



REAL ESTATE APPRAISER COMMISSION  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243  
615-741-1831

**Teleconference/Meeting Minutes for July 11, 2017**  
**Conference Room 1A**  
**Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission convened by teleconference on July 11<sup>th</sup>, 2017, in the first floor conference room of the Davy Crockett Tower in Nashville, Tennessee. Roxana Gumucio called the meeting to order at 9:05 a.m. and the following business was transacted:

**BOARD MEMBERS IN TELECONFERENCE:** Randall Thomas, Mark Johnstone, Rosemarie Johnson, Rex Garrison and Jason Bennett. Not in attendance for the meeting Dr. Warren F. Mackara.

**STAFF MEMBERS PRESENT:** Roxana Gumucio, Robyn Ryan, Sarah Mathews, Rianna Womack, Erica Smith.

**ROLL CALL/NOTICE OF MEETING**

Executive Director Roxana Gumucio called the meeting to order at 9:05 am and read notice of the teleconference into the record, followed by the Statement of Necessity.

**LEGAL REPORT**

Robyn Ryan and Erica Smith presented seven cases:

**1. 2016042691 - RE-PRESENT**

**Licensing History:** Certified General Appraiser  
**Disciplinary History:** 2013009201 – Consent Order for \$1000 and Education  
2015020881 – Pending (Formal Charges Authorized)

This is a re-presentation from the September 2016 meeting:

This complaint was opened administratively by the TREAC staff after receiving a letter from the Mississippi Appraiser Board which indicated that the Respondent changed the dates reflected on his temporary license card. The letter from the Mississippi Appraiser Board states the following:

- Respondent received a temporary license in Mississippi on or about June 15, 2015.
- A complaint was filed with the Board alleging that they had been unable to get in touch with the Respondent to obtain a copy of his temporary permit card for a specific assignment.
- Respondent did not place his temporary MS permit number adjacent to his signature on the subject appraisal report.
- Once the client received a copy of the Respondent's MS permit card, it appeared that the Respondent had changed the dates reflected on the card.

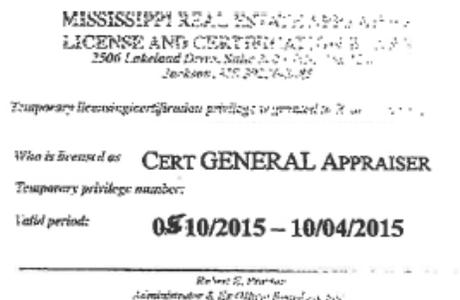
- Subject appraisal report was prepared and transmitted on May 19, 2015, which is prior to the date of issuance of his MS temporary permit card.

Respondent stated the following in his response:

- Contacted on or about the first week of March 2015 about appraising a condo in Mississippi.
- Respondent said he was engaged by telephone on March 10, 2015 and followed up request on March 11, 2015 (document was provided).
- On March 10, 2015, Respondent contacted Mississippi Appraiser Board about the Temporary Permit and the urgency. Respondent filled out the application and mailed it along with a check on March 10, 2015.
- Respondent proceeded to start the appraisal process of gathering data and went to inspect the property on March 19, 2015.
- Respondent prepared a report as requested by the lender and sent it in with a statement stating that the MS State Certification had been applied for. Respondent said after the report was sent to the lender there was an issue regarding the correct address of the property, which was corrected and resubmitted.
- Respondent received several calls from the lender regarding the MS certification. Respondent contacted the MS office and they denied ever receiving the application or check.
- Respondent went to the post office in Tennessee and determined that the letter had not been delivered to Mississippi office. Respondent resent the letter and received a certificate on or around the first of June.
- Respondent had the license card scanned and sent it to the lender.
- Respondent states that he did not alter the certification and it must have been something on the glass when it was scanned. Respondent states it would not make any sense to change the date from 6/10 to 5/10 as both were after the appraisal date.

Counsel has reviewed all of the documents provided and made note that on the subject appraisal report, the “effective date of appraisal” was 5/19/2015 and that it appears from reviewing the MS temporary cards provided by the MS Appraiser Board that the Respondent changed the date on the card. I have included a redacted copy of the MS temporary permit cards below.

