

Public Hearings - Millington

Sec 8-1909

1987

MSA - S1830-17

CHESAPEAKE BAY CRITICAL AREAS COMMISSION

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In Re: :  
TOWN OF MILLINGTON :  
SECTION 8-1809 :  
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Tuesday, October 6, 1987

Pursuant to Notice, the above-entitled public hearing was held at the Millington Town Hall, Millington, Maryland, with ARDATH CADE, Chairman, Chesapeake Bay Critical Areas Commission, presiding, commencing at 6:32 p.m., there being present:

- PANEL MEMBERS PRESENT:
- THOMAS OSBORNE, Planning and Zoning
  - SAMUEL TURNER, Public Representative
  - KATHRYN LAGNER, Commissioner
  - WILLIAM J. BOSTIAN, Public Representative

- ALSO PRESENT:
- ZACHARY KREBECK, Planner, Redman/Johnson
  - T. EDWARD ROBINSON, Mayor
  - E. LUCILLE ROBINSON, Clerk-Treasurer
  - MARK STRYKER, Councilman
  - ROBERT S. KIEL, Planning and Zoning

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ALSO PRESENT (CONTINUED):

JOSEPH A. MANGINI

L. B. GATCH

REPORTED BY: GEOFFREY L. HUNT, NOTARY PUBLIC

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P R O C E E D I N G S

1  
2 CHAIRMAN CADE: Good evening, ladies and  
3 gentlemen. I'm calling to order the hearing tonight in  
4 the town of Millington, to hear public comment on the  
5 town of Millington, Critical Area Program, as required  
6 under Section 8-1809 of the Critical Area Law.

7 There are five of us here tonight serving as  
8 representatives of the Critical Area Commission,  
9 hearing the plan, and we will be then taking our  
10 comments back to the full commission. I'd like to  
11 introduce the panel members: Mr. Sam Turner from Talbot  
12 County; Tom Osborne, from Anne Arundel County; Bill  
13 Bostian from Wicomico County; Kay Langner from Cecil  
14 County; and I am Ardath Cade from the State of Maryland  
15 government, Department of Housing and Community  
16 Development. The staff member from the Critical Areas  
17 Commission who is here tonight is Charlie Davis, and my  
18 understanding is that the officials from the town of  
19 Millington who are here are Mayor T. Edward Robinson,  
20 Councilman Mark Stryker, Zoning Administrator and  
21 Clerk-Treasurer, Mrs. E. Lucille Robinson, and a

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1 representative of the consulting firm which has done  
2 the town's critical area plan, Zach Krebeck of  
3 Redman/Johnson Associates. I'm sorry, are you Mr.  
4 Howard Harvey?

5 THE AUDIENCE: No.

6 CHAIRMAN CADE: I'm sorry. Mr. Stryker is a  
7 town councilman. And, we have someone now signing in  
8 as a person who may be interested in at least listening  
9 to the hearing and may wish to testify in the hearing.

10 Let me make the point that this is a  
11 recorded hearing. You will note the Court Reporter  
12 here, not taking oxygen but taking in all of our words  
13 so the record is official. It is being kept. The  
14 record will be kept open for one week to receive  
15 additional written testimony, and those statements that  
16 may wish to be made should be sent to the commission  
17 chairman, Soloman Liss at the Chesapeake Bay Critical  
18 Area Commission, 580 Taylor Avenue, D-4, Annapolis,  
19 Maryland 21401. The complete public record will be  
20 kept at the commission office for public review.

21 We will have a presentation first on the

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1 plan and then we will have an opportunity for anyone  
2 who wishes to make comments to us as the panel, to  
3 speak to us. We do ask that they limit their comments  
4 to three to five minutes per person. Then, if we can  
5 -- oh, we have another person who would like to come in  
6 and sign in.

7 All right. Zach, would you like to take  
8 over? Is there any other further opening comments that  
9 I should have made?

