

STATE OF FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD



EMBASSY SUITES HOTEL 1100 SE 17th STREET FORT LAUDERDALE, FL 33316

GENERAL SESSION MINUTES

SEPTEMBER 12, 2003

APPROVED FEBRUARY 13, 2004

None

Board Members Absent

Jeb Bush Governor

Diane Carr Secretary

Division of **Professions and Regulation**

> **Construction Industry** Licensing Board

1940 North Monroe Street

Tallahassee, FL

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850.487.1395

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800.955.8771

Board Members Present

Michelle Kane, Vice-Chair

Lee-En Chung

Raymond Holloway

Elizabeth Karcher

Others Present

www.MyFlorida.com/dbpr Erica Glover, Board Counsel

Patrick Creehan, Prosecuting Attorney

Tim Vaccaro, Executive Director Adrienne Rodgers, CIRF Attorney

Stacey Merchant, Government Analyst II Ruthanne Christie, Government Analyst I

Mr. Weller, Chair, called the meeting to order at approximately 8:05 a.m.

Mr. Del Vecchio gave the invocation. Ms. Kane led the Pledge of Allegiance.

Edward Weller, Chair

Joan Brown

Michael Blankenship

Paul Del Vecchio Karl Engelmeier

Barry Kalmanson

Robert Lang John Smith

Jacqueline Watts

INTERNET

REVIEW OF MINUTES

- **A.** June 13, 2003 (to be distributed)
- **B.** August 14, 2003 (to be distributed)

The above minutes were approved.

EXECUTIVE DIRECTOR'S REPORT

Mr. Vaccaro stated that he was very pleased to announce the reappointment of Joan Brown, Michael Blankenship and Barry Kalmanson. Mr. Vaccaro also announced the appointment of three new members, John J. Cox, III, Richard Dostie and Mark Pietanza. This will leave the consumer member for Division II and the Building Official member for Division I still vacant.

Mr. Vaccaro reported that there were 761 new complaints in the last two months, 381 of which were found to be legally sufficient. Of the legally sufficient cases, 132 were unlicensed activity cases. 339 investigations were assigned, 277 investigations completed, 116 cases were mediations assigned, with 55 of the mediations completed. There were 16 notices of noncompliance and 20 citations filed.

Mr. Vaccaro also stated that the first Glass & Glazing examination would be given in October.

CHAIRMAN'S REPORT

Mr. Weller asked if it would be possible to give the new members the board member handbook. Mr. Vaccaro stated that he would look into the matter.

PROSECUTING ATTORNEY'S REPORT

Mr. Creehan gave the following report:

As of August 2003, there were 261 cases in Legal. Of these 261 cases, 61 were set for probable cause, 114 cases have probable cause found/Administrative complaints found and 69 were ready for default. There were 55 stipulations executed/informal hearing requested, 105 had requested formal hearings and 17 cases were referred to DOAH. There were 57 cases awaiting final orders, 2 settlement negotiations, and 4 under appeal. For the month of August 48 cases were closed.

ATTORNEY GENERAL'S REPORT

A. Alfred Wang, Applications for Initial license as a Certified Air Conditioning Contractor was denied June 13, 2003. Mr. Wang has requested an informal hearing on the Notice of Intent to Deny. Ms. Watts recused herself. Mr. Wang was not present. Ms. Glover presented this case stating that Mr. Wang's application was denied because he stated on the application that he has not had any disciplinary action taken against him. It was discovered that Mr. Wang had received a citation and a settlement stipulation.

The board voted to uphold the denial of this application.

Mr. Wang arrived late to the meeting and the board voted to re-open this case and hear Mr. Wang.

After discussion, the board voted unanimously to uphold the denial of this application.

- **B.** Reconsideration of the decision made during the informal hearing on John Carruth. Ms. Glover stated that she received a call from Mr. Carruth stating that he had a family emergency and could not be present. Ms. Glover pulled this from the agenda.
- C. Petition for Declaratory Statement from Kenneth E. Eriksen. Mr. Eriksen was present with his attorney, Eric Tilton. Ms. Glover presented this matter stating that he holds a Certificate of Competency from Volusia County for a Marine Contractor. At some point, the department issued him a cease & desist notice for contracting without a license. Ms. Glover stated that she was informed that the cease & desist notice had been rescinded. This request for declaratory statement was filed before the notice was rescinded. Ms. Glover stated that she recommends the board deny this request. The recommendation was based on the fact that declaratory statements are meant to be requested by a petitioner in advance, not after the fact, in order to decide if what they want to do is right or wrong.