MS Temporary Permit Card provided to client by Respondent:



MS Temporary Permit Card provided by the MS Appraiser Board:



**Reasoning and Recommendation:** Counsel believes this is a violation of T.C.A. § 62-39-326(4) and recommends the authorization of a civil penalty in the amount of One Thousand Dollars (\$1,000) to be satisfied within thirty (30) days of execution of the Consent Order. Such terms are to be settled by Consent Order or Formal Hearing.

**DECISION: The Commission voted to place this complaint on litigation monitoring pending the outcome of the current Mississippi Appraiser Boards investigation.**

This information was presented at the November 2016 meeting:

**New Information:** Counsel reviewed this matter again after the last meeting and believes that we do not have any authority to discipline the Respondent in this matter unless Mississippi does so first. Counsel has discussed this matter with the Mississippi Real Estate Appraiser Board's attorney and at this time the Mississippi Board intends to serve a complaint on the Respondent soon.

**New Recommendation:** Counsel has followed up with the Mississippi Real Estate Appraiser Board and they intend to serve a complaint on the Respondent. Accordingly, an administrative hearing will be held before the Mississippi Board on Thursday, December 15, 2016. Therefore, Counsel believes this matter should be placed under litigation monitoring pending the outcome of the Mississippi Real Estate Appraiser Board's administrative hearing.

**DECISION: The Commission voted to accept the recommendation of legal counsel.**

**New Information:** In May, the Mississippi Real Estate Appraiser Board revoked Respondent's temporary appraiser credential and held Respondent could not apply or be issued any appraiser credential for a period of five years.

**New Recommendation: Consent order for voluntary revocation for violation of Rule 1255-06.01(5), as provided in TCA 62-39-329(5).**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

**2. 2017016501**

|                              |                                       |                                |
|------------------------------|---------------------------------------|--------------------------------|
| <b>Licensing History:</b>    | <b>Licensed Real Estate Appraiser</b> | <b>10/25/1994 - 10/25/2018</b> |
| <b>Disciplinary History:</b> | <b>None</b>                           |                                |

Complainant states Respondent was not qualified to do an appraisal for commercial property and Complainant was told this by staff at the State program. Complainant states that Respondent works for bank and was not an independent third party appraiser. Complainant states Respondent did an appraisal twice and that there have been major improvements since the 2013 appraisal. Complainant states that in speaking with Respondent about improvement, the response from Respondent was "I guess you've done a little bit of work out there and it might have improved a little bit". Complainant states Respondent has also appraised Complainant's home and the home was appraised under market value.

Respondent states that Respondent is an in house appraiser and Respondent's office is on the second floor of bank but that Respondent is free and independent of the financial transactions of the bank. Concerning the property in question, Respondent states Respondent's appraisal is within the \$250,000 limit on Respondent's license. Respondent further states that Respondent has not appraised the home in question for Complainant and did not receive an engagement letter to do the same. Respondent further states that Respondent had recently spoke with Complainant in reference in doing appraisal for bank on property where Complainant's property was located and Complainant was upset and angry. Respondent reported the incident to loan officer and did not do that appraisal.

In rebuttal, Complainant states the home appraisal was for a potential buyer and claims Respondent did that appraisal as a favor for client of bank. There is no date attached to this claim. Concerning the commercial property, Complainant states the first appraisal was in 2011 and the second in 2013 and challenges that improvements were not considered.

### **REVIEWER CONCLUSIONS**

Reviewer states that the report meets the standard for compliance with the Ethics Rule of USPAP, the Record Keeping Rule of USPAP and the competency rule of USPAP. Reviewer states Respondent clearly stated appraisal was intended for financial decisions relating to subject property and that the property was being used as collateral. Reviewer states the description of improvements section meet the requirements for development and reporting of an appraisal and satisfies the Standards Rules 1 and 2. The Sales Comparison Approach and the Cost Approach satisfy the Standards Rules 2-2b. Reviewer does state that there is a lack of a summary of the highest and best use analysis but the handwritten notes regarding same contain the methods and reasoning. Reviewer suggests that this might be a technical violation only and an oversight.

