

MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES
Thursday, January 19, 2006
State Office Building, Hearing Room 5

EQB Members Present: Robert A. Schroeder, Dana Badgerow, Jerome Deal, Brenda Elmer, Dianne Mandernach, Susan McCarville, Gene Merriam, and Glenn Wilson

EQB Members Absent: Jonathon Bloomberg, Sheryl Corrigan, Gene Hugoson, Matt Kramer, Lt. Governor Carol Molnau, and Paige Winebarger

Robert Schroeder called on Michael Sullivan to brief the Board on the item regarding the amendment to the stipulation agreement between the EQB and the Hutchinson Utilities Commission. Mr. Sullivan stated that staff was waiting for some communication from the Public Utilities Commission indicating that they agreed that the EQB had jurisdiction in this matter. PUC legal counsel is still studying that matter and we have not received the PUC view at this time. Mr. Sullivan asked the Board to keep the material in the event that it may yet be determined that the Board has jurisdiction in the matter.

I. Adoption of the proposed Agenda for the January 19, 2006 meeting and Minutes from the December 15, 2005 Environmental Quality Board Meeting

Commissioner Badgerow made a motion that the minutes and proposed agenda be adopted and Member Deal seconded. The motion was approved on a voice vote.

II. Executive Director's Report:

Michael Sullivan stated that there were a number of handouts at each member's place. First, there is an extract of minutes from Waseca County that applies to the presentation later on regarding the Ag Preservation Act. There is also a chronology entitled Flying Cloud Airport Expansion Environmental Review Timeline that gives a presentation of many actions that have taken place. There is a document that was just received this morning by fax regarding the Flying Cloud item. Next, there is a document entitled Categorical Exclusion Declaration that deals with the question of Class B airspace as it applies to the Flying Cloud item. Finally, there is a document with Jon Larsen's name in the left hand corner.

Mr. Sullivan indicated that staff has talked with Mr. Lloyd Grooms, representing the Twin Cities Builder's association, who had come before the Board with some questions and concerns regarding the proposed rules. Staff has met with Mr. Grooms and reviewed his issues. Mr. Sullivan stated that Mr. Grooms has indicated that he intends to provide the EQB staff with proposed changes in language during the comment period. Mr. Grooms also stated that it would not be his preferred option to move this into a contested case hearing if the staff is able to address his concerns.

Mr. Sullivan indicated that, regarding the Phase II rulemaking, the Department of Natural Resources has had its fourth and final meeting with their stakeholder group regarding the shoreland category. They are now going to try to draft some proposed language and it's their hope that they would bring that before the Board for the presentation and discussion, at the

February Board Meeting. Mr. Sullivan indicated that the DNR staff that is leading the discussions regarding highly important natural resource areas should be ready to bring that to the Board at the February Board meeting as well. That group has not been assisted by a stakeholder group. Mr. Sullivan indicated that by March or April the Board may be at a point where they would feel comfortable approving language and go to a hearing on those pieces.

III. Legal Counsel Report:

Robert Roche stated that there was nothing new to report.

IV. * Notice of Intent to remove land from Agricultural Preserve status in Waseca County

Jon Larsen, EQB staff, stated that originally, the EQB staff was given the Notice of Intent in November. The EQB Chair was asked to withdraw the item from the Board's Review because Waseca County needed to revise with regard to the specific legal description of the land involved. As a result, they re-noticed it, in time for this meeting.

This is basically a preliminary look at this Notice of Intent. Mr. Larsen indicated that most of the Board members are probably aware of what the nature of the possibility of Board action is with regard to the Statewide Agricultural Preserve program. Along with that, there is companion legislation called the Metropolitan Agricultural Preserve Act that similarly provides certain protections to farmers in the form of tax relief and certain guarantees in exchange for their voluntary enrollment in an agriculture preservation program to sequester their enrolled lands from future development for a period of a minimum of eight years. Mr. Larsen reminded the board members that many of them were on the Board at the time that land from this agricultural preserve program in Farmington was proposed to be taken for a high school project.