10 MR. KREBECK: Since we had an opportunity to  
11 familiarize ourselves with the maps and resources in  
12 Millington, I think we can jump right into the program  
13 elements themselves. I'll follow along with the table  
14 of contents as a prompt for me.

15 I guess like so many other jurisdictions  
16 that we'll be dealing with, the implementation of the  
17 program is going to be through the zoning ordinance,  
18 primarily. An overlay zone is probably the preference  
19 throughout the state, which will coincide with the  
20 critical area that is delineated on the maps, as we  
21 saw. And, subzones, which correspond to the RDA, LDA,

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1 and RCA, will also overlay the existing zoning, which  
2 we've seen and discussed a little bit earlier. The  
3 development regulations, which pretty much parallel the  
4 critical area criteria, for the most part, with the  
5 exception of the buffer, and I'll explain that, in  
6 terms of what can be developed from an IDA, LDA, and  
7 RCA, and what densities. The town's program is  
8 consistent that way.

9 The buffer, the 100-foot buffer, that has  
10 been established, as you can see, and modified in some  
11 areas where you had some soils, if you remember, and  
12 wanting some -- those areas fall primarily in the  
13 resource conservation areas.

14 But, being a developed area, as you noticed,  
15 fairly intensely developed, we had to look for some  
16 flexibility in the buffer. 100-foot setbacks don't  
17 always work, as you've discovered, and the existing  
18 development may be less than 100 feet. There has to be  
19 some mechanism built in to handle modification to the  
20 buffer. You've got an existing situation. You've got  
21 a house within the existing buffer. It's not the

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1 intent of the town to prohibit any expansion of that  
2 dwelling unit, for example, but there is a prohibition  
3 against expanding any more toward the water.

4 To illustrate that, I think -- let me look  
5 at my slides. I don't have the slides. Let me just go  
6 on. If there is confusion, I'll try to get it.

7 Basically, the town has allowed on a  
8 developed lot, has established a modified buffer line,  
9 again, at the existing principal structure, the house.  
10 As I said, and to build any further closer to the water  
11 is prohibited. To expand outward from the building is  
12 permitted, but at the same time, building within the  
13 buffer does require some mitigation. If there's a  
14 significant amount of forest cover, blooms, to be  
15 removed, there is to be an equal amount replaced,  
16 either on site or outside the buffer -- on site, or  
17 elsewhere in the critical area. To accommodate that,  
18 there's a fairly complex offsetting program. It is  
19 termed Compensatory Pollution Mitigation Compensation  
20 Program, a fairly long title, but I think it accurately  
21 describes it.

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1           The town -- we're a little concerned about  
2 the possibility of this being an administratively  
3 difficult, but even though it looks rather lengthy, I  
4 think it is something that the town can manage because  
5 the level of activity that we talked about earlier has  
6 not been that great, but it does give that flexibility  
7 for some existing structures to be expanded and that  
8 kind of thing in the buffer. There's a few existing  
9 lots in town that fall within the buffer and may have  
10 some potential restrictions in the sense that there's  
11 not enough land area to actually use to make them  
12 useable when you subtract out the 100-foot buffer. To  
13 accommodate this, there is a buffer modification  
14 provision in the implementation section which would  
15 allow an expansion into the buffer as much as to 40  
16 percent of the lot. A fairly arbitrary figure, but  
17 it's been tested through a gaming exercise and so on,  
18 and this would kick in on lots that are less than 200  
19 feet, with the idea that you are somewhat -- if you've  
20 got a lot that's less than 200 feet and you are back  
21 100 feet, you are somewhat limited in buildable area.

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1 Those kinds of provisions.

