. This  
 6 restriction leaves no room for the types of buildings and uses that most people desire when moving to the  
 7 country. It would not be possible to build a home and a horse stable nor a house and a tennis court because  
 8 the disturbed area does not only apply to the dwelling but ground which could be disturbed. He said that in  
 9 the Stream and Drainageway Protection Buffer all use of the land which falls within this buffer is lost. The  
 10 buffer includes not only the stream or drainageway itself but up to 125 feet on either side which would be a  
 11 250' corridor which runs through the center of the land even though the part of the corridor which contains  
 12 runoff is only approximately five feet in width and never carries more than three inches of water. He  
 13 requested that the County reject the RPO and Drainageway Buffer proposals.

14

15 **5. Correspondence**

16

17 None

18

19 **6. County Board Chair's Report**

20

21 None

22

23 **7. Recreation and Entertainment License: Honey Bee Productions, Inc. d.b.a. Malibu Bay**  
 24 **Lounge , Bands, Dancing and additional events, 3106 N. Cunningham Av, Urbana, IL.**  
 25 **January 1, 2005 through December 31, 2005.**

26

27 **8. Recreation and Entertainment License: Elmer's Club 45 Inc, d.b.a. Club 45 Banquet Hall,**  
 28 **3515 N. Cunningham, Urbana, IL. January 01, 2005 through December 31, 2005.**

29

30 **9. Recreation and Entertainment License: Tincup RV Park, Inc, Recreational Vehicle Camping**  
 31 **and Driving Range, 1715 E. Tincup Rd, Mahomet, IL. January 01, 2005 through December**  
 32 **31, 2005.**

33

34 **10. Recreation and Entertainment License: Kams of Illinois LLC, d.b.a. Pink House, Live Music,**  
 35 **Jukebox, Karaoke, TV, Video/Arcade games, 2698 CR 1600N, Ogden, IL. January 01, 2005**  
 36 **through December 31, 2005.**

37

38 **11. Recreation and Entertainment License: Wendl's, Softball, Dance, Bands and Rodeo, 1901 S.**  
 39 **Highcross Rd, Urbana, IL. January 01, 2005 through December 31, 2005.**

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41 **12. Recreation and Entertainment License: Curtis Orchard, Live Musical Performances, 3902 S.**  
 42 **Duncan Rd, Champaign, IL. January 01, 2005 through December 31, 2005.**

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- 13. **Recreation and Entertainment License: Hideaway of the Woods Grill and Bar, 809 S. Prairieview Rd, Mahomet, IL. January 01, 2005 through December 31, 2005.**
- 14. **Recreation and Entertainment License: The Oasis of Penfield, Inc, 2705 CR 3000N, Penfield, IL. January 01, 2005 through December 31, 2005.**
- 15. **Recreation of Entertainment License: Uncle Buck’s Sports Bar, Inc, 215 S. Lake of the Woods Rd, Mahomet, IL. January 01, 2005 through December 31, 2005.**
- 16. **Recreation and Entertainment License: ABSP, Inc, Arcade, Mini-mart, Tavern and additional events, 206-210 Logan St, Longview, IL. January 01, 2005 through December 31, 2005.**
- 17. **Hotel/Motel License Renewal: Ravi-Yash, Inc, d.b.a. Best Value Inn, 1906 N. Cunningham Av, Urbana, IL. January 01, 2005 through December 31, 2005.**

Ms. Greenwalt moved, seconded by Ms. Anderson to approve Agenda Items #7, #8, #9, #11, #12, #13, #14, #15, #16 and #17 as submitted pending Sheriff’s office approval. The motion carried by voice vote.

Mr. Moser requested information regarding a noise complaint which was filed against the “Pink House”.

Mr. Roseman stated that a complaint was received on December 07, 2004, regarding noise generated from the facility but staff has been unable to verify the complaint.

Ms. Busboom stated that she would like the Committee to discuss the application for the “Pink House”.

