Minutes of September 16, 2015 Special Meeting

The Sonoma County Waste Management Agency met on September 16, 2015, at the City of Santa Rosa Council Chambers, 100 Santa Rosa Avenue, Santa Rosa, California.

Present:
- City of Cloverdale
- City of Cotati: Absent
- City of Healdsburg: Brent Salmi
- City of Petaluma: Dan St. John
- City of Rohnert Park: Don Schwartz
- City of Santa Rosa: John Sawyer
- City of Sebastopol: Larry McLaughlin
- City of Sonoma: Madelyn Agrimonti
- County of Sonoma: Shirlee Zane
- Town of Windsor: Deb Fudge

Staff Present:
- Counsel: Ethan Walsh
- Staff:
  - Patrick Carter
  - Karina Chilcott
  - Lisa Steinman
  - Felicia Smith
- Agency Clerk: Sally Evans

1. Call to Order Special Meeting
   The meeting was called to order at 9:05 a.m. Chair St. John noted some things would need to be adjusted, as a full board would not be present to provide a unanimous vote.

2. Closed Session: Conference with Legal Counsel-Existing and anticipated Litigation
   No reportable action.

3. Adjourn Closed Session

4. Agenda Approval
   Item 6.2, FY 15-16 Budget Adjustments, was pulled from consent, as it required a unanimous vote.

   Don Schwartz, Rohnert Park, motioned to approve the agenda and Madelyn Agrimonti, City of Sonoma, seconded the motion. Motion passed.
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AYES -8- NOES -0- ABSENT -2- ABSTAIN -0-

5. Public Comments (items not on the agenda)
None.

6. Consent (w/attachments)
6.1 Minutes of August 19, 2015 Regular Meeting
6.3 FY 14-15 Year End Financial Report
6.4 Compost Closure Progress Report

Susan Harvey, City of Cotati, motioned to approve the consent agenda, not including Item 6.2, FY 15-16 Budget Adjustments. Mr. Schwartz seconded the motion. Motion passed.

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Regular Calendar

7. Agency Future Update
Patrick Carter, Interim Executive Director, stated direction was given at the August SCWMA Board meeting to create an Ad Hoc Committee to discuss the potential of a Regional Climate Protection Authority (RCPA) hybrid model, where some of the Agency’s functions would be split off into, and other Agency functions could be assigned to the County.

Mr. Carter reported the RCPA Board discussed the potential hybrid model at their board meeting on Monday, September 14, and while there were some concerns raised, the RCPA Board unanimously voted to give their staff direction to detail the model. Mr. Carter stated Agency staff had initial conversations with Agency Counsel regarding the hybrid model, and no infeasibility had been identified at the conceptual level. Mr. Carter noted the initial conversations about how the potential model would look were had with RCPA staff, Agency staff, County staff, and some of the Agency Board members on the Ad Hoc Committee.

Mr. Carter commented the option of having the County take over all the Agency functions did not appear to be feasible, because they would want to run their own operations and not have a regional board. Mr. Carter added his understanding was the County suggested the RCPA hybrid
model because the RCPA Board represented all the cities and the County, therefore providing the regional representation. Mr. Carter noted the Agency’s regional reporting requirement from CalRecycle to have a JPA, and the County alone was not a JPA.

Mr. Carter stated RCPA staff initially indicated at a previous meeting a strong preference towards keeping their existing board membership and bylaws, but at the Monday board meeting it seemed that may not be the direction their board would ultimately take. Mr. Carter noted additional discussion would need to take place as to whether the RCPA Board would also be the Agency’s board under the hybrid model.

Mr. Carter noted the RCPA staff indicated a strong preference towards keeping the programs intact as well as the existing program managers, to insure the continuity, assuming budgetary requirements could be met. Mr. Carter added the RCPA Board did not get into a level of detail at the board meeting, as this was still more conceptual.

Mr. Carter stated the RCPA staff indicated they preferred operational programs such as compost and hazardous waste be assigned elsewhere. Mr. Carter noted the Agency Board and the RCPA Board had not discussed this yet, and direction would need to be received from the Agency Board. Mr. Carter stated this could potentially come back in the form of a merger plan, and added staff could look at it and provide pros and cons.