As a provision of that policy and program, whenever there is an eminent domain condemnation taking land out of the program prior to its normal termination date, a Notice of Intent is filed with the EQB to examine whether the effect of taking that land would have an unreasonable impact on the purposes of the program and to local and regional agriculture. In this case, the underlying project that is the reason Waseca County is seeking to use their eminent domain powers is to convert 90 acres of a 129 acre agricultural preserve parcel for a future ethanol plant that is being proposed by U.S. BioEnergy. The original Notice of Intent, which consists of the first six pages, was sent to the EQB staff. Mr. Larsen inquired of Mr. Paul Dressler, the county attorney, about the rest of the package that had previously been sent, including the extract from the county's comprehensive plan and other supporting documents. Those arrived on the day the packets were prepared and sent to each Board member. The additional piece, which makes the Notice of Intent effective, is the extract from the minutes of the Waseca County Board adopting the resolution to proceed with the eminent domain action and to make that effective immediately. The Notice of Intent was served on January 18, 2006. Any action that the Board should take could occur at this meeting, the February meeting or the March meeting.

In addition to the Notice of Intent, Mr. Larsen prepared findings of fact that also address the issues and a sample resolution, submitted for the Board's information at this point. Mr. Larsen indicated that one of the requirements of the Notice of Intent, is an evaluation of not only of the proposed action to take the land out of agricultural status, but an evaluation of alternatives that could possibly result in lesser impacts to agricultural preserve lands. Mr. Larsen has inquired of Mr. Dressler if there was more supporting documentation for review of other evaluated options, through an exchange of voicemails. There is not a definitive description of any evaluation of other alternatives at this point.

The construction of an ethanol plant, because of its size, will receive environmental review in the form of an Environmental Assessment Worksheet. The sample findings of fact describe the characteristics of that site at finding number 10, access to the highway, access to natural gas pipeline, a location that is midway between Claremont and Lake Crystal; and other characteristics which are specific to this project at finding number 10.

Mr. Larsen stated that he will bring the issue back before the Board in February should he receive any further information from Waseca County considering those alternatives.

Chair Schroeder asked if it was Mr. Larsen's judgment that materials submitted to us could be more complete. Mr. Larsen indicated that they could be more complete. Chair Schroeder asked if Mr. Larsen has an expectation that we will gather that information. Mr. Larsen stated that would be his expectation.

Commissioner Merriam asked if it is Mr. Larsen's expectation that action will be delayed until after the staff gets alternatives evaluated. Mr. Larsen stated that he offered the package with the expectation that it would be complete; in his view it does not appear to be as complete as required. The findings of fact were based on that requirement, and Mr. Larsen would not stand behind them at this point. The Board has the opportunity to take this up at the February or March meetings. The Board would have the option of not actually addressing this issue if they felt there was not a need to. Otherwise, the board could order a hearing for cause if they perceive there was a reason to do that, or to make a resolution affirmatively to say they believe no action is required.

Commissioner Merriam wanted to confirm that it would do nothing to slow down the project. Mr. Larsen stated that it would not. Commissioner Merriam stated that he would feel more comfortable if the Board waited and got something that meets the statutory requirement that they evaluate alternatives.

Commissioner Mandernach asked if there will be feedback to Waseca County that there is additional information that is required. Mr. Larsen stated that there will be feedback.

Member McCarville asked who reviews agricultural land to let it become enrolled in this preserve program. Mr. Larsen stated that the program is a voluntary one and only available in those counties that have chosen to administer the program. In out-state Minnesota there are only three counties; Winona, Wright and Waseca County that administer the program. There is a minimum parcel size that is required and it's recorded with the County Recorder and a

covenant is signed between the County and the land owner. That is enforced for a minimum of eight years. In the out-state program, it remains enforced until such time as its applied to be terminated and then there is the eight year waiting period. The only way to remove those lands in advance of that is through any public authority that has eminent domain powers to condemn the land for a particular purpose.

Member Elmer asked for Mr. Larsen to clarify whether the sellers are willing sellers. Mr. Larsen stated that is true.

Chair Schroeder asked that Mr. Larsen bring this back before the Board once it is complete.

V. *Expansion of Flying Cloud Airport Environmental Impact Statement adequacy decision

Chair Schroeder stated that before Jon Larsen is to give his presentation, he has asked Robert Roche to give a quick summary of the matter that is before the Board. Mr. Schroeder stated that this project has been underway for about eight years and the issue before the Board is a narrow one in light of all the other aspects of this entire project.