The board voted unanimously to deny this request.

RECOVERY FUND ATTORNEY'S REPORT

SILAS v. SCLEASE

Ms. Rodgers presented this case stating the purpose of this review is for the board acceptance or non-acceptance of the Recommended Order of the Administrative Law Judge dated December 4, 2002. The claim was granted for the amount of \$25,000 based on the timely filing of a claim and a final order finding that Sclease violated section 489.129(1) (d) and (h) 3, F.S. (1997).

Sclease disputed the award, stating that he did not violate section 489.129(1)(d),(h),(k) or (l), F.S.(1997). At an informal hearing before the board, the board determined that there were disputed issues of material fact and referred the matter to DOAH.

The Administrative Law Judge has recommended that the board enter an order approving the claim against Sclease and granting the recovery of \$25,000,

Ms. Rodgers recommended that the board approve the Administrative Law Judge's findings of fact and conclusions of law and approve the claim of Lamont and Claudette Silas in the amount of \$25,000.

The board voted to approve the Administrative Law Judge's Recommendations.

Ms. Rodgers reported that the amount of claims filed since 1995 have increased each year. The average payout has remained steady with a payout of \$12,268.

A comparison of claims based on type of contractor shows that claims against general contractors, swimming pool and roofing contractors are the highest.

COMMITTEE REPORTS

APPLICATION REVIEW COMMITTEE

Ms. Watts gave the following report:

Applications approved

Bolen, Basil John – initial certified class B air conditioning contractor.

Cavaliere, Henry K. – initial certified building contractor – with 1 year of probation.

Crandall, Rachel Lynn – initial certified roofing contractor.

DelFiacco, Mario JR. – change of status from one business entity to another – with 2 years of probation.

Elsasser, Don – initial certified building contractor.

Farrer, Michael L. – initial certified general contractor.

Franklin, Robert Gary – initial certified general contractor – with 2 years of probation.

Gantjos, Stavros A. – initial certified building contractor.

Gorman, Robert J. – change of status from one business to another.

Hugues, Robert E. – change of status from one business entity to another.

Johnigean, John – change of status.

Kivimaki, William R. – change of status from one business entity to another – 2 years of probation.

Leon, Jong X. – initial certified swimming pool/spa contractor - 2 years of probation

Lock, William F. – initial certified general contractor – 2 years of probation

Lovell, Ronald D. – initial certified general contractor.

Madkour, Mamoud S. – change of status from one business entity to another.

Minnes, Travis A. – initial certified residential contractor.

Moore. Charles W. – limited one time non- renewable registration for general contractor.

Newman, Michael D. – initial certified solar contractor.

Perkins, Jamey L. – initial certified roofing contractor.

Pollard, Marshall – application for certification registered building contractor.

Price, Ernest P. – change of status from one business entity to another.

Robinson, Lamont King – initial certified general contractor.

Rodriguez, Jorge – application for certification registered roofing contractor (grandfathering)

Tiseo, John A. – initial certified building contractor.

Underwood, James L. – initial certified roofing contractor.

Valladares, Ernesto – change of status from one business to another.

Ward, Keith D. – initial certified residential contractor.

Zipperer, Randall – initial registered residential contractor.

Applications continued

Sanchez, Armando E. – initial certified roofing contractor – until November meeting.

Applications denied

Flemming, Mark – initial registered building contractor – lack of civil rights.

Kinsey, Carl Martin – initial certified general contractor – lack of civil rights.

White, Bob E. – initial registered residential contractor – no civil rights.

The board voted unanimously to accept the recommendations of this committee.

PROBATIONS COMMITTEE

Mr. Del Vecchio gave the following report:

Breek, John, CPC057195 – Stay Lifted Fader, Allen, CGC007504 – Unsatisfactory Gonzalez, Jose, CPC057195 – Satisfactory Pino, Serbillo, CAC029396 – Stay Lifted Reynolds, Dennis, CGC025932 – Unsatisfactory Welten, Dennis, CGC034205 – Satisfactory Hernandez, Alberto, CGC013664 – Tolled Martin, Alfred, CGC059295 – Tolled Graham, Vincent, CBC051164 - Tolled

The board voted unanimously to accept the recommendations of this committee.