Mr. Carter stated some of the members from the Agency’s Ad Hoc Committee expressed an interest in retaining some form of policy control of the programs so that even if compost and household hazardous waste were to be assigned to the County, there would be some sort of control over that. Mr. Carter shared an example was provided that if there were a desire to open a new household hazardous waste collection facility in north or east county, the Agency Board would have some control over that, instead of it only being in the hands of a contractor where the Agency is not a party to that contract.

Mr. Carter related the Ad Hoc Committee was still intact and more work could be done there if need be. Mr. Carter stated staff sought direction from the Agency Board to work with the RCPA and County staff to start this merger plan and provide the Agency Board some details they could have a conversation about. Mr. Carter recommended that in the interest of trying to obtain a unanimous decision on this, Agency staff could return to the cities and present that once a merger plan was in place. Mr. Carter stated the result from the September 14th RCPA Board meeting was their Board was interested in exploring this concept. Mr. Carter added Agency staff was looking to the Agency Board to see if there was interest in moving forward with that option to come up with a merger plan and flush out the details, to determine if this was a viable option from the Agency Board’s perspective.

Madolyn Agrimonti, City of Sonoma, related she attended the meeting, and RCPA staff wanted to move forward possibly in a research mode to see if staff and the transitions would be feasible.

Mr. Carter stated the RCPA/SCTA Executive Director Suzanne Smith was present for any clarification, and added his understanding was the RCPA was given direction to explore the model and return to their board with a plan. Mr. Carter recommended RCPA and Agency staff work on it jointly and suggested presentations be made before both boards when that document was ready.
Ms. Harvey remarked she would not call it a merger, as the rules required there be a JPA, therefore a JPA with all its legal documents would have to be formed, requiring it to go through all the cities. Ms. Harvey stated she was in agreement that the cities have not had an opportunity to discuss this, and noted that when the idea was originally brought up it was more about the RCPA taking over the responsibilities. Ms. Harvey pointed out that’s a little different and it would require reconstituting the JPA and would change its reporting relationship to a different board. Ms. Harvey shared she felt this was moving fast and recommended stepping back to assess what the model was, so people would understand what they would be buying into.

Mr. Carter stated he did not believe this precluded anything that had been discussed in the past, and he did not believe the JPA renewal would necessarily be off the table if the other options were not to work out. Mr. Carter noted five cities had said they wanted to move forward with the JPA renewal and expressed concern as to why only conversation about the RCPA was taking place at this point. Mr. Carter added he understood that concern and didn’t think this would prevent that from happening if that were the will of the Agency’s members.

Mr. Carter reiterated that at this point it was a concept and details would still need to be explored. Mr. Carter explained the future Agency may need to be a JPA even if it is part of the RCPA. Mr. Carter suggested another option may be working something out with CalRecycle regarding the RCPA being a JPA in everything but name, fulfilling the same functions. Mr. Carter added an inquiry could be made to see if that organization could have the same regional reporting responsibilities as a JPA. Mr. Carter noted Agency staff would be working more with the RCPA and Agency counsel to figure out these questions. Mr. Carter stated Agency staff recommended working on the details to provide the Agency Board something clear for their consideration and the individual agency members before any final decisions would be made.

Chair St. John remarked he believed that to be good advice. Chair St. John stated he agreed with Ms. Harvey’s comments, but is glad things were moving along. Chair St. John noted the RCPA idea evolved through the process, and the Agency Board saw an opportunity that needed further review. Chair St. John added he believed a lot of that would be through the leadership of the RCPA’s Executive Director, Suzanne Smith.

Suzanne Smith, RCPA Executive Director, stated she wanted to address comments on the speed at which this is moving and the importance of having the cities buy-in. Ms. Smith noted it was clearly heard at the RCPA Board meeting on Monday that revisiting this issue with each jurisdiction at some point would be critical. Ms. Smith stated she would not disagree that it feels like it is moving quickly, but added she did not think it was moving quickly in that decisions were being made. Ms. Smith noted staff was trying to figure things out quickly to bring it to the Agency Board, and added there was a lot to try to understand and determine the options.