2 Other than that, again, the overlay zone  
3 provisions follow the criteria pretty much exclusively.

4 The -- going back to the table of contents  
5 to follow on through. Water-dependent facilities we  
6 have mentioned as being fairly limited, if not non-  
7 existent currently. I want to point out though that  
8 there is some potential and we are proposing; and it is  
9 a last minute change; on page 36, a slight  
10 clarification. I don't think it's substantive enough  
11 to cause any problems, but this is an intention to  
12 change -- under inventory and analysis on page 36,  
13 besides the fact that there are grammatical and  
14 typographical problems, the last sentence, "The Mayor  
15 and Council would like to encourage water-dependent  
16 facility development that seem not feasible or  
17 foreseeable potential" -- we've got some garbage there,  
18 but that would be deleted and we'll go on to develop  
19 the idea that this recent discovery that there is some  
20 potential for dredging up to Millington on the Chester  
21 River, and that the town -- and it's hit also other

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1 areas -- that encourage public access, and possibly a  
2 boat ramp, and as part of their natural park potential,  
3 which I think we talk about in that section, which I'll  
4 get to in a minute.

5 CHAIRMAN CADE: Are you saying you'd like to  
6 eliminate the last clause of that sentence, or the  
7 whole sentence?

8 MR. KREBECK: The last clause.

9 CHAIRMAN CADE: From "but" on?

10 MR. KREBECK: From "but." Primarily it  
11 doesn't work, but that's also --

12 CHAIRMAN CADE: So it would now read, "The  
13 Mayor and Council would like to encourage water  
14 dependent facility development," period.

15 MR. KREBECK: Right. But, again, we'll go  
16 on to explain that further. That's the intent. I just  
17 wanted to, before we forgot, to expand upon that.

18 I do think it would be helpful to have the  
19 map as a reference. Just a minute.

20 CHAIRMAN CADE: If anybody who is seated  
21 would like to come up and look at the maps as they are

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1 being discussed, please feel free to do so.

2 MR. KREBECK: I think most of the members of  
3 the council and the planning commission who have worked  
4 on these maps in quite a few sessions -- one of the  
5 potential areas for public access we mentioned is down  
6 near the sewage treatment plant, this town owned  
7 property. The town owns, what is it, a total of six  
8 acres I believe you said, over in this area, which has  
9 some potential.

10 CHAIRMAN CADE: Would you like to identify  
11 "this" for the record? Is "this" being on the Queen  
12 Anne's side, adjacent to the river, and adjacent to the  
13 sewage treatment plant?

14 MR. KREBECK: Correct. Back to our table  
15 here. Forest and woodland protection. The primary  
16 method for protecting these areas is (1) that they are  
17 mapped on this flagging system, and any potential  
18 development, the planning commission, primarily, who  
19 has final say over site plans, will evaluate the  
20 existing resources and insure that there is some  
21 mitigation taken in those cases. Of course, we realize

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1 that the town has the lion's share on that and the  
2 lion's share of this area is outside the town limits.

3 We talked earlier about the other  
4 constraints on this property, such as the 100-year  
5 flood plain and the town -- the flood plain ordinances  
6 and so on, which tend to serve probably even -- serving  
7 to protect that area long before the critical area  
8 program was in place.

9 Shore erosion. I think the only concern we  
10 have is on the cut-back bank, but not significant  
11 enough of a problem to warrant -- if anything it would  
12 be a potential for structural approaches, rather than  
13 non-structural because of the current cutting back.

14 In the area we were talking about, this six  
15 acres, it has the potential for a natural park and it  
16 is the intent of the panel to seek that area. This is  
17 a popular fishing spot in the spring, but yet to be  
18 developed, with the sensitivity, as pointed out on page  
19 46, I think, with some sensitivty towards recreation,  
20 such as hiking, picnicing, fishing, and that kind of  
21 thing, and that's what's considered suitable for this

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1 area.

2 Limitations on the structures that will be  
3 developed. These are the guidelines. The two  
4 undoubtedly is seeking program Open Space funds through  
5 the Queen Anne's County Parks and Recreation. These  
6 would be the guidelines that would be used to develop  
7 that site. It will not be an intensively used area.

