# TOWNSHIP OF PLUMSTED LAND USE BOARD MEETING MINUTES May 2, 2023

Meeting Began: 7:30pm Meeting Ended: 9:39pm

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a. Led by Chairman Doug Hallock.

### 2. OPEN PUBLIC MEETING ACTS STATEMENT:

a. Open Public Meeting Act Statement was read by Counsel (Greg McGuckin)

### 3. OATH OF OFFICE:

- **a.** Oath of Office administered to the following Land Use Board Officer by Land Use Board Attorney, Greg McGuckin.
  - Michael Hammerstone- Class III

### 4. ROLL CALL

PRESENT	ABSENT	
		Bill Fox
X		Jim Garrigan
X		James Hagelstein
X		Bernard Haney
X		John Neyenhouse
X		John O'Callaghan
X		Robert O'Neill
X		Dustin Horowitz
	X	Wendy Galloway
	X	Mayor Robert Bowen
X		Committeeman Michael Hammerstone
X		Douglas Hallock
X X X		Cynthia MacReynolds, Secretary Ed Fox, Engineer Greg McGuckin, Attorney

# 5. MINUTES TO BE CONSIDERED FOR APPROVAL: 4/4/23

a.	Motion to adopt the March 7, 2023 minutes was made by Mr. Haney and 2 <sup>nd</sup> by Mr. O'Callaghan.
	Roll Call:

Garrigan

Approved:

Haney Neyenhouse O'Callaghan O'Neill Hallock

# 6. RESOLUTIONS:

a. No resolutions to approve at this time.

### 7. OLD BUSINESS:

a. No old business.

#### 8. NEW BUSINESS:

a. New Egypt Speedway, Inc., 720 Pinehurst Rd., New Egypt, NJ 08533. Block 76, Lots 83.01, 82.02 & 82.03. Application for D-1 & D-2 Use Variance.

Counsel advised that the Board members who are not eligible to vote on the application must recuse themselves. Mr. Hammerstone recused himself from the meeting.

Mr. Haney asked Counsel to clarify if the applicant needs to have approval from Pinelands prior to appearing before the Board. Counsel advised that they do not need approval, but a valid Certificate of Filing from the Finance Commission which allows them to come before the Board.

The Board was advised that the applicant does not need Pinelands in order to proceed for the Use Variance application, but does need the approval for the Site Plan.

Jeffrey Chang from the Law Firm of Fox Rothschild said that his client sent notices and asked the Board if they received them. The Board secretary confirmed the receipt of the affidavit.

Mr. Chang started his presentation by giving the Board the history of the speedway and the layout. He then said that the applicant is applying for a D1 & D2 Use Variance in order to continue to use the operational preexisting, non-conforming speedway and to operate a commercial truck/trailer storage area on the property.

Mr. Chang also listed the other Use Variances that are requested by the applicant. He said that his client is only there to apply for the Use Variances and if they are approved, they will return at a later time to apply for the Site Plan.

Jeffrey Brown of Princeton Junction Engineering was sworn in by Counsel. He presented his qualifications to the Board.

Mr. Chang asked Mr. Brown to describe the different locations of parking that the applicant is proposing in order to understand how the facility operates.

Mr. Brown presented an Aerial Photograph (Exhibit A-1), which shows the site. He then presented a highlighted rendering of the existing building land use plan (Exhibit A-2).

Mr. Brown showed which buildings are Accessory Buildings to the Speedway and named them one by one.

Mr. Hagelstein asked Mr. Brown to reconfirm the total square footage. Mr. Brown quoted 10,041 sq. ft. Mr. Hagelstein said that the document that was previously provided, which was dealing with just the Speedway impervious coverage calculation had building coverage at 40, 738 sq. ft. He also said that the applicant had the building as 40,000 sq. ft. and the pavement as 33,000 sq. ft. for a total of 74,000 sq. ft.

Mr. Brown was asked if 10,041 sq. ft. building coverage was less than ½ percent and he testified that it is .5 percent.

Mr. Brown submitted pictures of the signs and locations (Exhibit A-3) and he went on to define and describe the size and locations of the signs.

Mr. Chang asked Mr. Brown to show the Board the location of the Contract Parking and Long-Term Parking, using Exhibit A-2. Mr. Brown showed the Board the locations of the parking areas using Exhibit A-2.