**Mr. Moser moved, seconded by Ms. Greenwalt to approve Agenda Item #10, Kams of Illinois, LLC, d.b.a. Pink House.**

Ms. Busboom stated that Mr. Cochrane has addressed the issue of noise before and believes that if there is a recurring issue that he will turn the music down.

Mr. Moser stated that for the last three weekends he has visited the “Pink House” and there has not been a band present. He said that he has spoken with a neighbor of the “Pink House” and the neighbor indicated that the noise level has gone down.

Ms. Greenwalt stated that the previous noise issue was with the disc jockey and not the bands. She said that she would be happy to approve the application and if the department receives a complaint the department can inform the Committee.

**The motion carried by voice vote.**

**The consensus of the Committee was to re-arrange the agenda and hear Item #24.B prior to Items #18**

1 through #26.

2  
3 **18. Multiple Dwellings: Accessory Apartment and/or Temporary Accessory Dwelling and the term**  
4 **“family”.**  
5

6 Ms. Greenwalt moved, seconded by Ms. Anderson to approve Alternative Policy 1.9A.  
7

8 Mr. Roseman read the definition of “family as follows: (a) an individual; or (b) two or more persons related  
9 by blood, marriage or adoption; or (c) five persons not so related; or (d) two or more persons related by  
10 blood, marriage or adoption and not more than three persons not so related; together with his or their  
11 domestic servants and gratuitous guests maintaining common household in a dwelling unit or lodging unit.  
12 He said that by allowing alternative policy 1.9A the County would be allowing the accessory dwelling on a  
13 permanent basis as well as a temporary basis because under the proposed regulations it is exclusively a  
14 temporary basis and is intended to be used as a manufactured home activity.  
15

16 Mr. Fletcher stated that he would recommend that “or other caregivers on a temporary basis” be stricken  
17 from the proposed policy 1.9A.  
18

19 Mr. Roseman stated that the goal is to allow two dwelling units within one single building.  
20

21 Ms. Busboom requested that the Committee receive an interpretation of Policy 1.9 from the State’s Attorney  
22 Office.  
23

24 Mr. Schroeder stated that the language in 1.9A is very broad in that it does not specify how many accessory  
25 dwellings are allowed within one structure. He requested specific language which defines the number of  
26 accessory dwellings which are allowed by 1.9A. He said that multi-family dwellings are not allowed in the  
27 rural areas because of the lack of public utilities. He referred to an article from the December 04, 2004  
28 edition of the News Gazette which indicates that there are approximately 140,000 surface discharge systems  
29 throughout Illinois. He said that according to a study conducted by the University of Illinois Extension  
30 along with the Illinois EPA indicates that 20% to 60% of Illinois’ discharge systems are failing due to poor  
31 maintenance or improper use. He said that this is one type of pollution which can occur in the rural area  
32 when density is increased without placing proper restrictions. He said that the subject of not allowing the  
33 poor or minorities in the rural area is an emotional topic but there are people in Colfax, Pesotum and  
34 Sadorus townships which do not have a lot. He said that these people live there because they chose to but  
35 there are expenses in maintaining private wells, septic systems, and paying for electrical and fuel bills. He  
36 said that he is not opposed to accessory dwellings near municipalities but not in the remote rural areas  
37 without utilities. He requested that this matter be deferred until legal review is received.  
38

39 **Ms. Greenwalt moved, seconded by Ms. Busboom to defer approval of Alternative Policy 1.9A, for**  
40 **legal review by the State’s Attorney’s Office, to the January 2005, ELUC meeting.**  
41

42 Ms. Greenwalt questioned Mr. Schroeder if Policy 1.9A would be more acceptable if it stated, “an accessory

1 dwelling or duplex” rather than the possibility of an apartment building.