Ms. Smith stated there were conversations between the RCPA Counsel and Agency Counsel as part of this research period, and added the RCPA Board is interested and willing to have the RCPA explore the idea. Ms. Smith reiterated the RCPA Board did not take an action or approve any concept at this point, and added the RCPA did not intend for this to move forward at a pace which makes people uncomfortable, but remarked 2017 is not far away. Ms. Smith explained that dealing with ten jurisdictions and getting on agendas takes time, and information needs to be presented to the Agency Board and the RCPA Board in a timely manner so that it can be presented to all the jurisdictions for consideration.

September 16, 2015 – SCWMA Meeting Minutes
Chair St. John stated the Ad Hoc Committee saw staffing and the continuity of programs as priorities and critical reasons to keep moving forward. Chair St. John added there was a frank discussion about operations, and it made sense to have compost and HHW stay together with landfill operations. Chair St. John shared there were very strong Board and staff feelings about the future JPA/organization representing all ten entities and continued involvement in policy programs. Chair St. John added those things were worked out, and staff would now be doing the work to try to describe what this option would look like. Chair St. John noted there would be efficiency in combining staff with a common environmental mission, as higher levels of services would be provided through a more robust organization. Chair St. John added that if the JPA existed somewhere on a legal structure, all ten member agencies would be represented under this option. Chair St. John reiterated it was clear all member agencies wanted to be represented. Chair St. John recommended a motion be made to direct Agency staff.

Mr. Schwartz commented that one of the directions the Ad Hoc Committee received from the Agency Board due to the responses on the matrix was to address the cost comparison regarding different governance models. Mr. Schwartz noted 3-5 cities wanted to know what the cost difference would be before weighing on their preference. Mr. Schwartz suggested it would be fair to say the cost differences would likely be minimal, as the staffing would be the same, services would be contracted, and there would be no reason to think the cost would be different depending on the governance model. Mr. Schwartz stated the only differences would be purchasing, as an agency, a portion of the Executive Director’s time instead of having a full-time Executive Director.

Mr. Schwartz asked for elaboration about discussions regarding the same board, whether it would be the SCTA or the RCPA, and the Agency became combined as opposed to mixing the boards.

Mr. Carter replied that as background, the SCTA/RCPA Board is a 12 member board with three representatives from the County, and one representative from each of the cities. Mr. Carter added the Agency Board is one member on the board per member agency. Mr. Carter stated some concerns were expressed at the RCPA Board meeting regarding the County having three votes and questioned the voting fairness. Mr. Carter added there was no conclusion or resolution to that issue at that point, and it was something they wanted known as an issue for staff to come up with an acceptable compromise.

Mr. Schwartz stated his working assumption regarding assigning responsibilities would be that a JPA, whether the Agency continued as is or continued under the auspices of or in conjunction with the RCPA, if the Agency wanted to have the County operate compost and household hazardous waste, it would not be an assignment. Mr. Schwartz stated assignment to him meant whoever it was assigned to had responsibility and authority. Mr. Schwartz stated he wanted to clarify that the Agency would be talking about contracting, where the contractor would deliver the programs contracted to deliver, which would be determined by policy matter and rates set by the governing body.

Mr. Carter replied that was something to be discussed and could go either way. Mr. Carter recommended talking about the pros and cons, and added that if something were being assigned to you, you would essentially be saying you’re taking on all the benefits and the liabilities for that service. Mr. Carter thought it was something this Board should weigh in on, whether they wanted to have that or just wanted somebody else to take care of it and not have it under one of the
Agency duties in the future. Mr. Carter noted he believed that to still be an open question and would be happy to look at both ways on that.

Mr. Schwartz asked that be flushed out moving forward.

Ms. Fudge commented that in speaking with other elected on the RCPA Board and elsewhere, especially city elected, she had not heard anybody not express concern regarding board representation at the RCPA/SCTA level as it would relate to the Waste Management Agency in terms of having three supervisors outweighing the other cities. Ms. Fudge noted she heard it as a concern over and over and still agreed that needs to be flushed out because she has not heard anyone say they thought that was okay.

Ms. Harvey stated her understanding was that board also required the chair and vice-chair be supervisors, and some of the cities also expressed their concern about that because it put the County in control of the Executive Director. Ms. Harvey commented she also had some concern regarding the word “assigned” because when you assign something to someone else, control is relinquished. Ms. Harvey recommended thinking through what the choices were because there could be some unintended consequences.

