

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. December
4 5, 2013, Display Notice having been published in the Richmond Times-Dispatch
5 on November 18, 2013 and November 25, 2013.
6

Members Present: Mrs. Bonnie-Leigh Jones, C.P.C., Chairperson (Tuckahoe)
Mr. Eric Leabough, C.P.C., Vice-Chairman (Varina)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Tommy Branin (Three Chopt)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary

Member Absent: Mr. Richard W. Glover,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, PLA, Principal Planner
Ms. Rosemary D. Deemer, AICP, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Kevin Wilhite, AICP, County Planner
Mr. Livingston Lewis, County Planner
Mr. John Cejka, Traffic Engineer, Public Works
Ms. Sylvia Ray, Recording Secretary

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9 Mrs. Jones – The Planning Commission Rezoning meeting for
10 December 5th will come to order, please. I welcome all of you who are here
11 tonight to listen to the cases and join with us. Please do me the courtesy of
12 turning off or muting your cell phones so that they don't interrupt our
13 proceedings. As you do that, if you would please rise and pledge allegiance to
14 the flag.

15
16 I apologize for my scratchy voice; I hope it will take us through the proceedings
17 tonight.

18
19 I don't believe we have news media with us this evening. No. All right. We do
20 have all of our commissioners with us this evening. We have a quorum; we can
21 conduct business. Mr. Glover, who is the supervisor from the Brookland District,
22 is not able to join us this evening. We do have a small number of cases, so this
23 will tend to be a quick meeting. With that I will turn it over to our secretary,
24 Mr. Emerson.
25

26 Mr. Emerson - Thank you, Madam Chair. First on your agenda
27 tonight are the requests for withdrawals and deferrals. Those will be presented
28 by Mr. Jim Strauss.

29
30 Mr. Strauss - Thank, you, Mr. Secretary. We have four requests for
31 deferrals this evening, and the first one is on page two of the agenda. This is in
32 the Three Chopt District, REZ2013-00014, HHHunt Communities. The applicant
33 is requesting a deferral to the January 9, 2014 meeting.

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35 **REZ2013-00014 HHHunt Communities:** Request to conditionally
36 rezone from A-1 Agricultural District to R-3C One-Family Residence District
37 (Conditional) Parcels 751-773-2046, 750-773-3322, and part of 749-771-6494
38 containing 56.43 acres located at the southern terminus of Holman Ridge Road
39 between the northeast terminus of Opaca Lane and the Chickahominy River. The
40 applicant proposes a single-family residential development not to exceed 100
41 residential units. The R-3 district allows a minimum lot size of 11,000 square feet
42 and a maximum gross density of 3.96 units per acre. The use will be controlled
43 by proffered conditions and zoning ordinance regulations. The 2026
44 Comprehensive Plan recommends Suburban Residential 2, density should not
45 exceed 3.4 units per acre, Office, Rural Residential, and Environmental
46 Protection Area.

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48 Mrs. Jones - Is there opposition to the deferral of REZ2013-00014,
49 HHHunt Communities? There is no opposition.

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51 Mr. Branin - Madam Chair, I'd like to move that REZ2013-00014,
52 HHHunt Communities, be deferred to the January 9, 2014 meeting per the
53 applicant's request.

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55 Mr. Archer - Second.

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57 Mrs. Jones - Motion by Mr. Branin, second by Mr. Archer. All in
58 favor say aye. All opposed say no. The ayes have it; the motion passes.

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60 At the request of the applicant, the Planning Commission deferred REZ2013-
61 00014, HHHunt Communities, to its meeting on January 9, 2014.

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63 Mr. Strauss - The next request for deferral is also in the Three
64 Chopt District on page two of the agenda. It is REZ2013-00015, Kain Road,
65 Incorporated. The applicant is requesting a deferral to the February 13, 2014
66 meeting.

67
68 **(Deferred from the November 14, 2013 Meeting)**
69 **REZ2013-00015 dAb Engineering Services for Kain Road, Inc.:**
70 Request to conditionally rezone from A-1 Agricultural District to R-3C One-Family
71 Residence District (Conditional) Parcel 738-767-2794 containing 7.45 acres

72 located on the north line of Kain Road approximately 1,100' west of its
73 intersection with Pouncey Tract Road (State Route 271). The applicant proposes
74 a single-family residential development not to exceed 18 units. The R-3 district
75 allows a minimum lot size of 11,000 square feet and a maximum gross density of
76 3.96 units per acre. The use will be controlled by proffered conditions and zoning
77 ordinance regulations. The 2026 Comprehensive Plan recommends Suburban
78 Mixed-Use.