ADDITIONAL ENTITY COMMITTEE

Ms. Karcher gave the following report:

Applications approved

Anderson, Dana M.
Aubuchon, James G.
Clark, Charles M.
Greene, Andrew Scott
Hector, Francis
Miller, Christopher
Scansarole, John T.
Storey, Edward A.
Thomason, Robert S.
Zizzo, Anthony J.

Applications denied

None

Applicabtions continued

Gydosh, David A. - 60 days

The board voted unanimously to accept the recommendations of this committee.

EXECUTIVE COMMITTEE

Mr. Weller gave the following report:

The committee considered a request from Joe K. Reljac, regarding the licensure requirements for the construction and erection of steel and alloy storage tanks and vessels. Mr. Reljac is especially concerned that someone from within his company would have a hard time passing either the mechanical or general contractor examination in order to become licensed. The board directed Ms. Glover to draft a letter stating that a general or mechanical contractor's license is required.

The committee also considered a request from H.C. Palmer III, Esquire, seeking the board's guidance regarding the enclosed subcontracting scenario. The board directed Ms. Glover to draft a letter stating that a subcontractor relationship does not exist between a roofer and general contractor if the roofer utilizes the office space and personnel of the general contractor.

The committee also considered another request from H.C. Palmer III, Esquire, requesting an example of "supervision" activities of the qualifying agent in order to comply with the above referenced statutory duty of "supervision". The board directed Ms. Glover to draft a letter to cite the information contained within the definition of "primary qualifying agent" as set forth in section 489.105(4), F.S.

The board voted unanimously to accept the recommendations of this committee.

RULES REVIEW COMMITTEE

Mr. Blankenship gave the following report:

Ms. Glover stated in her Rules report that the following Rules

- 61G4-17.002 Aggravating and Mitigating Circumstances Effective 8/20/03.
- 61G4-12.006 List of Approved Forms: Incorporated Changed the board office address.
- 61G4-12.011 Definitions Board voted to withdraw at last meeting Notice of withdrawal filed on 8/20/2003.
- 61G4-15.003 Public Liability Insurance. At the August meeting the Committee voted to move forward with developing changes to this rule.
- 61G4-15.005 Requirements for Certification and Registration At August meeting the Committee voted to move forward with developing changes to this rule.
- 61G4-15.018 Certification of Glass and Glazing Specialty Contractors At August meeting the Committee voted to move forward with developing changes to this rule.
- 61G4-15.006 Financial Responsibility, Definition, Grounds for Denial At August meeting the Committee voted to leave open for further development and discussion. Board voted at this meeting to make no changes to this Rule.
- 61G4-15.0021 Certification and Registration of Business Organizations At August meeting the Committee voted to leave open for further development and discussion. Board voted at this meeting to continue this Rule until the October meeting to allow Board Counsel to draft new language for discussion.
- 61G4-18.001 Continuing Education Requirements for Certificateholders and Registrants At August meeting the Committee voted to leave open for further development and discussion. Committee voted at this meeting to revise this rule to require 1 hour of Core Course, 1 hour of elective, 1 hour of workplace safety, 1 hour of Workers' Comp, 6 hours of business practices (3 hours to include Ethics, Chapter 489 and Section 61G4), 4 hours of technical instruction (Includes Compute training).
- 61G4-18.004 Approval of Continuing Education Courses This was tabled until the October meeting.
- 61G4-15.015 Certification for Specialty Contractors This was tabled until the October meeting.
- 61G4-15.001 Qualification for Certification Board Counsel added the chart that board staff developed and added it to this rule. The committee changed it so that Division I contractors can sign for all Division II and Voluntary categories. Under section (1)(a), the change was made to add after engineer and after

licensed building official the words: in the applicant's category.

Under (2)(a) for the general contractor category make the following changes:

- 1. Foundation/slabs on grade in access of 20,000 square feet.
- 4. Trusses Elevated slabs.
- 5. Structural wood framing (excluding platform framing) precast concrete structures.