8 The agricultural element has been pretty  
9 much given lip service because the land cover -- as the  
10 land cover indicates -- that within the critical area  
11 at least, agriculture is not an issue. There is some  
12 agriculture noted outside the critical area, as you can  
13 see, but within the town's critical area, there is  
14 none.

15 And, mineral resources, there's not -- it  
16 has been assessed and it is not an issue, and it  
17 wouldn't be permitted in the town, through the town  
18 zoning ordinance, anyway. So, that handles that, I  
19 think.

20 Storm water management is currently being  
21 handled by the County, and will continue to be handled

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1 by the County. It's a local ordinance, town ordinance,  
2 that is being implemented by the County, but it's  
3 actually -- not implemented, but the review is being  
4 done by the County.

5 CHAIRMAN CADE: In both counties?

6 MR. KREBECK: That's correct. Which, as we  
7 alluded to earlier, is a nightmare, but -- what we'll  
8 add to that, and it has been agreed to verbally, anyway  
9 -- there's no formal agreements that have been set up  
10 yet, but what's been agreed to verbally is that that  
11 similar approach would happen with the ten percent  
12 reduction measurement on the -- in the IDA development  
13 within the town. So, it will follow the same --  
14 similar process -- similar review process, and it  
15 will follow that way.

16 The -- well, again, there's a technical  
17 advisory -- I saw some questions in the notes earlier  
18 on how the technical advisory committee works. Well, I  
19 think rather than setting up the town technical  
20 advisory committee, the County has one in place and  
21 possibly -- it hasn't been determined yet, but a town

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1 member on the County's technical advisory committee  
2 would be the way to go, to insure that there is a  
3 liason there, at least. But, rather than setting up a  
4 whole new committee -- the town, I think, has been --  
5 the philosophy, and correct me if I'm wrong, has been  
6 to keep the local determination, in terms of policies  
7 here, but yet a realization that there are staff  
8 limitations and an indication that they want to use the  
9 county seal of the County, if possible. I think it is  
10 going to work well. There's a long history -- I can  
11 testify that then years ago, when I worked for Kent  
12 County Planning, that there was a relationship between  
13 the towns and -- a technical assistance type of  
14 relationship and I think it's unusual, I think,  
15 throughout the state, but it's been historically in  
16 Kent County, so for that reason I think it will work.  
17 And, again, there are some formal arrangements,  
18 currently, with the storm water, so there is something  
19 in place there.

20 And again, the review process itself will  
21 follow along those lines, tied with the County. The

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1 town has the option of going with private consultants  
2 to evaluate the site plans and so on, but again, using  
3 the public sector, the County's advisory committee  
4 should work the best.

5 I guess that pretty much capsulizes it. Any  
6 questions? I'm sure there are.

7 CHAIRMAN CADE: Does the panel have  
8 questions they'd like to ask? If not, I'd like to  
9 acknowledge another public official, Robert Kiel, is  
10 that correct, a member of the Planning and Zoning  
11 Commission.

12 We would like to call on any of the  
13 attendees at the hearing who would like to speak. I  
14 believe we have two people here, Mr. -- is it J. B.  
15 Gatch?

16 MR. GATCH: Yes. But, I didn't necessarily  
17 want to speak. I'm just an observer.

18 CHAIRMAN CADE: All right. Fine. And,  
19 Josephy Mannerd, Jr.?

20 MR. MANGINI: Mangini.

21 CHAIRMAN CADE: Excuse me?

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1 MR. MANGINI: Mangini.

2 CHAIRMAN CADE: Mangini, Jr. from Rock Hall.

3 And, do you care to speak?

4 MR. MANGINI: No. I'm just here as an  
5 observer, too.

6 CHAIRMAN CADE: All right. Are there  
7 comments, questions?

8 MAYOR ROBINSON: Zach, on page 36, we would  
9 like to see that struck after "development" --

10 CHAIRMAN CADE: On page 36, the Mayor has  
11 made the -- reconfirmed the point that Zach made about  
12 eliminating that last clause in that one sentence that  
13 we discussed earlier.