2  
3 Mr. Schroeder responded that the text “an accessory dwelling or duplex” would be more acceptable but he is  
4 concerned with the number of homes located in the rural areas which could be multi-family units.  
5

6 **The motion carried by voice vote.**

7  
8 Mr. Langenheim stated that Mr. Schroeder spoke adequately regarding septic systems. He said that when  
9 development is approved in the rural areas of the county the soils are reviewed for septic suitability and  
10 questioned if there was a body of government affective in Champaign County which requires periodic  
11 inspection of septic systems in the rural area.  
12

13 Mr. Fletcher stated that the Public Health Department does respond to complaints regarding septic systems  
14 but he does not believe that they have the resources to do periodic inspections.  
15

16 Mr. Langenheim stated that perhaps the County should consider requiring periodic inspections of septic  
17 systems.  
18

19 Mr. Doenitz stated that the County does not have enough revenue to enforce such a regulation.  
20

21 Mr. Langenheim stated that it is obvious that there is a problem and this Committee has the responsibility of  
22 taking care of the public good.  
23

24 Mr. Fletcher stated that the Board of Health would be the entity for enforcement.  
25

26 **19. Subdivision Case 174-04: Nature’s Landing Subdivision: Approval of revised Performance**  
27 **Guarantee**  
28

29 Mr. Hall stated that Nature’s Landing Subdivision was approved in June, 2004. He said that the subdivision  
30 was authorized with a Performance Guarantee which was set up for twelve months rather than the normal  
31 twenty-four months. He said that it was approved with several conditions and changes which were required  
32 to be made to the Letter of Credit, as recommended by the State’s Attorney. The subdivision regulations  
33 allow public improvement construction to begin immediately with no posting of a “Performance Guarantee”  
34 for a period of twelve months. He said that the street is approximately 90% complete but it is not quite  
35 finished and the contractor is requiring payment and the final plat needs to be recorded. He said that one of  
36 the conditions which were approved in June, 2004 was that the Letter of Credit include a date of November  
37 20, 2004, which has already passed and Mr. Fletcher has made the determination that it is not good practice  
38 to have the Letter of Credit referring to a date that has already passed. A new approval on the subdivision  
39 and a new waiver and the waiver needs to recognize that we started off with 100% Performance Guarantee  
40 and based on a determination by the County Engineer a certain amount of the Performance Guarantee was  
41 authorized to the contractor. He stated that he is recommending a new condition which indicates that when  
42 the subdivision is recorded the Letter of Credit has to be for the improvements which are not complete.  
43 Condition #2 will indicate when the subdivision officer is authorized to draw from the Letter of Credit. The

1 Letter of Credit as it stands today states that the subdivision officer is authorized to draw on it one month  
2 from the time it expires. He said that we all expect that the subdivision will be approved without the need to  
3 draw upon the Letter of Credit, which expires May, 2005.  
4

5 **Mr. Schroeder moved, seconded by Mr. Moser to recommend approval of the Final Plat of**  
6 **Subdivision Case #174-04: Nature’s Landing Subdivision with the new waiver and revised conditions**  
7 **related to the revised Performance Guarantee. The motion carried by voice vote.**  
8

9 **20. Comprehensive Zoning Review**

10  
11 Ms. Monte encouraged newly appointed ELUC members to contact staff with any questions regarding Phase  
12 One.  
13

14 Mr. Moser requested that staff acquire a legal opinion from the State’s Attorney regarding the Resource  
15 Protection Overlay. He questioned if this process is a “taking” of property rights without compensation or if  
16 the County can legally proceed. He said that it seems senseless to pursue the public hearings until the  
17 County is assured that it is on legal ground with the proposed zoning designations.  
18

19 Mr. Fletcher stated that there are several legal questions which have been raised although he is not  
20 concerned with the issue of a “taking” and he would like to relay those concerns to the State Attorney  
21 General. He said that he is reluctant in recommending that the Board proceed with the public hearings in  
22 January and requested that it be deferred until an opinion is received from the State Attorney General.  
23