The applicant claims that they listened to the neighbors to the southeast location and they foresee and reconfigure to respect their neighbors to the southeast.

Chairman Hallock asked if there are going to be lights in the far east side. Mr. Vahsling said that they are using the stationary lights that have been there for 25 yrs. in the parking area.

Mr. Vahsling was then asked if the lights were only on during the races or if they are on all of the time. Mr. Vahsling said that it will be lit for races, but otherwise, dark.

The applicant asked if there was a Safe Haven on the property for hazardous materials parking such as overnight hazmat. It was clarified that as per the DOT, a safe haven must be designated to allow tankers, explosive materials and hazardous materials. The applicant said that only trailers will be parked in the area and there is a "no hazardous materials" clause in the lease agreement.

Mr. Fox asked the applicant to provide testimony indicating how the existing conditions or those proposed, comply or may be exempt from the township's noise control ordinance and the state Noise Control Act. He said that he recommends any approval will be conditioned upon such and that he recommends that the site plan include a noise study, as well as a study of the off-track lighting impacts as well. He asked that the applicant go over pg. 6 of the

Engineer's Letter on the different hours of operation and the general major uses on the site.

The applicant said that the days of operation or if they have a midweek show start at 6:30pm to 11:00pm. He went on to say that if there is a Saturday or Sunday show that they will usually start around 4pm. The applicant testified that if they have a rain out, the race will push over to Sunday, in which they will start around 12pm and end around 7-8pm.

Mr. Fox went on to ask about the letter from the Pineland's Commission describing the septic limitations. He said that since he wrote the letter on April

 $3^{\rm rd}$ , Pinelands said that the letter that they sent was documentation to the number of racing events based upon the existing septics. The applicant testified that they are still waiting for a calculation from the Pinelands Commission on how they calculated the septic systems because they pump the tanks after an event or at least once a month. He went on to say that they just had an inspection with the DEP a week and  $\frac{1}{2}$  ago and that they passed.

The applicant testified about the water usage and septic usage. He said that the estimates are more than what he has in number of spectators and events. Ultimately, Mr. Fox said that if the use variances are approved, that the site plan application include a wastewater management plan and that a qualified professional would look at the septic and port-a-potties, etc.

The applicant was asked to testify about the standard security and safety provisions for the different events in terms of fire, emergency, public safety and medical emergency. The applicant testified that in any moving event (defined as having vehicles, motorcycles or bikes) that there is an ambulance and fire squad from New Egypt. He said that other EMS service providers have been called upon based on the availability of New Egypt.

The applicant testified that they have their in-house security and will call the local police department, if need be.

The applicant was asked about alcohol on the premises. The applicant said that alcohol is not sold at the venue, but the patrons may bring their own beverages, so long as is no bigger than a 6 pack and does not contain glass.

It was clarified that overnight parking is part of the application. Chairman Hallock asked if there is a cut off on hours on truck movement. Mr. Vahsling said that the hours are from 6am - 11pm and this includes the boat and RV parking.

Mr. Vahsling was asked how the grass around that area is being maintained. He said that it was a motorcycle track for years and when they leveled it out, it was then used for parking. He then testified that the gas company rented the area. Mr. Vahsling told them not to worry about putting grass on it, because he did not want to mow it. He then said that Pinelands came and told them that they could not do that and that they have to have retention ponds. He then testified that they wanted \$750,000 to build the retention ponds. Mr. Vahsling and Pinelands made

a compromise that retention ponds would not be required if they plant grass in the area. He testified that he used Bio-Soil to plant the grass.

Mr. Neyenhouse asked if there is anything in place to prevent leaking of oil or gas or other chemicals from the vehicles or boats that are stored. Mr. Vahsling testified that the long-term parking is monitored

Mr. Vahsling was asked to explain the Contract Parking. Mr. Vahsling said that most of his tenants are "Over the Road" guys and that they disappear for 4 days and return. They park their trucks for 3 days and disappear and come back to pick up their trucks. He said that he does have an occasional straggler.

Mr. Vahsling was asked how he is handling the lighting for the area if they are coming after 11pm. Mr. Vahsling said that the area for the Amazon trucks have generators and lights.

Mr. Vahsling asked, in his experience, how often does he see stragglers. He testified that he had 400 trailers at one time and that it has gone down to 200 trailers, so it is not as bad as it used to be.