**Recommendation: Letter of Warning.**

**Decision: The Commission voted to authorize a Letter of Instruction.**

### **3. 2017020761**

**Licensing History:** Certified Residential Appraiser      **10/3/2008 – 10/31/2018**  
**Disciplinary History:** None

Complainant is homeowner and states Respondent's appraisal had many mistakes including Respondent's exclusion of 25% of living area and that Respondent did not spend sufficient time at the property. Complainant also states that Respondent use a Q3 rating instead of a Q1 rating which as architect felt deserved and used a designed style of cabin which Complainant states is inappropriate. Complainant

further states that Respondent had done a previous appraisal three years prior and the difference between that appraisal and the 2017 appraisal was \$1,000.00. Complainant states Respondent noted the property was on a septic system but that property is on city sewer. Complainant also questions the comps used and that quality issues were not recognized such as ceramic tile and hardwood floors.

Respondent states that this was the second time Respondent appraised the property and that Respondent was very familiar with the subject. Respondent states Respondent did point out changes in the property (upgraded cabinets, bamboo wood flooring, upgraded vanity, tile upgrades, etc.) Respondent states Respondent did not exclude 25% of the living area as the area referred to by Complainant is a studio over a garage which requires a walk out of the home, across a walkway deck and outside upstairs. Concerning the septic v. sewer information provided show that sewer was not available. Respondent states that the rating of Q1 requires more than just a design by architect and further states description as cabin was not derogatory or inappropriate nor did it contribute to inadequate comparables.

### **REVIEWER CONCLUSIONS**

Overall, the reviewer found the appraisal satisfactory and acceptable with regard to general practices and methodology. The appraisal procedures were followed with credibility although some minor deviation might exist. The reviewer found that Respondent used adequate and relevant data with satisfactory judgment; the comparable sales were appropriate and reasonable. Reviewer did find one USPAP deficiency.

**Standards Rule 2-2:** Reviewer found that the report indicated an opinion of highest and best use but no appropriately detailed discussion of highest and best that summarizes the support or rationale was presented. Reviewer states that the intent might be a summary statement but such a summary statement is insufficient as no detail was given that summarized the support, rationale, or conclusion and such a detailed summary is required.

**Recommendation: Letter of Warning.**

**Decision: The Commission voted to authorize a Letter of Instruction.**

#### **4. 2017028281**

|                              |                                    |                            |
|------------------------------|------------------------------------|----------------------------|
| <b>Licensing History:</b>    | <b>Certified General Appraiser</b> | <b>9/1/1994 - 9/1/2018</b> |
| <b>Disciplinary History:</b> | <b>None</b>                        |                            |

The property in question is currently being used for a new middle school site. Complainant states the complaint does not lie within the appraisal of the subject property but with the letter that the Respondent wrote to the school board's attorney. In the letter, the Respondent writes about the use value of land and gives to properties in a neighboring county and what they were sold for without listing their actual appraised value.

Respondent states Respondent was engaged by an attorney working on behalf of the school board to complete an appraisal report to estimate the market value of a potential school site. There were few land sales of similar size tracts in the immediate area; therefore, the search for comparables was extended to other parts of the county. After submitting the report, Respondent received a call from the real estate broker, working for the school board, questioning why Respondent did not consider the sites purchased for schools by the adjacent county and suggesting that Respondent's opinion of market value was low.

Therefore, Respondent submitted a letter to the school board's attorney explaining the difference between market value and use value. Respondent also commented on the two sales of the properties purchased by the adjacent county. Respondent did not want to include the adjacent county school sites in the appraisal report because Respondent thought it would confuse the reader regarding the difference in values and types of values as the scope was to value market value. Respondent states Respondent was not acting as an advocate to any party involved, but just wanted to provide enough information to the client.

### **REVIEWER CONCLUSIONS:**

Reviewer did not find any violation of Standard 1 or 2 of the Uniform Standards of Professional Appraisal Practice.

#### **Ethics**

- Reviewer sees no basis for the inference of advocacy as the letter only communicates the difference in those terms and how those terms applied to other school site purchases in an adjoining county.

