

ENROLLED ORDINANCE 167-64

AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY REVISING THE CONDITIONS OF A PREVIOUS CONDITIONAL REZONING, (ENROLLED ORDINANCE NO. 166-71), FOR CERTAIN LANDS LOCATED IN THE SW ¼ OF SECTION 26, T8N, R17E, TOWN OF OCONOMOWOC (CZ-1721A)

WHEREAS, proper notice was given a public hearing was held and the subject matter of this Ordinance was approved by the Oconomowoc Town Board on October 16, 2012, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.69, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Town of Oconomowoc District Zoning Map of the Waukesha County Zoning Code, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors, on February 26, 1959, is hereby amended to revise the conditions of a previous conditional rezoning (Enrolled Ordinance No. 166-71) for certain lands located in part of the SW ¼ of Section 26, T8N, R17E, Town of Oconomowoc, and more specifically described in the "Staff Report and Recommendation" and map on file in the office of the Waukesha County Department of Parks and Land Use, and made a part of this Ordinance by reference CZ-1721A, subject to the following conditions:

1. The Zoning Amendment to the B-3 General Business District shall be limited to an amusement place or similar operation, with specific uses required to be approved by the Town Plan Commission and Waukesha County Planning and Zoning Division Staff. The current proposed use of a golf center, including golf simulators, indoor driving range, sand trap, and putting green, is hereby specifically approved along with a retail golf and other sporting goods merchandise operation.
2. Notwithstanding the conditional rezoning of the subject property to the B-3 General Business District, the future use of the subject property shall be that of its former and continued use of a retail tropical fish and pet store and aquarium company; video sales and rentals; and all other uses set forth as permitted uses in the B-2 Local Business District.
3. A Site Plan/Plan of Operation Permit shall be submitted, reviewed and approved by the Town Plan Commission and the Waukesha County Planning and Zoning Division Staff prior to occupancy of the building for any new or modified uses.

BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Oconomowoc.

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

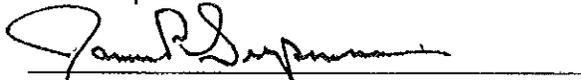
COMMISSION ACTION

The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code, hereby recommends approval of (CZ-1721A James Chapman) in accordance with the attached "Staff Report and Recommendation".

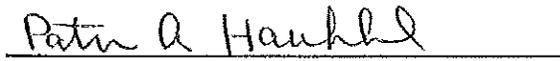
PARK AND PLANNING COMMISSION

November 15, 2012


Robert Peregrine, Chairperson

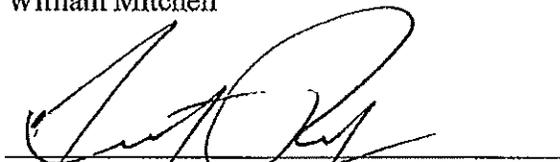

James Siepmann, Vice Chairperson


Walter Kolb


Patricia Haukohl


Gary Goodchild


William Mitchell


Fritz Ruf

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING AMENDMENT

FILE NO.: CZ-1721A

DATE: November 15, 2012

OWNER/APPLICANT: James Chapman
W359 N5740 Brown Street
Oconomowoc, WI 53066

AGENT: Lee Newman
12775 W. Cleveland Ave.
New Berlin, WI 53151

TAX KEY NO.: OCOT 0535.995.004

LOCATION:

Lot 3, Certified Survey Map No. 4889, Volume 39, Page 303, located in the SW ¼ of Section 26, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at the Brown Street address cited above. The property contains approximately 78,001 sq. ft.

EXISTING ZONING:

The property was recently rezoned in 2011 from the B-2 Local Business District to the B-3 General Business District, subject to several conditions. The rezone limited the permitted uses to an amusement place for the operation of a laser tag business and the continued use of retail, including a tropical fish and pet store, an aquarium company, video sales and rental store, and all other uses set forth in the B-2 Local Business District.

PROPOSED ZONING:

The petitioner is proposing to amend the conditional rezone to allow an amusement place for the operation of a retail golf and sporting goods store with golf simulators, a putting green, driving range, and indoor sand trap to be used for practice and training. The petitioner may also sell other sporting goods merchandise, such as snorkeling, baseball, football and soccer equipment, etc. Basketball hoops, soccer nets, and baseball batting cages may be considered in the future for practice and training.