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80 Mrs. Jones - Is there opposition to the deferral of REZ2013-00015,
81 dAb Engineering Services for Kain Road, Inc.? There is no opposition.

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83 Mr. Branin - Madam Chair, then I'd like to move that REZ2013-
84 00015, dAb Engineering Services for Kain Road, Inc., be deferred to the
85 February 13, 2014 meeting per the applicant's request.

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87 Mr. Archer - Second.

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89 Mrs. Jones - Motion by Mr. Branin, second by Mr. Archer. All in
90 favor say aye. All opposed say no. The ayes have it; the motion passes.

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92 At the request of the applicant, the Planning Commission deferred REZ2013-
93 00015, dAb Engineering Services for Kain Road, Inc., to its meeting on February
94 13, 2014.

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96 Mr. Strauss - The next request for deferral is in the Varina District,
97 page three of the agenda. This is REZ2013-00022, D. Bryant Gammon. The
98 applicant is requesting a deferral to the January 9, 2014 meeting.

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100 **REZ2013-00022 D. Bryant Gammon:** Request to conditionally rezone from
101 R-3 One-Family Residence District to B-1C Business District (Conditional) Parcel
102 815-688-4303 containing 1.88 acres located on the north line of New Market
103 Road (State Route 5) approximately 970' west of its intersection with Strath
104 Road. The applicant proposes retail uses. The uses will be controlled by
105 proffered conditions and zoning ordinance regulations. The 2026 Comprehensive
106 Plan recommends Commercial Concentration and the site is located in the
107 Varina Village Mixed-Use/Village Special Focus Area. The site is in the Airport
108 Safety Overlay District.

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110 Mrs. Jones - Is there opposition to the deferral of REZ2013-00022,
111 D. Bryant Gammon? No opposition.

112

113 Mr. Leabough - Madam Chair, I move that REZ2013-00022, D. Bryant
114 Gammon, be deferred to the January 9, 2014 meeting per the applicant's
115 request.

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117 Mr. Witte - Second.

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Mrs. Jones - Motion by Mr. Leabough, second by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

At the request of the applicant, the Planning Commission deferred REZ2013-00022, D. Bryant Gammon to its meeting on January 9, 2014.

Mr. Strauss - And our next request for deferral is also in the Varina District, page three of the agenda. This is REZ2013-00023, Michael D. Sifen, Inc. The applicant is requesting a deferral to the January 9, 2014 meeting.

REZ2013-00023 James W. Theobald for Michael D. Sifen, Inc.:
Request to conditionally rezone from A-1 Agricultural District to R-3C One-Family Residence District (Conditional) Parcel 821-678-7061 containing 79.813 acres located at the northwest intersection of Buffin and Kingsland Roads. The applicant proposes a single-family residential development of no more than 120 units. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026 Comprehensive Plan recommends Suburban Residential 1, density should not exceed 2.4 units per acre, and Environmental Protection Area. The site is in the Airport Safety Overlay District.

Mrs. Jones - Do we have opposition to the deferral of REZ2013-00023, James. W. Theobald for Michael D. Sifen, Inc.? There is no opposition to this.

Mr. Leabough - Madam Chair, I move REZ2013-00023, James. W. Theobald for Michael D. Sifen, Inc., be deferred to the January 9, 2014 meeting per the applicant's request.

Mr. Witte - Second.

Mrs. Jones - Motion by Mr. Leabough, second by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

At the request of the applicant, the Planning Commission deferred REZ2013-00023, James. W. Theobald for Michael D. Sifen, Inc., to its meeting on January 9, 2014.

Mr. Emerson - Madam Chair, that now takes us to the requests for expedited items, and there are none this evening. So moving into the regular agenda, POD2013-00409.

(Deferred from the November 20, 2013 Meeting)
PLAN OF DEVELOPMENT - ARCHITECTURAL PLANS

POD2013-00409 Bohler Engineering for Towne Center West, LLC

BJ's Restaurant at Towne Center West - 12010 W. Broad Street (U.S. Route 250)

and BJ's Restaurants, Inc.: Request for approval of architectural plans for a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 8,376 square-foot restaurant building in an existing shopping center. The 2.45-acre site is located at the northwest corner of the intersection of W. Broad Street (U.S. Route 250) and Town Center West Boulevard (private), on parcel 735-764-0017. The zoning is B-2C, Business District (Conditional), and WBSO, West Broad Street Overlay District. County water and sewer. **(Three Chopt)** The staff report will be presented by Mr. Kevin Wilhite.