The committee also voted to revise the Application for Initial Certification to require that license certified contractors and not registered contractors are verifying an applicant's experience. This is to comply with Rule 15.001, F.A.C.

The committee discussed imposing probation as a disciplinary guideline in cases involving instances of financial misconduct and incompetence, with a minimum duration of two years. This subject was tabled until the October meeting.

The committee was also addressed requesting the repeal of Rule 61G4-15.031, F.A.C., which requires the certification of plumbing contractors who engage in the area of medical gas systems. This subject was tabled until the October meeting.

The board voted unanimously to accept the recommendations of this committee.

EXAMS/CE/PUBLIC AWARENESS COMMITTEE

Ms. Chung gave the following report:

The following Providers and courses were approved:

American Construction School, Inc. 0000872)

1st Course: Florida Accessibility Code (0006447 EXPIRES 10/12/03)

Chitester Management Systems, Inc. 0000900)

1st Course: Lead Safety in Construction (Internet) (0006487 EXPIRES 10/12/03) 2nd Course: Personal Protection Equipment (Internet) (0006488 EXPIRES 10/12/03)

Construction Services Enterprise, Inc. (0000909)

Course: Construction Business Management One (0000037 EXPIRES 10/12/03)

Carrier Florida (0001016)

Course: Throughput: The Link that Connects Productivity to Profits (0001464 EXPIRES

10/12/03)

Florida Department of Community Affairs, Codes & Standards (0001042)

Course: Hurricane Evacuation Shelter Evaluation Guidance (0001580 EXPIRES

10/12/03)

Hoshizaki America, Inc. 0001364)

1st Course: Ice Machine & Product Service Basic Seminar (0003185 EXPIRED 9/15/02) 2nd Course: Ice Machine & Product Service Advanced Seminar (0003269 EXPIRED

9/15/02)

Florida Pool & Spa Association (dba: NPSI-Florida) 0000917)

1st Course: Hot Water Chemistry

2nd Course: GPS-Based Fleet Management for Pool & Spa Business

3rd Course: What's New in Pool Alarms

4th Course: How Pools Work

5th Course: Expansion Joints & Sealants

6th Course: Employee Retention 7th Course: Hiring for Talent

8th Course: Customer Service - Create Ecstatic Customers
9th Course: Electric Motors - How They Work, What They Do

FMI Corporation (0000968)

Course: Contractor Performance Management: Improve the Bottom Line

Miami Micro Data, Inc. 0000985)

Course: Using Primavera Expedition for Contract Administration

International Code Council (ICC) 0000991)

1st Course: Building Department Personnel Management

2nd Course: Legal Aspects of Code Administration

3rd Course: Building Department Financial Management

4th Course: Ethics in Public Life

5th Course: Communication for Code Officials

6th Course: Update to the 2003 International Building Code
7th Course: Update to the 2003 International Residential Code

8th Course: Update to the 2003 International Fire Code

9th Course: The Latest Developments in Seismic Mitigation of Suspended Ceiling Systems

10th Course: Lateral Load Resisting Systems for Wood Structures

11th Course: The Fire Risks of Interior Finishes

12th Course: Essential Precast Prestressed Concrete Technology for Code &

Building Professionals

13th Course: Legal Aspects of Codes Administration14th Course: Inspections - Liability Verses Responsibility

15th Course: Connecting with the New ICC Codes

16th Course: Understanding Fireblocking - Appliances & Materials 17th Course: Update to the 2003 International Mechanical Code

18th Course: Update to the 2003 International Property Maintenance Code 19th Course: Introduction to the 2003 International Existing Building Code

20th Course: Fire Inspection of Assembly Occupancies

21st Course: Update to the 2003 International Plumbing Code

22nd Course: Permit Fees: A New Methodology

23rd Course: The Lost Code Sections: Moisture, Mold and the Code

24th Course: Mobile Inspection Systems

25th Course: Accessibility Requirements for Housing

Business Development Resources (0001735)

Course: Managing & Growing a Profitable Service Division

Contractor's Education Source, Inc. 0002075)

1st Course: The Basics - Safety, Workers' Compensation and Basic Business Practices

(Internet)

2nd Course: Developing and Writing a Safety Program (Internet)

3rd Course: Starting, Building and Running a Construction Business (Internet)