Mr. Sawyer commented it was his understand that would be flushed out, to determine what would be gained, lost, and what the consequences would be of moving forward with the RCPA. Mr. Sawyer stated his council would be asking those questions, and added it would be important to get a firm picture of what the RCPA would not be willing to take on and hearing what the alternatives would be.

Mr. Sawyer inquired if it had been determined by CalRecycle that the JPA would be necessary, and noted it sounded to him that something that acted like a JPA may be acceptable.

Ethan Walsh, Agency Counsel, replied that during Agency staff’s initial conversations with CalRecycle they stated it needed to be a JPA. Mr. Walsh explained he looked at the statute language and it talked about that if you were serving as a regional agency, you would have certain rights you wouldn’t have as individual cities; reporting responsibilities could be consolidated. Mr. Walsh noted the definition of a regional agency did say it would be an agency formed under the JPA law, and the way he read that, it would have to be a JPA.

Mr. Walsh stated the RCPA structure was formed by state legislation, and while it was not form under the JPA law, it was a lot like a JPA. Mr. Walsh noted there could be a JPA that had exactly the composition the RCPA had, and added that from a policy point of view that would be more of a technical issue. Mr. Walsh stated there were different ways to approach that, and there could be a JPA that’s under the umbrella of the RCPA. Mr. Walsh noted that while technically you could have three agencies under one umbrella, there were some reasons not to.

Mr. Walsh stated the RCPA was formed by state legislation, and state legislation could be changed if there was some state legislation that clarified the RCPA could serve as a regional agency. Mr. Walsh noted that was part of the conversation that needed to take place along with CalRecycle to see what would work for them.

Ms. Agrimonti stated she attended the RCPA Board meeting due to the possible partnership between the RCPA and SCWMA and she was taken aback by having three County supervisors
there. Ms. Agrimonti remarked she believed there was a long history she didn’t understand, and thought perhaps they needed to report out for different committees or it was possibly something the legislation required. Ms. Agrimonti noted that it was also mentioned that larger cities taking control over smaller cities was a concern.

Ms. Harvey noted that part of the Agency Board’s goal is policy, and in looking at the future, there would be policy decisions that would need to be made. Ms. Harvey asked what capabilities would need to be in place for those policy decisions that would need to be made in the future in order for the Agency to meet some of the goals if the transition were made to the RCPA.

Ms. Harvey stated her understanding was the reason the Agency Board could not make those policies was because they take on the common powers of the jurisdictions. Ms. Harvey asked if the RCPA would need to be changed so they had the same powers as the jurisdictions in order to be able to enact ordinances. Ms. Harvey added it is known ordinances need to be put in place in order to achieve more diversion.

Mr. Walsh replied he believed the RCPA’s current structure would need to be addressed regarding whether or not they could adopt ordinances. Mr. Walsh stated that when there was an assumption the JPA agreement was going to be redone; he had planned on having that discussion with the city attorneys, as there was some disagreement amongst the various jurisdictions as to whether or not that could be done. Mr. Walsh noted that conversation would take place regardless the direction taken.

Ms. Harvey inquired if the RCPA and the SCTA currently had those authorities.

Mr. Walsh replied he did not know very much about the RCPA’s structure.

Chair St. John mentioned he learned the SCTA had undertaken Measure M, which is what he believed to have been one of the greatest transportation policy measures undertaken in recent Sonoma County history.

Ms. Smith clarified Measure M was undertaken as an ordinance and explained the SCTA had certain authorities related to what Chair St. John mentioned. Ms. Smith stated SCTA could put a sales tax measure on the ballot for transportation purposes, but it required that a majority of the jurisdictions representing the majority of the population approve the ordinance.

Ms. Smith stated that while the RCPA mirrored a lot of the administrative components of the SCTA, there were legal questions to figure out as to what the authorities actually were. Ms. Smith explained that while they have not actually dealt with the specific concept of the ordinance of the RCPA, they were doing a climate action plan for each of the jurisdictions; working with jurisdiction staff, and the cities would adopt their own climate action plan that would be folded into the regional one.

Ms. Smith stated the RCPA’s model was not to impose an ordinance as a regional body, but rather to create a model ordinance or go through a process with each jurisdiction towards a similar goal, and have that enacted by the city or the County.