**Recommendation: Dismiss.**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

### **Erica Smith**

#### **5. 2017018901**

**Licensing History:**

**Certified Residential Appraiser**

**7/27/2012 – 12/31/2018**

**Disciplinary History: None**

Complainant is a real estate investor and Respondent performed an appraisal on the Complainant's property ("subject property"). Complainant states Respondent did not perform due diligence when appraising the subject property, as the appraisal's value of the subject property was \$20,000 less than the contract price on the subject property at the time of the appraisal. Complainant states the contract fell through and less than 30 days later; there was another contract on the subject property. The lender scheduled Respondent to perform the appraisal but Complainant refused to allow Respondent to conduct the second appraisal. Complainant further states the second appraisal valued the subject property at a higher price than the contract price at the time of the second appraisal. Complainant feels Respondent was dishonest, unethical and has an agenda.

Respondent confirms that he performed the first appraisal on the subject property but denies the allegations made by Complainant. Respondent states he does not know or have any connection to the Complainant, Complainant's business or the subject property. The lender scheduled Respondent to perform the second appraisal and Respondent states he informed the lender that he had previously performed an appraisal on the subject property, but was told to proceed with the appraisal. Respondent further states that USPAP allows this if it is disclosed in the appraisal report ("the report"), and Respondent disclosed such information in the report. Respondent states that he does not have an agenda, and further explains he is paid the same fee no matter the value of the subject property. Respondent states the comparables used were most similar in size, age, style, amenities, and had similar bath counts and garage stalls. Comparables 1 and 2 were renovated similarly to the subject property and Comparable 3 was similar in style with some remodeling and a vinyl attached garage on a brick dwelling. The listings used were also

renovated and supported Respondent's theory of substitution. Respondent provided the appraisal reports from the subject property and the complete work file within 3 days of our request.

### **REVIEWER CONCLUSIONS:**

An expert reviewed the Respondent's appraisal report and work file in their entirety, and provided counsel with an Appraisal Review Report ("ARR") dated May 25, 2017. The expert found the Respondent violated USPAP in the following ways.

Respondent's report does not describe any renovation or remodeling of the subject property, but states the subject property is in "average" condition and there have been no updates in the prior 15 years. The MLS listing for the subject property states it is a remodeled house with a new HVAC, windows, water heater, laminate and tile floors, as well as new appliances, paint and carpeting. Respondent did not properly analyze and describe the subject property's condition which is very important in providing a credible opinion of value in violation of SR 2-2(a)(iii).

Although Respondent does indicate an opinion of "marketing time," Respondent does not give an opinion of reasonable exposure time which is required by SR 2-2, lines 712-713. The ARR points out that "marketing time" and "reasonable exposure time" are different by definition.

Respondent does not provide support for adjustments made in the sales grid for GLA, baths, garage, patios, fence, driveway, or the fireplace. Further, Sales 1-3 indicate seller concessions are provided, but no adjustment was made and no support or explanation was given as to why no adjustment was made. This is a violation of SR 2-2(a)(viii) and the Record Keeping Rule, lines 319-321.

The Respondent's report states the highest and best use is the current use of the subject property on page 1, but no summary of support or rationale is provided for such opinion. Additionally, an opinion of site value is provided in the cost approach but no opinion for highest and best use of as-vacant is provided. An opinion of site value is an opinion of market value and on SR 1-3(b) requires an opinion of highest and best use of the real estate.

Respondent does not disclose the prior service to the subject property in the report's certification in violation of Ethics Rule, lines 246-251, although Respondent does make a statement regarding the prior appraisal of the subject property in the report itself.

The subject property was reasonably exposed to the market and received an offer of \$115,900. The appraised value was \$21,900 below the contract price. Respondent's report indicates there were 20 comparable properties currently listed with asking prices up to \$125,500 and further states 101 comparable properties had sold in the defined market area within the past year for up to \$152,000. Respondent's research indicated the contract price of \$115,900 could be supported by actual sales in the area, however, out of the 101 possible sales, Respondent chose sales with prices below \$97,000 which sold 6-12 months prior to the date of appraisal. Respondent's only explanation in the report was that the ones Respondent chose were the most recent and pertinent sales available due to a lack of recent sales near the subject property. Respondent's comments and explanation contradict the data and Respondent further stated "there is no apparent reasoning known for the difference in contract price and the opinion of value." As a result, Respondent violated SR 2-1(a) and (b).