Robert Roche stated that finding number 17 sets forth the criteria for determining whether an EIS is adequate. That is a quotation of Minnesota Rule, 4410.2800, subp. 4. Those are the criteria which the Board is legally required to apply in determining whether the Final EIS is adequate. Mr. Roche advised the Board to apply those criteria in judging the adequacy of this EIS. Mr. Roche reminded the Board the under Minnesota law, determining that an EIS is or is not adequate is not the same thing as approving or disapproving the project. This is not a permitting matter. If the Board decides that the EIS is adequate, that is not the same as endorsing or approving the project.

Mr. Larsen stated that the matter before the Board is the adequacy decision on the Environmental Impact Statement for the expansion of Flying Cloud Airport. One of the duties that is occasionally given the Board is to act as the determiner of adequacy for an Environmental Impact Statement. The responsible government unit (RGU) in this case is the Metropolitan Airports Commission. Also participating in this environmental review is the Federal Aviation Administration, as a federal agency. This EIS is a combined State and Federal document and is a product of both of these agencies.

In the packet is a resolution from the July 16th, 1998 EQB Board meeting indicating that Board's willingness to take on the responsibility for making the decision, which is before the Board today. The packet also includes the Metropolitan Airport Commission Ordinance 97, which are the current operating rules for controlling Flying Cloud Airport.

There is a package of materials that were sent to the EQB staff by e-mail. This includes a cover memo from Mark Michelson, and attachments that address what are purportedly new issues. In addition, there is a response from the Metropolitan Airports Commission in the form of a letter commenting on the issues raised by that e-mail.

Mr. Larsen indicated that representatives from MAC are at the Board meeting. Present today are Gary Warren, director for airside development, Bridget Reif, project manager for the environmental review and Chad Leque, with the noise program at MAC. Members from the

FAA are also in attendance; Glen Orcutt, airports division, and Cindy Green, air traffic control division. Larry Dallam, HNTB, is the primary consultant to MAC and FAA for the development of this document and is also present.

Mr. Larsen proceeded to summarize the Findings of Fact.

The Statement of Issue is whether or not the Board should find the expansion of Flying Cloud EIS to be adequate

The project itself is the lengthening of one runway to 5,000 feet and the lengthening of the second parallel runway to 3,900 feet; the acquisitions of certain lands around the airport to help preclude incompatible land uses for safety reasons, and also to provide a setback for noise for the neighbors of Flying Cloud; provision of sufficient hangar space for the needs of Flying Cloud into the future; and also other associated improvements, like navigation aids, taxiways, etc.

The EIS and the Final Record of Decision comprises the documentation to be considered, not just the Final EIS itself; but rather the entire suite of information that has been developed over the course of time, from approximately 1996 to 2006. Also included are the development of all the documents and technical reports and other supplemental appendices, etc., that are meant to address the various issues that were raised in scoping or raised in comment on the environmental review. That listing that is found at item 14 in the Findings of Fact and includes not only the EIS, but the other documents to be considered for this decision.

Mr. Larsen stated that finding number 17, speaking to the issue of adequacy, state that the EIS shall be found adequate if it:

- (A) addresses the potentially significant issues and alternatives raised in scoping so that all significant issues for which information can be reasonably obtained have been analyzed in conformance with the requirements,
- (B) provides responses to the substantive comments received during the draft EIS review, concerning issues raised in scoping and,
- (C) was prepared in compliance with the procedures of the Act and with the parts of the rules.

Mr. Larsen stated that it is the staff opinion that procedural compliance has been accomplished; that responses have been made to all of the comments made at various points of the process, as stated in the Findings of Fact, starting at finding number 21, dealing with the substantive issues that were raised during scoping and in comment.

Mr. Larsen only selected the major issues to comment upon.

- **Noise** has been addressed throughout the document and as part of that, Ordinance 97 which has been in effect for three years.
- **Impact to the Minnesota Valley Wildlife Refuge** -Finding number 27 states that a bald eagle assessment indicates that a “no effect” biological opinion should be warranted with or without mitigation for expansion of Flying Cloud.