14 MAYOR ROBINSON: And add in there the  
15 potential for --

16 CHAIRMAN CADE: And add what? I'm sorry?

17 MAYOR ROBINSON: The potential for a possible  
18 boat ramp for public use or other public recreational  
19 uses.

20 CHAIRMAN CADE: Okay. So, you want to  
21 allude to the potential for a boat ramp and other

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1 recreational uses.

2           MAYOR ROBINSON: Right. And I think, as you  
3 mentioned, on page 47, I would also -- under resource  
4 management recommendations.

5           CHAIRMAN CADE: Yes.

6           MAYOR ROBINSON: We need to work on number  
7 one, limit the activities to -- I'd like to see the  
8 word "passive" struck, to recreation, such as hiking,  
9 picnicing, fishing, and add water access in there for  
10 those type operations.

11           CHAIRMAN CADE: All right. So, on page 47,  
12 number one, near the bottom of the page, strike  
13 "passive," strike "or"; just put "picnicing, fishing,  
14 and water access."

15           MR. KREBECK: I guess the concern is -- it's  
16 an urban park in a town and there's only so much -- you  
17 want to encourage a certain amount of activity, and I  
18 guess that is the concern here in the past.

19           MR. BOSTIAN: I would like to speak.

20           CHAIRMAN CADE: Yes. Mr. Bostian would like  
21 to ask a question.

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1 MR. BOSTIAN: I'd like to ask a question of  
2 the town officials here. How many single family  
3 residences have been built in the critical area in the  
4 last 20 years, if anyone knows?

5 MAYOR ROBINSON: In the critical area?

6 MR. BOSTIAN: In the critical area.

7 MAYOR ROBINSON: In the critical area I would  
8 say probably it would be less than five.

9 CHAIRMAN CADE: Mayor Robinson indicates  
10 that there have been less than five single family homes  
11 built in the critical area since -- in the last 20  
12 years, as an estimate.

13 Are there any other questions or comments?

14 MR. KREBECK: I just wanted to mention this.

15 CHAIRMAN CADE: Mr. Krebeck.

16 MR. KREBECK: This is for the record. An  
17 additional tool has been developed. It's not for  
18 general distribution. I'm sure that the commission  
19 staff has something similiar. But, it's a -- I guess I  
20 call it a living document, trying to bring together all  
21 the potential related mitigation techniques for the

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1 critical area, assessment techniques. For example, the  
2 assessment of the methodology developed by the marsh  
3 five for assessing ten percent reduction is cranked in  
4 here. But the idea that whoever is going to administer  
5 these programs is going to need something like this.  
6 They are going to need something to refer to, and it is  
7 loose-leaf bound, because you can slip stuff in and if  
8 new information becomes available -- I think the ten  
9 percent reduction methodology has been revised already  
10 for example. So, this is kind of -- not something to  
11 be bound, codified, or anything like that. It's just  
12 something that would be incorporated; landscape  
13 standards and those kinds of things. It would somewhat  
14 vary with each town, but this is something that's being  
15 developed.

16 CHAIRMAN CADE: Zach, this is called?

17 MR. KREBECK: A critical area mitigation  
18 manual for --

19 CHAIRMAN CADE: And, who is developing it?

20 MR. KREBECK: Well, it's for --

21 CHAIRMAN CADE: This is developed for the

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1 town of Millington as part of their contract with you  
2 for their plan?

3 MR. KREBECK: That's right. Well, it's not  
4 mine. It's -- the town of Millington did it. Some  
5 other towns are working on similiar kinds of things.