Wood Truss Council of America 0001101)

1st Course: Storage Handling, Installation & Bracing of Metal Plate Connected Wood Trusses

(0001821 EXPIRES 10/12/03)

2nd Course: Inspection of Installed Wood Trusses (0001825 EXPIRES 10/12/03)

3rd Course: Truss Field Repair (0001827 EXPIRES 10/12/03)

4th Course: Design Responsibilities for Construction Using Metal Plate Connected Wood

Trusses (0001829 EXPIRES 10/12/03)

5th Course: Engineered Wood Products (0001830 EXPIRES 10/12/03)

6th Course: Connectors & Tie Downs for Residential & Light Commercial Construction

(0001832 EXPIRES 10/12/03)

7th Course: Permanent Bracing of Metal Plate Connected Wood Trusses (0003164 EXPIRED

9/15/2002)

8th Course: Safe Truss Partnership (0003165 EXPIRED 9/15/02)

9th Course: Overview of the Truss Industry (NEW)

Sta-Rite Industries, Inc. 0001816)

1st Course: Sta-Rite's Max-E-Therm Heater Course (Swimming Pool) (0006478

EXPIRES 10/12/03)

2nd Course: Sta-Rite's Hydraulics Course (Swimming Pool) (0006481 EXPIRES

10/12/03)

3rd Course: Sta-Rite's Filtration Course (Swimming Pool) (0006482)

4th Course: Sta-Rite's Pumps Course (Swimming Pool) (0006484 EXPIRES 10/12/03)

5th Course: Sta-Rite Industries, Inc. Technician's School - Max-E-Therm Heater

Installation & Repair Course (NEW)

6th Course: Sta-Rite Industries, Inc. Technician's School - Pumps & Motors Course

(NEW)

7th Course: Sta-Rite Industries, Inc. Technician's School - Filters & Filtration Course

(NEW)

8th Course: Sta-Rite Industries, Inc. Technician's School - Pool Cleaners Installation &

Repair Course (NEW)

John J. Murphy

Course: OSHA 10 Hour

The following providers and/or courses were denied:

Rheem Air Conditioning Division 0001104)

1st Course: Applied Thermodynamics Troubleshooting (Heat Pumps) (0003574

EXPIRES 11/16/03)

2nd Course: Duct Design & Troubleshooting (0003575 EXPIRES 11/16/03)

3rd Course: Applied Thermodynamics Troubleshooting (Air Conditioning) (0006692

EXPIRES 11/16/03)

4th Course: Low Profile 80% AFUE Gas Furnace (0006693 EXPIRES 11/16/03)

5th Course: 90 Plus Gas Furnace Operation & Diagnostics (0006694 EXPIRES

11/16/03)

Contractor's Education Source, Inc. 0002075)

1st Course: Using Computers in a Construction Business (Internet)

2nd Course: Estimating & Budgeting Basics (Internet)

ADDITIONAL INSTRUCTOR REQUEST

National Association of the Remodeling Industry - Tampa Bay Chapter (0001048)

Course: Construction Safety (0007202)

ADDENDUM

The following courses were approved:

Honeywell (0001040)

1st Course: Indoor Air Quality and Troubleshooting EACS (0001572 EXPIRED 1/1/02)

2nd Course: Zoning Application and Installation (0001573 EXPIRED 1/1/02)

Recovery Fund Committee

Ms. Kane gave the following report:

Approvals:

Clamaint: Enos Guanajuanto

Claim No. 97-C0135

Licensee: David J. Swatkowski, RG 0000218 and RG 000B218

Amount Awarded: \$9,747.00

Claimant: Steve Karp Claim No. 98-C0185

Licensee: Trell A. Adams, CA C036810

Amount Awarded: \$2,650.00

Claimants: Sherman Marsh and Palma Marsh

Claim No. 99-C0211

Licensee: Gregory D. Moore, CG C047503

Amount Awarded: \$5,920.00

Claimants: Heiko and Heideros Steingass

Claim No. 99-C0007

Licensee: Hermann O. Gruber, RX 0054871

Amount Awarded: \$14,250.00

Denials:

David C. Abdullah Claim No. 98-C0107

Kenneth Mark Hall, License No. CG C048766

DENIED WITH PREJUDICE

Charles Adams and Marilyn Adams

Claim No. 98-C0056

William B. Blackwell, License No. RR 0066930

DENIED WITH PREJUDICE

Edward J. Bergin Claim No. 99-C0044

Russell Clifford Lynn, License No. CB C025053

DENIED WITH PREJUDICE

Alvie N. Blake Claim No. 99-C0090

Brenda A. Hillyer, License No. RC 0055859

DENIED WITH PREJUDICE

John Carland and Phyllis Carland

Claim No. 98-C0009

Rodger D. Addison, License No. CR C039418

DENIED WITH PREJUDICE

Albert Carraro and Catherine Carraro Claim No. 97-C0124 Bruce E. Esquinaldo, Jr., License No. CP C050527 DENIED WITH PREJUDICE

Jason J. Coker Claim No. 98-C0200 Albert F. Collinsworth, License No. RB 0035166 DENIED WITH PREJUDICE

Tonya Michelle Davis Claim No. 00-C0010 Thomas F. Biernat, License No. CA C023507 DENIED WITH PREJUDICE

William Davis and Mary Davis Claim No. 99-C0212 Jeffrey C. Pense, License No. CG C058595 DENIED WITH PREJUDICE

Joseph Frigenti Claim No. 01-C0020 Steve Joseph Shadler, License No. CB C031903 DENIED WITH PREJUDICE

James Jurgensen and Gisele Jurgensen Claim No. 98-C0170 Peter W. Johnson, License No. CP C050518 DENIED WITH PREJUDICE

Patricia F. Knapp Claim No. 00-C0069 David R. Morton, Unlicensed contractor DENIED WITH PREJUDICE

Dolores Leonard Claim No. 02-C0166 Glen C. Schultz, License No. CB C058874 DENIED WITH PREJUDICE

Ray Mauriello and Tina Mauriello Claim No. 02-C0028 David W. Smith, License No. CG C004667 and John L. Nugent, License No. RB 0014311 DENIED WITH PREJUDICE

Bernard Mitchell and Chandra Mitchell Claim No. 99-C0160 Howard Hershel Fleming, Jr., License No. RR A012012 DENIED WITH PREJUDICE Robert Mitchell and Shawn Mitchell Claim No. 99-C0194 Samuel Vasquez, License No. CG C057077 DENIED WITH PREJUDICE

Jane Murphy and Marc Sorensen Claim No. 98-C0140 Neal J. Blust, License No. CR C027153 DENIED WITH PREJUDICE

Iris Quintero, Nayda Quintero and Ramon Quintero Claim No. 99-C0022 Gregory W. Hicks, License No. RR A012012 DENIED WITH PREJUDICE

Judy Rivard
Claim No. 00-C0064
Steven Leo Cavin, License No. CB C052958 and
Daniel Cavin, License No. CG C015110
DENIED WITH PREJUDICE

Caridad Rodriguez
Claim No. 98-C0012
Jesus Donis, Unlicensed contractor
DENIED WITH PREJUDICE

Todd Salmon and Kerry Salmon Claim No. 00-C0178 Charles M. Fuller, License No. RX 0058322 DENIED WITH PREJUDICE

Johnny Salter and Chequita Salter Claim No. 01-C0127 Thomas C. Hills, License No. CB C031903 DENIED WITHOUT PREJUDICE

Charles Shultz and Joanne Shultz Claim No. 99-C0208 Harpaul Dhaliwall, Unlicensed contractor DENIED WITH PREJUDICE

Susan R. Siler and T. Paul Siler Claim No. 98-C0040 Billy L. Taylor, License No. CG C058468 DENIED WITH PREJUDICE

Sharon Stock Claim No. 02-C0078 Lisa Moran and Jim Mears, Unlicensed contractors DENIED WITH PREJUDICE Christopher Stroze Claim No. 00-C0175 Steven R. Gonzalez, License No. CR C038044 DENIED WITH PREJUDICE

Gladstone Yearwood Claim No. 01-C0149 M. Rafael Damas, License No. CB C031903 DENIED WITH PREJUDICE

OLD BUSINESS

There was no old business at this time.

NEW BUSINESS

The Rules Committee will meet on Wednesday at 2:00 at next month's meeting.

With no further business this meeting was adjourned at 10:35 a.m.