- **Land use/values and economic impacts** are addressed in responses to the commenters, and cites a study that expresses the information that there is a nominal impact of 2 percent or less based solely on the airport impacts. Values would be more greatly influenced by other market factors in that area.
- **Ordinance 97 Issues.** The former Ordinance 51, which controlled operations at Flying Cloud and included a 20,000 pound weight limit on planes, had the effect of limiting noise from larger business jets at Flying Cloud. It is an opinion expressed by the FAA in the final EIS that it would be unlawful to continue using this limit at Flying Cloud. Part of the issue of changing that ordinance now is to modify it to reflect a 60,000 pound weight limit, which is associated with the pavement stress limits for the runways at Flying Cloud and is divorced from the issue of limiting noise. There are other voluntary measures also cited in Ordinance 97 that do directly address noise.

The Conclusions of Findings of Fact are that the EQB has the authority to make that adequacy decision, that MAC and FAA have complied procedurally with the requirements to find this adequate, that the City of Eden Prairie and other interested parties did have the opportunity to comment and did comment to the MAC; that MAC and FAA have responded to the substantive comments, that the environmental review documents prepared, including those mentioned in the Findings of Fact are adopted as part of the record; that the EIS analyzes noise impacts to the City of Eden Prairie and includes mitigation measures within the memorandum of understanding and the final agreement between MAC and Eden Prairie.

With regard to the e-mail that was sent on January 12, 2006, Mr. Larsen stated that it brings up two issues; (1) what this Board should make of the change of Class B airspace around Minneapolis/St. Paul International Airport and how that affects any environmental review of Flying Cloud and (2) whether or not the 60,000 pound weight restriction that is part of Ordinance 97 can withstand future challenge, and is an effective measure for control of operations at Flying Cloud.

With regard to the Class B airspace issue, and relative to the continued enforceability of the weight limit, the Final EIS addresses the noise mitigation preferential runway use, and maximum takeoff weights of 60,000 pounds as cited in Ordinance 97. Mr. Glen Orcutt representing the FAA signed the Final EIS, and has attested to the fact that FAA agrees to- and approves of - the provisions of Ordinance 97, by distributing the Final EIS with the inclusion of this ordinance.

Testimony:

Mark Michelson, spoke on behalf of Laura Newman and from Zero Expansion/Talktrans, which are two citizen organizations out of Eden Prairie. Mr. Michelson stated that the comments that Laura sent talk about how she has been working on these issues of environmental review for the proposed expansion for the last six years. She feels that the FEIS is inadequate and the EQB should ask itself the following questions regarding the Flying Cloud FEIS: 1.) Is the FEIS adequate when it does not disclose significant toxic emissions that are already in excess of ambient air health benchmarks for adults and children. 2.) Is the FEIS adequate when it does not disclose average weighted average noise impacts below 60 decibels and single noise events? 3.) Is the FEIS adequate when it does not evaluate cumulative impacts on toxic emissions and noise from other sources in the community?

Mr. Michelson stated that Ms. Newman has a list of toxic emissions from Flying Cloud that she just received in that last week, so it's new information. Ms. Newman states in the document that the MPCA calculations for toxics at Flying Cloud should be doubled because its value for carbon monoxide and other pollutants are about half of what the MAC and FAA have reported in the FEIS. In further explanation, the MPCA has done calculations about the toxic emissions. What the MAC and FAA have done are actual calculations and have come out with about double the toxic emissions for carbon monoxide. All these emissions should be doubled to get the whole profile.

As far as the noise impacts, Ms. Newman is concerned about the noise spikes, not the 60 DNL, and believes that the noise spikes are not adequately covered in the FEIS. The cumulative impacts are the other construction activities and noise sources in the community. The FEIS has singled out Flying Cloud and only has really looked at the Flying Cloud impacts; it has not made a cumulative study adding impacts from other nearby highways, roads, construction projects, etc and they should be included in the FEIS as part of Minnesota Rules 4410.02, subp. 11. Mr. Michelson stated that cumulative impacts are significant because they represent the true impact that a project may have on a community.

Mr. Michelson, on behalf of Talktrans/ZeroExpansion, outlined the reasons he believed the EIS should be found inadequate and stated that in the past few weeks his organization and MAC have been sending paperwork back and forth. For this reason, he is asking the EQB to delay any vote on the Flying Cloud FEIS until the members have had a sufficient amount of time to review the correspondence. Mr. Michelson addressed the changes to Class B airspace around MSP as being a new consideration for determining adequacy of the EIS for Flying Cloud. Mr. Michelson stated that the second issue is the pavement-based weight restrictions, and stated that the FAA may take a different position in the future; and therefore feels that the Board should not find the EIS adequate.