6 CHAIRMAN CADE: But, this is a particular  
7 refernce for the town.

8 MR. KREBECK: I just wanted to say that the  
9 town -- because what we are getting, from a developer  
10 in particular is, "How can I develop my property and  
11 still reduce it by ten percent -- reduce the pollution  
12 by ten percent?" I mean, "You must be crazy." That's  
13 the reaction we get. And, there are some methods here  
14 for handling that, pavement, that kind of thing --  
15 storm water management structures that would be used,  
16 that kind of thing.

17 The guidebook is also, as much maybe for the  
18 developer as for the town. The environmental impact  
19 assessment checklist for the town to use when they  
20 evaluate projects, that kind of thing, which is not  
21 incorporated, necessarily, in the program, are more

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1 items that are used on a day-to-day basis in  
2 implementation. There seemed to be a real need there  
3 -- you can only go so far with that kind of  
4 information. We're starting to look a little further  
5 in the implementation and development of those things.  
6 So, the town will have that available and again, to  
7 use.

8 MR. GATCH: I have a question on that.

9 CHAIRMAN CADE: Would you identify yourself,  
10 please?

11 MR. GATCH: My name is Larry Gatch.

12 CHAIRMAN CADE: And, that's G-A-T-C-H?

13 MR. GATCH: G-A-T-C-H.

14 CHAIRMAN CADE: Thank you.

15 MR. GATCH: On page 14 you reference a  
16 framework for evaluating compliance with ten percent of  
17 the critical area, and you indicated that's being  
18 prepared by the metropolitan council of governments and  
19 that that manual will be adopted by the town. How does  
20 that coincide with the manual?

21 MR. KREBECK: Okay. That's included as a

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1 tool in this manual, in that sense, and it could be  
2 formalized further by the town, adopting this manual as  
3 the -- right now it's just an administrative tool. A  
4 way to proceed. I guess the feeling is -- the  
5 methodology I've been referring to for evaluating  
6 whether a site reduced pollution by ten percent is  
7 designed as something that's -- it's almost become a  
8 standard, I think, throughout the state. So, the need  
9 for that to be adopted as part of any -- as codified,  
10 I'm not sure I see that need because it is the  
11 generally accepted practice, if we can allude to it  
12 that way, there are so many -- like soil conservation  
13 techniques for measuring storm water management, that  
14 kind of thing. They are generally accepted practices  
15 and I don't think necessarily need to be made a part of  
16 the town's --

17 MR. GATCH: Well, one reason I ask that. I  
18 called them today and they indicated that book they are  
19 making is a contractor's state to the Department of the  
20 Environment, and it's like five -- as a matter of fact,  
21 they have three parts in it, and they have two parts

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1 coming, and that these would be incorporated in the  
2 critical area program.

3 MR. KREBECK: I assume that they are  
4 available --

5 MR. GATCH: Is that an official document and  
6 this is a supplement?

7 MR. KREBECK: This is probably an early  
8 supplement right now. I'm aware that they have been  
9 expanding on this. That's what I said. That's why  
10 this is in a loose-leaf format because you can add to it  
11 as you go along. If I were in a town trying to  
12 implement a program such as this, I'd want at least  
13 this to be armed with when a development proposal comes  
14 in, to be honest with you. That was the intent of  
15 this.

16 CHAIRMAN CADE: Thank you very much. Are  
17 there any other comments or questions?

18 THE AUDIENCE: (No response.)

19 CHAIRMAN CADE: If not, Mayor Robinson, we  
20 thank you very much. It's been our pleasure to be here  
21 in your delightful community and your town of

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1 Millington, and we are appreciative of the fine job  
2 that you have done on preparing and presenting to the  
3 critical areas this plan in a timely fashion. Thank  
4 you very much. The hearing is closed.

5 The Commission will act upon this plan  
6 within 60 days and the Town of Millington will be so  
7 notified.

8 (Whereupon, at 6:58 p.m., the  
9 proceedings in the above-entitled matter were  
10 adjourned.)

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