Mr. Vahsling was asked if the gates are closed at 11pm? He then said that they are not because it is a fire safety hazard. He was asked if there was a penalty for arriving after 11pm. Mr. Vahsling testified that it would not be safe for the driver to be on the road.

Mr. Vahsling was asked if the tractor trailers are running generators or air conditioners on the trucks. He testified that they are not and reefers are not permitted and if it is brought in, it must be shut off.

The Board addressed the light pollution that is caused by the area of the Amazon truck parking area. The Board asked if the time allowed is from 11pm to 6am, why does Amazon run their lighting all night long? Mr. Vahsling said that they run their parking that way because they are transferring their trailers and that they are running after 11pm.

One Board member mentioned that this contradicts his 11pm-6pm rule. Mr. Vahsling said that they have a new system with them and that it's a 6am-11pm rule. It was added that many trucking facilities like this keep the lights on so that nothing gets stolen.

Mr. Vahsling was asked if the trailers are full. He said that they are mostly empty, but they do have full trailers.

He was asked if he capped the number of trailers to 200 as opposed to 400. He said that he is.

Mr. Vahsling was asked if there will be lighting running 24 hours a day from Amazon and are they run by generators. Mr. Vahsling was then asked if he would be opposed to putting in lighting that's not generator base permanent lighting that dim at night or shut off at night. Mr. Vahsling said that Amazon had light towers for 3 or 4 months that were solar. He was then asked if this was something

that he would add to it in order to mitigate some of the issues that have been brought up regarding the noise pollution.

Mr. Vahsling was asked if the drivers have an area to bathe. He said that the racers have tier own little campers in their RVs.

Mr. Vahsling was asked if there is a buffer between them and the residents. He said that there are trees and that there is a 10' fence with a sound a visual barrier. He said that the fence is chain link and is covered in fabric.

It was suggested that all of these items would be put in a site plane and that one of the reasons that they ask for a site plan is because it has evolved over the years and it would be helpful for enforcement and maintenance in their contracts.

A concern was brought up about the trucks that are parking overnight and leaking. Mr. Vahsling was asked how that would be monitored. Mr. Vahsling said that he and his employees will drive around to monitor the vehicles and trucks in the facility. He also testified that there are at least 32 cameras that run 24/7.

Mr. Vahsling was asked when they started the contract parking on the property. He said in 2006 to supplement income and that Amazon came onboard 5 years ago.

The applicant's planner, Allison Coffin began her testimony. She submitted her educational background and qualifications to the Board.

Ms. Coffin was asked to justify the requests for the D-1 and D-2 variances. She testified that the applicant is requesting permission to continue all the existing uses and activities associated with the preexisting raceway use. She also added that the D-2 variance request is to expand a preexisting, nonconforming use to the site to include commercial truck contract parking and storage. She testified that there is no significant detriment to the zoning plan or the surrounding properties that would result in granting the variances.

Ms. Coffin was asked to explain how the long-term storage and contract parking uses in the D-1 variance would advance the purposes of the Municipal Land Use law and the township's Master Plan and Zoning ordinance.

Mr. Fox addressed Mr. Chang and mentioned that if the Use Variance is granted because the D-1 Variances are not related to an expansion of intensive recreational uses that any approval from the Pinelands Commission would require a waiver of strict compliance and perhaps a purchase of (inaudible) credits. Mr. Chang said that they will address it if they get approval.

The applicant was asked to go through the difference of the current variances and the new variance list because it is unclear what the changes are between now and the future. Mr. Chang said that the history of the site is unclear and that they do not have site plans from the papers that they filed. They have been trying to locate the information, but only found resolutions. The applicant does not have the information of the past history in order to answer the question.

Mr. O'Callaghan said that this information would be helpful in looking at the impacts of the community and not knowing the Delta, they can't mentally think through how it affects the neighboring town or zoning, nor can it help assess how the changes might affect the overall township at the Masterplan.

Mr. Vahsling said that he spoke to the people who owned it before and what they did to it to supplement the racing revenue. He said that they had overnight parking. Mr. Vahsling testified that in the 1980's, there was a resolution that prohibited living on the property.