In conclusion, Respondent's report is confusing and the data does not support the conclusions. The ARR states the Respondent's report is deficient in its compliance with USPAP and therefore, the credibility of the assignment results is impaired due to the type and extent of non-compliance.

**Recommendation: Counsel recommends the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order and fifteen (15) hours of coursework, courses to be decided by the Commission, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**Decision: The Commission voted to authorize a civil penalty in the amount of Five Hundred Dollars (\$500) to be satisfied within thirty (30) days of execution of the Consent Order and fifteen (15) hours of Residential Report Writing, such courses must be completed within one hundred eighty (180) days of execution of the Consent Order and the CE must be above and beyond the minimum CE required for license renewal. Such terms are to be settled by Consent Order or Formal Hearing.**

**6. 2017033251**

**Licensing History:                      Unlicensed**

**Disciplinary History:    None**

Complainant is the chief child abuse and animal abuse prosecutor for a county's District Attorney's Office in Tennessee. On April 24, 2017, a lender sent an appraiser to Complainant's property to conduct an appraisal. The lender used Respondent's services to select an appraiser. Complainant immediately recognized the appraiser as a former criminal defendant. Specifically, the appraiser was prosecuted by Complainant's office and convicted of 15 counts of animal cruelty for which she served 90 days in jail and put on probation for seven consecutive 11 month/29 day periods. The appraiser brought a man with her to Complainant's property whom she referred to as her "husband." The man started taking measurements and photographs of the property while the appraiser walked through the property. The man is not a licensed appraiser. Complainant further states that it is a Class E felony to hold oneself out to be a licensed professional when you are not, citing Tenn. Code Ann. § 39-16-302. Complainant states that it is concerning that the State would allow someone with a criminal history such as the appraiser's to hold a real estate appraiser's license, especially since an appraiser is allowed access to the homes and personal property of others. Further, Complainant states that it is grossly negligent for Respondent to employ an appraiser with such criminal history. Complainant also feels that Respondent should be held responsible for the appraiser's actions in coming to Complainant's property with a man who acted as an appraiser and committed a Class E felony on Complainant's property.

Respondent states they would not knowingly send an appraiser who was a former criminal defendant to a borrower's home. Respondent further states the Complainant was aware of the appraiser's history because of her employment with the prosecutor's office. Respondent states they properly vet out their appraisers by running appraisers against any "Do Not Use" lists they have, the ASC National Database to verify professional license history/disciplinary actions, and through particular state databases to verify no state disciplinary action is pending. The appraiser was not on any of the lists or databases and has been an active licensed appraiser in Tennessee since 1997. After investigation and once this complaint was filed, it was shown that the appraiser was charged with animal cruelty in 2007. Additionally, Respondent understands the Complainant's concern regarding the man Complainant states the appraiser brought with her, but argues that this cannot be confirmed or verified. Respondent states the appraiser denies bringing

a man with her to Complainant's property for an appraisal. Respondent states Complainant did not mention this concern to Respondent after the appraisal or complete the survey they provided to Complainant. Respondent argues that they use proven practices in vetting out appraisers for inclusion in Respondent's panel to ensure all appraisers are properly qualified. In addition to running potential appraisers through multiple databases, Respondent requires the following in their application process: proof of E & O insurance, summary of education, copy of license or certification, resume, sample reports, references, geographic coverage, specific product experience, W-9 and random phone interviews after an application has been submitted and information verified. Respondent mentions that Complainant did not file the complaint until after she submitted a reconsideration of value request and there was no change to value after the completion of the reconsideration of value.

TCA 62-39-326 states "[t]he rights of any applicant or holder under a certificate as a state licensed or certified real estate appraiser may be revoked, suspended or restricted, or the owner of the certificate may be assessed a civil penalty of up to one thousand dollars (\$1,000) per violation, or otherwise disciplined in accordance with this chapter, upon any of the following grounds: (3) Conviction, including conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions and duties of a person developing appraisals and communicating appraisals to others or conviction of any felony[.]" Counsel recommends dismissal of this complaint because the appraiser's conviction does not relate to her duties as an appraiser.