Ms. Smith explained the SCTA was created in 1990/1991, and added there were similar entities in every county in the state of California. Ms. Smith noted very few looked the same, and explained...
that in Marin there was a representative from each city and all five of the supervisors. Ms. Smith said that in Santa Clara they had one or two supervisors but they didn’t have all the cities represented; they had small city and large city reps. Ms. Smith stated the structure decision in Sonoma County was made when it was created, and added she came on board in 1997.

Ms. Smith stated that at the RCPA Board meeting on Monday, she heard a couple board members express concern regarding the three supervisors vs. having one seat at the table. Ms. Smith noted she had heard that before over the years and understood that had been a concern. Ms. Smith stated her understanding was they were somewhere working on completely changing the structure of the board and added one of those was the issue of leadership, which was in the RCPA bylaws and a changeable item. Ms. Smith stated RCPA did not currently have weighted voting, but compared that to the equivalent weighted voting that took place when it came to the SCTA sales tax ordinance; the majority of the cities that represent the majority of the population. Ms. Smith stated there were two cities that didn’t support Measure M, but it was still able to go on the ballot.

Mr. Sawyer commented he was not aware the RCPA/SCTA chair and vice-chair needed to be county supervisors and inquired if that was currently the case.

Ms. Smith replied the way it was structured in the bylaws, and not as a state statute, was the chair term was two year, and the chair or vice-chair had to be a supervisor and had to be a city person. Ms. Smith noted it rotated every two years between the city and the county.

Ms. Agrimonti thanked Ms. Smith for the clarification.

Ms. Smith stated the RCPA was term limited with a sunset date of 2020. Ms. Smith added that was imposed by the legislature when the RCPA was created due to committee staff concerns about having an entity they didn’t know and there was no similar agency in the state. Ms. Smith noted the RCPA now had a track record of five years, and added the intention would be to go back to the legislature next year to ask for the sunset to be removed or extended significantly longer. Ms. Smith shared the RCPA had received numerous state and federal grants since and believed there would be a good case to make and supportive local legislators to carry that for the RCPA. Ms. Smith added that if there were something related to the work the SCWMA Board does that would be coming over to the RCPA, if it would be helpful, she would be interested and open in pursuing the legislative change next year.

Mr. Schwartz stated that instead of developing a merger plan, which would imply a decision had been made, he wanted like to propose the following motion to amend the staff recommendation: That Agency staff work with RCPA to flush out the matrix and provide more detail. The County option was removed, as that no longer appeared to be feasible. Include the cost differences for the two options to be looked at; RCPA/SCTA/WMA vs. the Agency as a stand-alone. The Board membership issue be identified, not in the context of staff, but in the number of representatives per jurisdiction. Discuss how the lawsuits the Agency was dealing with now would be addressed in these two different models. Mr. Schwartz asked that the staffing model be addressed as well. Mr. Schwartz asked that staff return to the Board at the October meeting for review, comment, and approval, with the anticipation of taking the matrix to the cities for policy direction. Mr. Sawyer seconded the motion.
Chair St. John asked for confirmation the motion would not be limiting staff from looking at other issues such as bylaws, financial mechanism, timing, what happens to operations, and those kinds of things. Mr. Schwartz confirmed and stated these were additional items he thought absolutely needed to be addressed.

Ms. Harvey stated she concurred it had to go back to the cities, and added the more information and details they had would allow them to make better decisions.

*Shirlee Zane, County of Sonoma, arrived at 9:50 a.m.*

Ms. Zane stated she wanted to repeat the comments she had made at the RCPA meeting that the alternative of not having a landing place that had both County and city representation for policy direction and the education piece was that there would be no landing place. Ms. Zane explained the hauler was disseminating education information, but the education research background piece was done by the Sonoma County Waste Management Agency. Ms. Zane added she believed it was important that be available.

Ms. Zane referenced the three primary goals of the Solid Waste Advisory Group the cities and the County decided on. Ms. Zane pointed out one of them was that if more policy was not reached in terms of solid waste, the 90% diversion goals would never be reached. Ms. Zane added that unless education and mandatory ordinances were in place for Construction and Demolition, as well as food waste, the aggressive goals SWAG worked on would not be reached.