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164 Mrs. Jones - Is there any opposition here tonight to the
165 architectural plans for POD2013-00409, BJ's Restaurant at Towne Center West?
166 All right, I had to ask. There is no opposition. Good evening.

167

168 Mr. Wilhite - Good evening. Thank you, Madam Chair.

169

170 The site plan for this project was approved at your last POD meeting in
171 November. The architectural plans were deferred. Since that meeting, we have
172 received revised architectural plans submitted to us. They've been handed out to
173 you. Also, there is a color rendering in there. The colors and materials have
174 changed since last time. The black feature over the entrance has been changed
175 to red. It will be done in brick. The original showed some black metal on the last
176 rendition.

177

178 We met with the applicant out on site this afternoon to discuss color of materials.
179 There was an agreement between staff and the applicant to adjust the brick
180 colors on the base as well to tie into the Ethan Allen, which is just opposite
181 Towne Center West Boulevard at the main entrance to Towne Center West
182 Shopping Center. We are going to get an updated sample board prior to
183 approving the building permit, but it will show a reddish brick similar to Ethan
184 Allen, and the base would be more in the beige range—or I should say a light
185 cream color, which is already out there.

186

187 With that, staff is able to recommend approval of the revised architectural plans. I
188 can answer any questions that you have. We do have representatives from BJ's
189 and Towne Center West here tonight.

190

191 Mrs. Jones - Questions for Mr. Wilhite?

192

193 Mr. Branin - I have none for Mr. Wilhite. I would like to hear from
194 the applicant, if I may.

195

196 Ms. Leguay - Good evening. I'm Joan Leguay with BJ's
197 Restaurants.
198
199 Mr. Branin - How are you, ma'am?
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201 Ms. Leguay - I'm great; thank you.
202
203 Mr. Branin - How was your flight in?
204
205 Ms. Leguay - It was very good.
206
207 Mr. Branin - Good. Thank you for coming back. Just real quick.
208 You guys are planning to start this project when?
209
210 Ms. Leguay - As soon as we have a building permit. We're currently
211 in building plan check.
212
213 Mr. Branin - Okay. And best-case scenario, when do you plan to
214 open?
215
216 Ms. Leguay - Well, we'd like to be under construction in February, if
217 we can get out of the Building Department with a permit by then. And it's six
218 months once we get a building permit and break ground until opening.
219
220 Mr. Branin - Okay. So early spring.
221
222 Ms. Leguay - Well, that would be August, actually. If we started in
223 February it would be August.
224
225 Mr. Branin - Good, good. Well, we're excited to have you.
226
227 Ms. Leguay - We're excited to come to the area.
228
229 Mr. Branin - Let us know when the grand opening is. We'll all
230 come and celebrate with you.
231
232 Ms. Leguay - We would love that. Terrific.
233
234 Mr. Branin - Thank you.
235
236 Ms. Leguay - All right, thank you. Any other questions?
237
238 Mr. Branin - Any other questions?
239
240 Mr. Witte - I think it's a great idea.
241