Scott Kipp, Senior Planner with the City of Eden Prairie, stated that in December 2002, the City of Eden Prairie and Metropolitan Airports Commission entered into a Final Agreement concerning the Flying Cloud Airport, as well as a Memorandum of Understanding concerning cooperative solutions to infrastructure, right-of-way/easements and park needs regarding Flying Cloud Airport.

The commitments contained in the Final Agreement were determined by both parties to mitigate the potential adverse environmental consequences of the proposed expansion of the Flying Cloud Airport and retain the fundamental character of the airport. On this basis, the City withdrew its opposition to the proposed airport expansion in exchange for Metropolitan Airports Commission commitments to adopt and enforce mandatory and voluntary noise control measures and to abide by limits on future growth and expansion.

The Memorandum of Understanding defines the commitments and responsibilities that both parties agree establish compatible implementation of infrastructure improvements and private property development.

The Final Agreement and Memorandum of Understanding have been incorporated into the Final EIS for the Flying Cloud Airport.

We will continue to work with the Metropolitan Airports Commission to implement and monitor these important agreements into the future.

The City and Metropolitan Airports Commission have defined commitments and responsibilities to extend municipal sewer and water adjacent to the airport. Portions of this infrastructure have been completed; however, more needs to be done. Utilities need to be installed along Pioneer Trail to serve the north side of the airport and adjacent properties. Metropolitan Airports Commission budgeting for this infrastructure should not continue to be delayed. This important project will significantly reduce the potential for ground water contamination by allowing for the removal of well and septic systems that have been in place for years, while providing greatly improved water quality and fire protection capability for all airport tenants and fixed base operators.

We ask that this infrastructure be funded by the Metropolitan Airports Commission and installed cooperatively with the City in 2007 regardless of the timing of any airport expansion.

Gary Warren, Director for airside development with the MAC, stated that he wanted to address a couple points up front, and the timing of this is one of the important keys. The MAC, through its capital improvement program, has improvements for this airport that are scheduled for 2007. The MAC has been working forward with the various agencies to deal with the environmental issues associated with these improvements, which has taken a long time to put in place. Relative to some comments about whether this needs to be deferred or taken more time to study; the MAC believes that the document is complete. It has had an extended review, including comments that the MAC responded to even after the closing of the comment period. Mr. Warren stated that the document has gone through extensive reviews and is complete, and should be found adequate.

Mr. Warren stated that the Class B airspace itself is not a part of the scoping document for this EIS. It is an issue that FAA has addressed, with the categorical exclusion that FAA did before implementing the Class B airspace, which is their environmental review of that scenario, and was done and completed (and the Board was given a copy of that).

Mr. Warren stated that relative to the pavement weight based restrictions at the airport and its ability to be enforced, Ordinance 97 makes it a misdemeanor if an individual exceeds the 60,000 pound weight bearing capacity or other criteria at Flying Cloud Airport. The MAC is very serious about enforcing that. Mr. Warren believes they have a positive governmental agency relationship with the City of Eden Prairie to manage the airport in a very responsible fashion. The issue on the enforceability of it, and the FAA's ability to allow the MAC to enforce this, is looked at on an airport by airport basis. The Flying Cloud Airport originally had a 20,000 pound weight bearing restriction that was looked at as discriminatory in the ability for people to use the airport. The airport itself is [part of] a system of airports that the MAC is responsible for maintaining. The system of airports means that the MAC is to operate the airports in the category in which they are established. Flying Cloud is a "minor use airport" in the terms of the state, and the designation that the State Legislature and Metropolitan Council have approved for MAC to operation Flying Cloud airport. The fact that the MAC operates a

system of airports is very important in understanding why this is enforceable at Flying Cloud, and why the FAA has signed off on this document agreeing to the MAC enforcing that without saying that the MAC would lose any of their assurances.

Chair Schroeder asked Mr. Warren to address the toxic emissions issue. Mr. Warren stated that the Pollution Control Agency has air quality monitors at Minneapolis/St. Paul International Airport, for example. They are monitoring there with all the exhaust and emissions that come from the heavy jet fleet and it is not pointed to as a detriment to the environment or impacting individuals. There is more of a risk from automobile emissions than from the aircraft, but Mr. Warren doesn't have the specific information since it was just presented today. The documentation from the information that the MAC has adequately addresses that issue.