Mr. Neyenhouse asked if the paved area/dirt areas weren't used for contract parking, would he still need the overflow parking in the area that is not controlled by the speedway. Mr. Vahsling replied that without the truck parking that the Speedway would not survive. He further said that if he could fill the parking with regular events, that would bring in more revenue than what they are bringing in now, but the truck parking is helping with keeping the Speedway open.

The question was, if the trucks are parked in the area, would that take away parking from the regular customers at the events. Mr. Vahsling said that the area in not being utilized due to low attendance and that it is suitable for contract parking to help keep the Speedway operating.

Mr. Neyenhouse said that concern is that the speedway will be used as a 24/7 truck parking lot with vehicles coming and going from the facility and that it will take away from the primary use of the facility.

The applicant was asked to provide the Board with traffic studies, noise studies and to have data such as the number of trucks coming in and out of the facility to show the Board that this will not be a detriment to the public. Without this information, the Board cannot determine what the impact would be.

Mr. Fox then said that part of the Use Variance Application was a Concept Plan. This document is specific on the acreage involved in contract parking and long-term storage. Mr. Fox suggested that it be put on the record as well because it defines the intensity of the use that will define if they have 200-400 trucks. Mr. Fox said that this document was requested with the number of vehicles, but it only contained acreage.

Mr. Vahsling said that they are allowed 800 vehicles or trucks as per the resolution. He was asked what the current numbers were and he said that at the most, he had 444 trucks and on a race day, it could be up to 700. It was then pointed out that the total of trucks and vehicles exceed the allotted amount which could impact the traffic.

Mr. Fox said that the applicant has requested specific acreage for these uses and that it may be appropriate at that time for the professionals to identify in the acreage is with sufficient traffic circulation, movement and turning movement. The information should include the number of trailers and the volume. He said that what is then and what is different than what is on the plan, and he would like testimony.

Mr. Vahsling said that it will not take into account the vehicles on the lot that are static. It was reiterated that they need a plan that will speak to how many trips will be generated on a daily, weekly and monthly basis for the Board to understand the impact to the surrounding community.

Mr. Brown was asked to identify the number of acreages that is expected for this use. Mr. Brown said 1.7 acres will be used for 200 trailers and said that they do not have a lot of trailers. He was then asked how many acres are being used for the Amazon truck parking section. Mr. Vahsling testified that it is 3.5 acres. Counsel advised Mr. Vahsling that Mr. Brown is the expert and that he will testify. Mr., Brown said that Mr. Vahsling knows the operations and needed his assistance to which Counsel said that Mr. Brown will give the testimony because of his credentials.

Mr. Haney said that he is not voting for the variance request for the tractor trailers until he knows what is there, how many trailers are they going to max out, how are they going to handle the circulation of the trucks coming in and out and how it is going to be set up so that the surrounding residents are not complaining that there are trucks running all night because the data provided is not sufficient.

Mr. Brown was asked what the date of sheet 2 of 3. Mr. Brown testified that it was in April 2023. It was pointed out that the sheet that was presented to the Board was last revised 12/13/22. This document indicates that the contract parking on the top is 3.5 acres and that the long-term parking is 3.2 acres, and that the applicant is currently showing less.

Mr. Brown was asked why they showed the Board less. He was also asked why the document that is dated April 5<sup>th</sup> not presented to the Board and shows something completely different. Mr. Brown said that he did not know how to answer that.

Mr. Brown was asked if it was his document, to which he answered yes. He was also asked if he found it irregular that the Board would be presented with a new document without a chance to review it with conflicting information. He was then told that if the exhibit is incorrect, then maybe the Board should not use it.

The applicant then requested a 5-minute adjournment. After the adjournment, Mr. Chang requested that the applicant return with traffic expert to testify about the truck circulation. He also apologized for the incorrect exhibit and said that his client will return with the proposed number of trucks and the maximum and exact location on the plan. He requested an adjournment to the next available meeting. The applicant was also asked to update their impervious coverage as well. They are adjourned until July 18<sup>th</sup> and welcomed public comments.

**b.** Dominick Cuozzo of 99 Lakewood Rd. was sworn in by Counsel.

Mr. Cuozzo said that that he would implore the Board as a Committeeman that he feels that the treatment of a local business of this town, one of historical record and bringing tourism to the town should be weighed in their decision.