242 Ms. Leguay - Thank you.
243
244 Mrs. Jones - Very nice. Thank you. Is there anything else? Would
245 you like to hear from anyone else, Mr. Branin?
246
247 Mr. Branin - Madam Chair, I'd like to move that POD2013-00409,
248 BJ's Restaurant at Towne Center West, be approved with the annotations to the
249 architectural as noted by staff.
250
251 Mr. Archer - Second.
252
253 Mrs. Jones - Motion by Mr. Branin, second by Mr. Archer. All in
254 favor say aye. All opposed say no. The ayes have it; the motion passes.
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256 The Planning Commission approved the architectural plans for POD2013-00409
257 BJ's Restaurant @ Towne Center West, subject to the conditions previously
258 approved with POD2013-00351 at the November 20, 2013 meeting.
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260 Mr. Emerson - Madam Chair that now takes us to the next item on
261 the agenda which is on page 2 PUP2013-00015.
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263 **PUP2013-00015 Jared Taylor for BJ's Restaurants, Inc. C/O GPD**
264 **LLC: Request for a Provisional Use Permit under Sections 24-58.2(a), 24-120**
265 **and 24-122.1 of Chapter 24 of the County Code in order to allow extended hours**
266 **of operation until 1:00 a.m. for a proposed restaurant (BJ's Restaurant) on Parcel**
267 **735-764-0017 located on the north line of W. Broad Street (U.S. Route 250)**
268 **approximately 915' east of its intersection with N. Gayton Road. The existing**
269 **zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan**
270 **recommends Commercial Arterial. The site is located in the West Broad Street**
271 **Overlay District. The staff report will be presented by Ms. Deemer.**
272
273 Mrs. Jones - Is there anyone with us in opposition to PUP2013-
274 00015, Jared Taylor for BJ's Restaurants, Inc. c/o GPD LLC? There is no
275 opposition. Good evening, Ms. Deemer.
276
277 Ms. Deemer - Good evening, Madam Chair, members of the
278 Commission.
279
280 This is a request for a Provisional Use Permit to allow extended hours of
281 operation for a proposed restaurant in Towne Center West.
282
283 The BJ's Restaurant and Brewery is a new restaurant proposed for a 2.45-acre
284 outparcel fronting West Broad Street in Towne Center West. The subject
285 property was rezoned B-2C Business District (Conditional) by the Board of
286 Supervisors in April 2005 via case C-49C-04. The extension of hours would not
287 be in conflict with the accepted proffers for this site.

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Operating hours in the B-2 Business District are limited from 6 a.m. until midnight, unless extended service hours are approved with a Provisional Use Permit. A previous PUP was approved for Emilio's restaurant in Towne Center West to allow outdoor dining and extended hours of operation until 2 a.m.; however, the restaurant is no longer in operation. Other restaurants nearby in Short Pump Town Center can operate beyond midnight because they are located in a B-3C District but are limited by proffer to 2 a.m.

The 2026 Comprehensive Plan recommends Commercial Arterial for the subject property and surrounding area. Large shopping centers with a regional draw along with smaller accessory uses on outparcels nearby are appropriate to this land use designation. Given the surrounding commercial uses, the close proximity to other restaurants allowed to operate beyond midnight, and the former approval of extended hours within Towne Center West, staff supports this request subject to conditions 1 through 12 identified in the staff report.

I'd be happy to answer any of your questions.

Mrs. Jones - All right, do we have questions for Ms. Deemer?

Mr. Branin - Ms. Deemer, there is a restaurant that's moved into Emilio's. Have we checked the hours they're operating under?

Ms. Deemer - Is that the one that is Three Guys Pizza? Yes. Their hours are Monday through Sunday, 11 to 11. The PUP did not transfer.

Mr. Branin - Well, I knew it wouldn't. I just wanted to make sure. Okay, fantastic. I'm good with this PUP.

Mr. Archer - I was just looking at the language in Condition 11. The owner or operator shall not permit loitering, criminal assaults, or public nuisances on the premises during hours of operation.

Ms. Deemer - That's one of the standard conditions we've been adding to our PUPs recently.

Mr. Branin - I believe the first one that we put that in was in Varina.

Mr. Archer - Oh, okay. I only mention because I think it would be more effective if we just left it—it almost sounds like you can do it as long as the store's not open.

Mr. Branin - The problem is if you don't state it like that, then if someone is conducting unlawful actions while they're not open, then the onus is still on them, which they don't have control over.

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336 Mr. Archer - Yes, and I can understand that. It's not easy. I
337 understand what you're saying.

338

339 Mr. Branin - Is that correct, Mr. Secretary?

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341 Mr. Emerson - That's correct. This is a difficult condition. It has been
342 on many of our Provisional Use Permits for probably at least the last ten years or
343 so. From the owner's standpoint, it is certainly difficult for them to enforce, but it
344 is a standard condition.

345

346 Mr. Archer - Okay. I was just wondering if there was a way we
347 could improve the language, but apparently there's not.

348

349 Mr. Emerson - We can look at it, certainly.

350

351 Mr. Archer - It will come up again, I'm sure, at some point.

352

353 Mr. Emerson - We'll take a closer look at it. Certainly this goes on to
354 the Board of Supervisors.

355

356 Mrs. Jones - I do think that when we have Provisional Use Permits
357 come forward to the Commission for extended hours, one of the things is, is it an
358 appropriate location, obviously. That's a huge consideration. And along Broad
359 Street I think is one of those corridors where we have decided in terms of support
360 of additional hours. And I hope this will add to the success of the new enterprise.
361 Anybody else? Questions? Comments?