24 Mr. Moser stated that Mr. Fletcher may not be concerned with the issue of a “taking” but there are several  
25 lawyers in the County which are being contacted. He said that he has received several phone calls from  
26 landowners within his district and they feel that the County is taking away their property rights without  
27 compensation therefore he would like a legal opinion regarding this issue. He said that someone will take  
28 the County to court over this issue and then perhaps at that point we will find out if it is a “taking” or not.  
29

30 Mr. Fletcher stated that he will relate Mr. Moser’s concern to the State’s Attorney.  
31

32 Ms. Greenwalt stated that she would like to receive information regarding the protection that the RPO can  
33 provide. She requested data regarding the number of affected landowners and the imposed costs on those  
34 landowners so that she can weigh the pro’s and con’s.  
35

36 Mr. Moser stated that a lot of land along the Salt Fork River has been placed in a Wetland Protection Buffer  
37 (CRP) through the Federal Government. He said that the landowners have signed long term contracts and  
38 have been reimbursed for planting trees, grasses, etc. He questioned if the County has the authority to over-  
39 ride such a protection program with the Federal Government.  
40

41 **21. Direction Regarding Resumption of Comprehensive Zoning Review Hearings**  
42

1 Mr. Moser moved, seconded by Mr. Schroeder to defer the Comprehensive Zoning Review Hearings so that  
2 an opinion can be received from the Illinois Attorney General’s Office regarding the Resource Protection  
3 Overlay Zoning District and its effect upon land contracted with the Federal Government’s CRP program.  
4

5 Mr. Schroeder stated that during a conversation with Mr. DiNovo it was indicated that an opinion from the  
6 Illinois Attorney General could take several months.  
7

8 Mr. Roseman stated that the County State’s Attorney Office has issued opinions regarding the issue of a  
9 “taking”.  
10

11 Mr. Schroeder stated that he would like information regarding CRP ground and how it would be effected  
12 with the RPO included in the Attorney General’s opinion.  
13

14 Mr. Schildt stated that the Illinois State Zoning Statute does not authorize the zoning district to take on  
15 resource protection. He requested that the County seek the opinion of the Attorney General’s office.  
16

17 Mr. Fletcher requested the authority to meet with Mr. Moser to review specific concerns regarding the RPO.  
18

19 **The roll was called:**

21	<b>Anderson-no</b>	<b>Busboom-yes</b>	<b>Doenitz-yes</b>
22	<b>Fabri-no</b>	<b>Greenwalt-no</b>	<b>Langenheim-no</b>
23	<b>McGinty-no</b>	<b>Moser-yes</b>	<b>Schroeder-yes</b>

24  
25 **The motion failed.**

26  
27 Mr. Roseman stated that staff requires additional time to complete the Zoning Ordinance and requested that  
28 the hearings be delayed until February, 2005.  
29

30 Mr. Schroeder asked if there are any legal factors regarding how the township hearings should be held. He  
31 said that during a conversation with Mr. DiNovo he indicated that there may be some legal issues with this.  
32

33 Mr. Fletcher stated that the proposed text amendment would authorize the County Board to appoint a  
34 hearing officer to preside over township hearings. He said that it does raise some procedural issues but it is  
35 not improper.  
36

37 Ms. Monte stated that the ZBA’s preference is that a ZBA quorum (4 members) be designated as the  
38 presiding authority at the upcoming township hearings.  
39

40 Mr. Fletcher stated that if the ZBA presided over the township hearings it would increase the costs of the  
41 public hearings (per diem payments) but would remove any ambiguity.  
42

43 **Ms. Greenwalt moved, seconded by Ms. Anderson moved to defer the Comprehensive Zoning Review**



1 **Hearings until January 10, 2005. The motion carried.**

2

3 **22. Designation of Presiding Authority at Township Hearings and Related Procedures**

4

5 Mr. Roseman stated that the budget should be able to support the costs incurred by designating the ZBA as  
6 presiding authority at the township hearings.