**Public Comments**

Bob Anderson, Citizen’s Advisory Committee Chair of the Transportation Authority, stated he had held the post since 1991. Mr. Anderson explained the makeup of the SCTA was duked out between Schuyler Jeffries and Janet Nicholas before Measure B before the voters in November 1990. Mr. Anderson added this was during committee work done by James Harberson, transportation committee that developed Measure B. Mr. Anderson stated it was necessary in order to get an agreement to go to the voters, and added the makeup of the SCTA dated back to before there was a sales tax, and it was bedded in measure B and operated for years without any money.

Chair St. John thanked Mr. Anderson for his comments and asked that the Board take action on the motion.

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AYES -9-  NOES -0-  ABSENT -1-  ABSTAIN -0-

The motion passed.

*September 16, 2015 – SCWMA Meeting Minutes*
Chair St. John stated he expected the Ad Hoc Committee to stay in place for one or two more meetings with staff if needed.

6.2 **FY 15-16 Budget Adjustments**
Chair St. John stated Item 8 would not be addressed at this meeting, as it required a unanimous vote.

Mr. Carter asked for a five minutes recess to attempt to contact Bob Cox to see if he was on his way.

Chair St. John recommended moving on to the next item and returning to Item 8 if Mr. Cox showed up prior to the end of the meeting.

Mr. Carter spoke regarding Item 6.2 to answer any questions, as it was also a unanimous item. Mr. Carter stated the item is the standard budget adjustments containing two items. Mr. Carter stated one of the items was to account for escrow payments from the organics reserve into the escrow account that was established for the County related to the litigation on the compost site. Mr. Carter added that when the budget was created, staff did not account for the payments that would be necessary this year. Mr. Carter noted there were three payments remaining, and as of October 15th the compost site would be vacated.

Mr. Carter stated the second item brought to the Board’s attention is the cost of county services; county accounting to process the agency vouchers and pay the Agency invoices. Mr. Carter noted there was a $1,500 increase, and he wanted to account for that in the budget. Mr. Carter stated that other than that, the budget was as originally adopted, and staff sought the Board’s approval for the two items mentioned.

Chair St. John inquired if the payments were expected to have to continue.

Mr. Carter replied he believed the payments would have to continue until such a time the County signed off the site was delivered to them in an acceptable fashion.

9. **Attachments and Correspondence**
   9.1 September and October 2015 Outreach Events
   9.2 Recycling Guide Correspondence

Mr. Carter pointed out Item 9.2, regarding a letter complimenting the Agency on the Recycling Guide.

10. **Boardmember Comments**
Chair St. John requested a monthly staff update regarding the permitting process for the new site.

Mr. Carter replied he intended to do that under staff comments.

Mr. Schwartz stated there were high expectations and he was glad Mr. Carter was in the seat he was in.

11. **Staff Comments**
September 16, 2015 – SCWMA Meeting Minutes
Mr. Carter referenced the compost site permitting process and stated a kick off meeting took place with Tetra Tech, the Agency’s contractor helping the Agency with that work. Mr. Carter noted Tetra Tech provided the Agency the framework for a permitting document called Report of Composting Site Information (RCSI). Mr. Carter noted there was conversation regarding issues related to that, and Tetra Tech expected to provide the Agency an internal draft by the end of the month. Mr. Carter added that needed to be in place prior to speaking with the LEA about starting that permitting process.

Mr. Carter introduced Waste Management Specialist Felicia Smith as the latest addition to the SCWMA. Mr. Carter stated that prior to joining the Agency, Ms. Smith worked as a Sustainability and Energy Efficiency Specialist at the Community Development Commission in Mendocino County. Mr. Carter added Ms. Smith had previous experience in the solid waste sector and held a degree in sustainability. Mr. Carter noted Ms. Smith would be working on the mandatory commercial recycling and the mandatory organics recycling programs.

Chair St. John inquired if Item 8 needed to be continued or rescheduled for the following month. Mr. Carter replied there were four options and each one of them individually was less than the $50,000 cap. Mr. Carter noted that while they could be chosen individually, he thought it was a comprehensive program and recommended taking all the items on at once. Mr. Carter recommended continuing Item 8 to next month.

Chair St. John asked that Item 8 be continued the following month.

12. **Next SCWMA meeting:** October 21, 2015

13. **Adjourn**
The meeting was adjourned at 10:01 a.m.

Submitted by
Sally Evans