**Recommendation: Dismiss**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

**7. 2017033191**

|                              |  |                               |
|------------------------------|--|-------------------------------|
| <b>Licensing History:</b>    | <b>Certified Residential Appraiser</b> | <b>6/12/1997 – 10/31/2017</b> |
| <b>Disciplinary History:</b> | <b>None</b>                            |                               |

Respondent is the appraiser in the complaint 2017033251 above. The same complaint was used in opening this complaint and the facts are the same as stated by Complainant.

Respondent's attorney responded to the complaint on behalf of Respondent. Respondent confirms that she went to Complainant's property to view and inspect the property, take measurements, etc., and did bring a male friend to assist Respondent with "purely ministerial tasks," such as holding tapes to take measurements. Respondent states neither she nor the male friend stated or indicated that the male friend was a licensed appraiser. Respondent further states that she often takes a male friend with her to conduct an appraisal for assistance and for safety reasons, as the potential for danger with a single woman going alone into unknown properties to meet unknown individuals is a valid concern. Respondent is not aware of any statute or rule that prohibits appraisers from having non-licensed individuals accompany them on property inspections. Respondent states Complainant did not say anything to Respondent about having any concerns once Complainant recognized Respondent as a former criminal defendant and allowed Respondent free access to the property during the visit. Respondent acknowledges the conviction but states it has no effect on her license as a real estate appraiser. Respondent has applied to various appraiser panels since the conviction, and the requests authorize substantial background checks. Respondent's requests for approval have never been denied. Respondent feels this complaint is in retaliation due to the fact Complainant was unhappy with the value assigned by Respondent, as the complaint was filed within hours after Respondent submitted her response to the Complainant's request for reconsideration.

TCA 62-39-326 states “[t]he rights of any applicant or holder under a certificate as a state licensed or certified real estate appraiser may be revoked, suspended or restricted, or the owner of the certificate may be assessed a civil penalty of up to one thousand dollars (\$1,000) per violation, or otherwise disciplined in accordance with this chapter, upon any of the following grounds: (3) Conviction, including conviction based upon a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications, functions and duties of a person developing appraisals and communicating appraisals to others or conviction of any felony[.]” Counsel recommends dismissal of this complaint because the Respondent’s conviction does not relate to her duties as an appraiser.

**Recommendation: Dismiss**

**Decision: The Commission voted to accept the recommendation of legal counsel.**

**Roll call confirmed all five members agreed with amended decisions.**

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**PROPOSED RULE**

Counsel Sarah Mathews reviewed the proposed AMC rule previously emailed to the commission. Mr. Bennett asked for clarification on “entity”. Ms. Mathews explained that the statute defines a person as an entity. Mr. Garrison made a motion to approve the proposed rule as presented and Mr. Bennett seconded. The motion carried by unanimous vote.

**AARO CONFERENCE NOMINATIONS**

Director Gumucio opened discussion regarding the AARO Fall conference scheduled for October 13 – 16, 2017. Mr. Bennett made a motion for Randy Thomas to attend and Rosemarie Johnson seconded. The motion carried by unanimous vote. The members will review their calendars and reach the director if they are able to represent the board and attend the conference.

**QUALIFYING EDUCATION – ONLINE OPTION**

Director Gumucio shared that a commission member brought up the possibility of online options for qualifying education. Two neighboring States were contacted for their expertise since they currently allow a portion completed online. Research also demonstrated that there would be no problem with following AQB standards and approving online education. Ms. Mathews recommended not going with 100% of the education online but to consider something like 50%. The members’ decided to look further into it and at the November meeting discuss further and include Dr. Mackara since he is the expert.

Director Gumucio explained that the September 18, 2017 meeting will not have quorum and that cases were presented in advance in the event the meeting needed to be cancelled. Ms. Ryan explained that one of her cases would be a lengthy formal hearing and that the meeting would be long in it was left for November. Ms. Johnson made a motion to cancel the September Commission meeting. This was seconded by Mr. Garrison. The motion carried by unanimous vote.

There being no other business, Chairman Thomas adjourned the meeting at 10:10 am.