7

8 **Ms. Greenwalt moved, seconded by Ms. Anderson to designate the Zoning Board of Appeals as**  
9 **Presiding Authority at the township hearings for Phase I of the Comprehensive Zoning Review. The**  
10 **motion carried.**

11

12 **23. Informal Interviews regarding CZR Phase One Proposed Zoning Restrictions**

13

14 Ms. Monte stated that the informal interviews have been very helpful in obtaining important feedback and  
15 suggestions. She said that with the information that was received staff will prepare alternatives to the  
16 provisions which are under consideration and present a new draft version.

17

18 **24. Planning and Zoning Monthly Report:**

19

**A. Monthly Report**

20

21 Mr. Roseman distributed and reviewed the October and November, 2004 monthly reports.

22

23 **B. Guidance concerning public safety issues related to enforcement in Section 36 of Newcomb**  
24 **Township.**

25

26 Mr. Roseman stated that staff noticed an advertisement in the local paper regarding “The Shed”. He said  
27 that staff sent a notice to the owners indicating that the activity was not an allowed use for their zoning  
28 district. He said that staff was concerned with the safety aspects of the facility.

29

30 Ms. Hitt stated that Mr. Willard, owner of “The Shed” would be required to file an application with the  
31 County requesting that his property be rezoned and obtain a Special Use Permit to allow “The Shed” to  
32 continue operation. She said that Mr. Willard would like to continue the activities until he is able to resolve  
33 the zoning issues with the department. If the Zoning Board of Appeals denied Mr. Willard’s request “The  
34 Shed” would be required to cease operation.

35

36 Mr. Doenitz stated that “The Shed” should be allowed to continue as long as the noise is within tolerance.

37

38 Mr. Moser agreed with Mr. Doenitz.

39

40 Ms. Greenwalt questioned the application date.

41

42 Ms. Hitt stated that Mr. Willard has not submitted his applications to date because he has been working with

1 the Village of Mahomet. The property is within one and one-half mile of the Village of Mahomet’s city  
2 limits therefore they could protest the map amendment and the special use permit.

3  
4 Mr. Roseman stated that staff requires direction from the Committee regarding “The Shed” and its  
5 allowance to continue operations until their applications with the Zoning Board of Appeals are granted or  
6 denied.

7  
8 Mr. Langenheim cautioned the Committee that allowing “The Shed” to continue operation would be  
9 relaxing strict interpretation and strict enforcement of the Ordinance.

10  
11 Mr. Moser questioned Mr. Willard if he had liability insurance.

12  
13 Mr. Willard stated that he has a one million dollar policy.

14  
15 Mr. Fletcher stated that he is skeptical regarding this issue.

16  
17 Ms. Hitt stated that in past practice the Committee has allowed continuance of an activity that is in violation  
18 of the Zoning Ordinance as long as the activity does not pose a threat to public health, safety or welfare.  
19 She said that the owners are required to submit an application within a timely manner and appear before the  
20 Zoning Board of Appeals for approval.

21  
22 Ms. Greenwalt questioned when this application would come before the ZBA.

23  
24 Mr. Hall stated that currently cases are being docketed for the end of March, 2005.

25  
26 **The consensus of the Committee was to allow “The Shed” to continue operation contingent that an**  
27 **application for a special use permit and a zoning map amendment are submitted for approval before**  
28 **the Zoning Board of Appeals.**

29  
30 **25. Determination of Items for County Board Consent Agenda**

31  
32 The consensus of the Committee was to place Item #19, Case 174-04: Nature’s Landing Subdivision on the  
33 County Board Consent Agenda.

34  
35 **26. Adjournment**

36  
37 The meeting was adjourned at 8:39 p.m.

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40  
41 Respectfully submitted,

**12/13/04**

**AS APPROVED JUNE 12, 2006**

**ELUC**

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Secretary to the Environment and Land Use Committee

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