Glenn Orcutt, FAA, Minneapolis Airport District Office is representing the division within the organization that is responsible for the preparation, the content and the eventual approval of the Flying Cloud Final EIS and any subsequent funding.

Chair Schroeder asked how long the Class B airspace change issue has been out for review.

Cindy Green, Minneapolis Tower Operations Manager, stated that the Class B expansion process started in 1993, out for public comment, extensive period of times, extensive meetings with the pilot groups, which are the most impacted with the Class B over those periods of approximately twelve years that it has taken to implement this. The expansion of Class B is actually done under safety requirements. When the Class B airspace is expanded, aircraft are not being placed into areas where they currently do not fly today. It is a matter of protecting those [aircraft] with procedures where the aircraft are; by putting a bubble of air space around them so that air traffic control has positive control of all the airplanes that are interacting in that area.

Their (the FAA) staff looked at extensive data over a 60 day period. There was an average of two aircraft a day that operated between 8,000 and 10,000 feet without calling air traffic control. In the staff's professional opinion, it was not deemed a significant enough impact of an average of two a day to not include that piece of airspace under the safety bubble of protecting the air carrier operations in and out of Minneapolis airport. The Class B [change] was done in association with a new runway that currently opened at Minneapolis; but the process was done because even without the new runway, there were portions of airspace around Minneapolis where air carrier aircraft were not afforded the protection of positive air space around what they were currently doing in and out of Minneapolis in the routes they were flying. It was done to address what was going on at Minneapolis, and what was projected to go on with the new runway.

In addressing the issue of the impact to aircraft and why they would operate differently around Flying Cloud: there are no changes. Aircraft that currently operate within the 30-mile radius around Minneapolis are already required to have the same equipment whether they are in Class B airspace or not. The pilots are already trained on Class B procedures whether they choose to go into Class B airspace or not, so there is no difference to the pilots. The only difference is

that a pilot chooses whether they would like to contact air traffic control, or whether they would like to avoid that airspace on their own. In Ms. Green's professional opinion, if an aircraft is operating between the 8,000 and 10,000 feet level, it is very unlikely that they are going to drop down to a level of 2500 to 3000 feet and go through the Flying Cloud airspace. It will not affect the Flying Cloud area at all.

Commissioner Badgerow asked if the record is clear that the FAA has approved the 60,000 pound weight limit at Flying Cloud. Glenn Orcutt stated that the FAA has been working with the MAC in the development of the EIS process. The Final EIS does indicate that the FAA will allow it for certain reasons that are defined within the document. Nothing has changed to that fact, that the FAA has no intention of not allowing it. The intention in the development of the document was to allow it. The Ordinance has been in place for several years now. The FAA has not objected to its existence and has no intention of changing their mind on that issue. It satisfied the criteria that the FAA has asked MAC to analyze, and they have done that.

Mr. Sullivan asked, in regard to the extract that was handed out this morning, in item 3 it talks about the maximum take-off weights; this is the document that Mr. Orcutt signed along with someone else from the FAA. It states that the taking off or landing of any aircraft with a certified maximum gross weight of 60,000 pounds is prohibited. Mr. Sullivan asks, is it Mr. Orcutt's position that this document provides the guarantee of that 60,000 pound limit. Mr. Orcutt stated that the EIS does have the FAA's signatures on it, and it does say in there that the FAA will allow it for certain reasons. The distinction is that this is part of an overall project expansion; that Ordinance 97,- the weight basing - is one of many elements in a comprehensive mitigation package for the Flying Cloud expansion to move forward, and what the FAA agreeing as to as a comprehensive mitigation package.

Robert Roche stated that the matter before the Board is to approve or disapprove the adequacy of the Final EIS per the rule criteria which are set forth in Mr. Larsen's proposed findings.

Chair Schroeder stated that there is a resolution before the Board. Member Deal moved the resolution and Member Elmer seconded. Upon a vote of 7-1 the motion failed because EQB operating rules require an affirmative vote of a majority of all Board members to approve a motion.

Chair Schroeder asked for additional questions and seeing none, asked for a motion to adjourn. Commissioner Mandernach made the motion to adjourn and Commissioner Merriam seconded the motion.