362

363 Mr. Witte - Where is BJ's Restaurant headquartered?

364

365 Ms. Deemer - I believe they're out of California.

366

367 Female - [Speaking off microphone.] Huntington Beach.
368 Huntington Beach, California.

369

370 Ms. Deemer - Huntington Beach, California.

371

372 Mr. Witte - That explains the tan, I guess, huh? Okay, thank you.

373

374 Mrs. Jones - Mr. Branin, would you like to hear from the applicant?

375

376 Mr. Branin - No ma'am. I have just very recently. Last case. I think
377 it's good. All right. Madam Chair, I would like to make a motion, if I may.

378

379 Mrs. Jones - Please.

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381 Mr. Branin - I'd like to move that PUP2013-00015, Jared Taylor for
382 BJ's Restaurants, Inc. c/o GPD LLC, move forward with a recommendation for
383 approval to the Board of Supervisors with conditions that are outlined, which are
384 1 through 12.

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386 Mr. Leabough - Second.

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388 Mrs. Jones - Motion by Mr. Branin, second by Mr. Leabough. All in
389 favor say aye. All opposed say no. The ayes have it; the motion passes.

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391 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.
392 Leabough, the Planning Commission voted 5-0 (one absent) to recommend the
393 Board of Supervisors **grant** the request because it is reasonable in light of the
394 surrounding uses and existing zoning on the property and it would not be
395 detrimental to the public health, safety, welfare and values of the area.

396
397 Mr. Emerson - Madam. Chair, we now move on to your next item on
398 the agenda, which appears on page three, and that is consideration for the
399 approval of your minutes from the Commission's November 14th meeting. You do
400 have an errata sheet that was placed at each one of your seats with comments
401 received from the Commission prior to the meeting regarding the minutes.

402
403 Mrs. Jones - Do I have additional corrections or additions to the
404 minutes? I'll entertain a motion.

405
406 Mr. Leabough - Madam Chair, I move for approval of the November
407 14, 2013 minutes subject to the errata sheet dated December 5th.

408
409 Mr. Archer - Second.

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411 Mrs. Jones - Motion by Mr. Leabough, second by Mr. Archer. All in
412 favor say aye. All opposed say no. The ayes have it; the motion passes.

413
414 Is there further business for the Commission tonight?

415
416 Mr. Emerson - Madam Chair, I have no further business for the
417 Commission.

418
419 Mrs. Jones - Good heavens. Can we consider this a record? I
420 guess so. Not trying to set records. I do certainly hope that you all have a good
421 week. We will see you back here. Just as a reminder, our schedule is
422 accelerated. We will be back here next week on Wednesday for our POD
423 meeting.

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425 Mr. Leabough - We'll miss Bob, who will be out of town.

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Mr. Witte - Madam Chair, this is my last meeting of the year. I want to wish everybody a happy and safe holiday season. I especially want to thank staff for their support and the other Board members for your support.

Mrs. Jones - We wish you a good season as well.

Mr. Witte - I'll let you know how babysitting the triplets goes.

Mr. Emerson - Good luck with that.

Mr. Branin - Yes, I would stay for the meeting; that would be a lot easier.

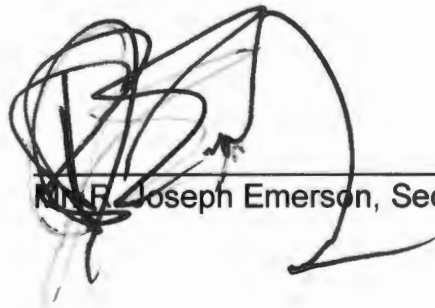
Mr. Witte - I think so.

Mrs. Jones - All right, anything else?

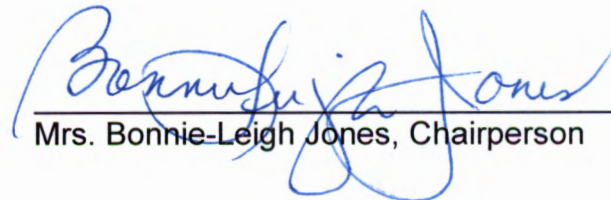
Mr. Archer - Madam Chair, there being nothing further, I move for immediate adjournment.

Mr. Branin - Second.

Mrs. Jones - I have a motion by Mr. Archer and a second by Mr. Branin. This meeting is adjourned.



Mr. Joseph Emerson, Secretary



Mrs. Bonnie-Leigh Jones, Chairperson