He then said that he would like to make a comment as a citizen. He said that he believes that Fred (Mr. Vahsling) has been a real gentleman tonight and that if he

was getting some of the questions that Fred was getting tonight that he would have been a little hostile.

Mr. Cuozzo said that it is none of their business what he does or who he rents to. He said that he is running a business according to what is best for him and providing for his family and the fact that the Board thinks that they have the authority to rent out the parking lot or not and either abides by the ordinance or not.

Mr. Cuozzo said that for the Board to tell him who he can or cannot rent out to is an "authoritarian trip" and if he were them, he would back off a little bit and realize that they cannot overstep their bounds and tell a business what they can and cannot do when they are already abiding by the ordinance.

He said that all they have are ordinances and that either Mr. Vahsling abides by them or not, and for the Board to try to tell him who he can rent to or who he cannot rent to, whether it is a trailer or a car is overboard and that he would like the Board to really think about where they have authority and where they don't.

Mr. Cuozzo then said that as a citizen of the town, he would not want to live with a Land Use Board that overstep into businesses. He then went on to caution the Board that as a private citizen, that he did not think that it was fair.

Mr. Cuozzo was advised that if the applicant before the Board is not following something that has been approved or does not have approval based on their zoning.

Mr. Cuozzo said nothing has changed on the property since 1956 and that everything built on or around it was there. He went on to say that some of the Board members were present when they got their approvals, but there are no paper trails and that they have approval on everything they are doing and that none of it has changed.

He then went on to say that it grieves his soul that he (Mr. Vahsling) has to come back to for a variance when he is doing the exact thing that he has always been doing. He said that it is none of their business who he rents to or what race comes and what doesn't or what entertainment comes in or what doesn't.

Mr. Cuozzo told the Board to follow the law and have the ordinance and that as long as he is following the law, that it is not the Board's place.

Chairman Hallock said that the Board did not tell Mr. Vahsling who he can or cannot rent out to. He said that before Mr. Vahsling owned the racetrack, the owners asked if the race trucks can stay overnight, when they had a late night or had 4 hours to drive. He said that there were no camping or people "just being there".

He then went on to say that as for Mr. Vahsling renting out to trucks, that it is before the Board to see if he can do it there. He said that there is no documentation to be found and that is what the Board is trying to straighten up.

Chairman Hallock said that who he rents to is irrelevant, and that the question before the Board is how many trucks are there.

Mr. Cuozzo said that he can put as many trucks as he can possibly get to earn as much money as he can and as long as he is not breaking the ordinance or has things in and out on the wrong time, they have no business "messing" with him.

Mr. Haney told Mr. Cuozzo that the applicant has a resolution that says "No Overnight Parking" and another Board member said that the rental of the trucks is not in the ordinance and that it is not permitted.

Mr. Cuozzo was told that the applicant is currently operating outside of the ordinance and that is what he is applying for permission to do. He was advised that Mr. Vahsling has 2 applications before the Board. One is for continuing racerelated activities and the other is for overnight parking and contract parking, which is not related to racing activities, which he is currently grandfathered the right to do and that is what is before the Board.

No other comments from Mr. Cuozzo.

**c.** Bob Koczon was sworn in by Counsel and addressed the Board.

Mr. Koczon said that he does not know what the Board is going to do about the parking and that he knows that they need it to get approved with the surveys, but the raceway has been an icon to the community. He said that it is a rateables to the community. He said that it does not send any kids to the schools and that it is out of town, but he hopes that the Board can get the other 9 things approved so that they can continue with the racing.

Mr. Koczon said that he was there to get the track back when the Grossos took over and that they spent a lot of money to make it an icon. He said whatever happened to the paperwork, it was all approved for the gas, the tires, the food and for the signs. He said that he understands that the parking needs approvals, but asked that the Board not stop the track and that it would be a big mistake. He said that the track has been there since 1966 and asked the Board to think about what they are doing.

Chairman Hallock said that he does not think that there is not a question before the Board regarding the racetrack. He said that there are 10 items on the list that 9 of them are fine and that nobody has a problem with the racetrack.

Mr. Koczon said that they would be surprised as to how little the trucks are on and off the road.

Chairman Hallock said that they have to get the thing straightened out with the trucks.

No other comments from Mr. Koczon.

A Board member asked if the Amazon trucks are running all night. Mr. Vahsling said that they are not supposed to. He was then asked that if it came down to the

trucks coming in at odd hours in the night, can they come off the road 200' and have a gate there, so if they come off the road and they have to wait their turn to get in.

Mr. Vahsling said that they could probably do it past the ticket booth and asked to look at the logistics of it.

Chairman Hallock said that they need to talk to the rest of the public and see what they think with the hours being from 11pm-6am, however, it could be a problem if the trucks are running from 2am-3am. He also suggested that they not use the generators for lighting because of the noise.

He suggested using the solar panels and have low beam lights pointing away from the neighbors. Mr. Vahsling said that would take permits, time and money to install that type of lighting.

**d.** Ken Sloan was sworn in by Counsel and addressed the Board.

Mr. Sloan said that at one point, the trucks were bad, but they aren't anymore. He said that he bartends and gets home late at night and that the trucks are not doing what they used to do and that there is a turnoff. He said that if they go in the first entrance coming from Wawa, they have the long road to go down and that they are not blocking traffic.

He suggested that they put a sign that says, "Trucks in Here" they are right off the road.

Mr. Sloan said that in the applicant's defense, that there is not as much traffic as there used to be.

No other comments from Mr. Sloan.

Mr. Haney addressed Mr. Chang and said that he wants nothing more than for the racetrack to stay where it is and that he understands the business. He said, speaking for himself, that if the applicant presents something that shows that it is not a hindrance to the community so that he makes a dollar in the off time, that he does not see a lot of pushbacks, but this is not it.

He further said that the Board has a job to do and at the present that the applicant is not permitted to do this and that they are attempting to give him permission to do this, and in order for that to happen, he has to come to the Board with an application that proves that this is not a detriment to the people around them, and with the reefers gone and the trucks not running all night, it creates a different environment. He also said that he looks forward to the July hearing.

**e.** Theodore Kuckowski was sworn in by Counsel and addressed the Board.

Mr. Kuckowski said that contrary to popular beliefs and rumors that he lives on Colliers Mills on the southside of the Speedway property. He said that he is a fan of motorsports and that his grandfather, Frank Myroncuk owned the Speedway in the 1960's and that he has always been a supporter of the Speedway.

He said that when he moved to his home in 2001 that he knew that the speedway operated x number of times per year with lights and noise. He said that he is not against 9 of the things on the application.

He said that he understands that after COVID and the economy that you do whatever it takes to raise more funds because the costs go up and that sometimes, things get pushed to the extreme, and when they get pushed to an extreme, it has an adverse effect on the neighbors and the community, and that is when the government has to step in and possibly regulate what they are doing so that everyone is happy in the community.

Mr. Kuckowski said that at one point, that it was out of control with the campers coming and going, 24/7 air horns, backup alarms on the trucks, truck drivers yelling at each other and it was not only on his property line, but further in.

He said that in his opinion, that he does not care who he rents to, but as far as the trucks go, is the Board going to impose on how far that this will go and is there going to be any enforcement or regulations of the hours of operations. He said that Mr. Vahsling testified that in his agreement that they are allowed to operate from 6pm-11pm. Mr. Kuckowski testified that it goes well over 11pm and that there needs to be a structure put in place to prevent it from operating after 11pm.

Mr. Kuckowski said that in his opinion, that there should be a regulation as to how many trucks are in there and when the operate. He said that who's to say that a tenant won't break the agreement and what are the penalties if they do.

Mr. Kuckowski reiterated that he is not against the Speedway or the accessory requests.

He said that it has gotten better. Mr. Kuckowski said that the lights are now facing away from his house, and are not blaring through the windows and that the truck traffic has reduced, however, it is still going on after 11pm.

No other comments from Mr. Kuckowski.

No other comments

### 9. MATTERS FROM THE PUBLIC:

No matters from the public.

#### 10. MATTERS FROM THE BOARD

**a.** The Board asked the applicant if they would like to have their application carried to July's meeting. The applicant would like to carry their application and they were advised that there would be no further notices need. The applicant also waived the time.

Motion to carry the application to July 18, with no additional notice required was made by Mr. Haney and  $2^{nd}$  by Mr. O'Callaghan.

# Roll Call:

# Approve:

Garrigan Hagelstein Haney Neyenhouse O'Callaghan O'Neill Horowitz Hallock

# 11. ADJOURNMENT

Board voted unanimously to adjourn.