COMPLIANCE WITH THE TOWN OF OCONOMOWOC COMPREHENSIVE DEVELOPMENT PLAN AND THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:

The property is designated as Commercial on both the Comprehensive Development Plan for Waukesha County and the Town of Oconomowoc Comprehensive Development Plan. Therefore, the proposed use complies with both plans.

PUBLIC HEARING DATE:

October 16, 2012.

PUBLIC REACTION:

Two (2) town citizens spoke in favor of the request and one (1) citizen asked if there were outdoor activities proposed.

TOWN PLAN COMMISSION AND TOWN BOARD ACTION:

On October 30, 2012, the Town of Oconomowoc Plan Commission voted to recommend approval of the zoning change to the Town Board, subject to conditions. On October 30, 2012, the Town Board adopted a resolution recommending approval of the rezone, subject to conditions. The resolution with conditions is attached as Exhibit "A".

EXISTING LAND USES:

Vanguard Video occupies tenant space "A" as a video sale and rental retail store. Ocean Dreams occupies tenant spaces "B #1", "C", "F", and "G" as a retail sales store, including the sale of fish, hermit crabs, birds, rabbits, reptiles, aquariums and other various fish and pet supplies. There is some additional tenant space used for storage by the two (2) tenants and an office for the property owner. The remainder of the building is vacant.

PROPOSAL AND STAFF ANALYSIS:

The property contains a 22,000 square foot multi-tenant retail and office building, which underwent an interior remodel in 2009 to create ten (10) tenant spaces (OC09:115). Vanguard Video II occupies the 979 sq. ft. tenant space "A" and Ocean Dreams occupies 2,048 sq. ft. between tenant spaces "B" #1, "C", "F", and "G". The property owner utilizes a 308 sq. ft. space for an office/control room and the tenants share a large storage room. The remainder of the building's tenant space is currently vacant. In addition to the multiple tenant spaces, the building contains five (5) restroom facilities and two (2) common entrance areas. An interior floor plan of the building is attached as Exhibit "B". The property is served by a private waste disposal system and well. A dumpster is located on the east side of the building.

The petitioner is proposing to occupy tenant space "D", which consists of approximately 8,500 sq. ft. of area, for an Indoor Golf Amusement Center specializing in retail golf merchandise. The store will also include amusement devices, such as golf simulators, a driving range, sand trap, and an indoor putting green for practice and training. The store may also sell other sporting goods merchandise, such as snorkeling, baseball, football and soccer equipment, etc. Basketball hoops, soccer nets, and baseball batting cages may be considered in the future for practice and training.

The Town and County have determined that the proposed use fits under the B-3 category of *"theaters, dance halls, arcades, video game parlors, and other amusement places"*, because of the golf simulators, putting green, driving range, and sand trap that will be used for practice and training. In the future, the petitioner may also have basketball hoops, soccer nets, and baseball batting cages to use as practice. This larger recreational use falls within the amusement category. The proposed uses that are already permitted by right include the retail sales of sporting goods such as basketball, golf, baseball, soccer, and other sporting goods equipment and apparel. The petitioner may also apply for a malt beverage license and sell snacks, prepared food, and drinks.

The subject property is bordered by B-2 zoned properties to the north and abuts residential properties to the south and east. The range of business uses that are permitted in the B-2 Zoning District do not differ drastically from the proposed use. Due to limited parking and the surrounding uses, not all amusement uses will necessarily be appropriate for the site.

The Town and County recently approved a Parking Plan for the property with a total of 59 spaces as part of a Plan of Operation review. Parking will need to be analyzed further as part of a Site Plan/Plan of Operation process, prior to the tenant gaining final approval.

STAFF RECOMMENDATION:

Based upon the above information, the Planning and Zoning Division Staff recommends **approval** of the petitioner's request subject to the following conditions, which include the Town of Oconomowoc's conditions with modifications (**County modifications are identified in bold**):

1. The Zoning Amendment to the B-3 General Business District shall be limited to an amusement place or similar operation, with specific uses required to be approved by the Town Plan Commission **and Waukesha County Planning and Zoning Division Staff**. The current proposed use of a golf center, including golf simulators, indoor driving range, sand trap, **and putting green**, is hereby specifically approved along with a retail golf **and other sporting goods** merchandise operation.
2. Notwithstanding the conditional rezoning of the subject property to the B-3 General Business District, the future use of the subject property shall be that of its former and continued use of a retail tropical fish and pet store **and aquarium company**; video sales and rentals; and all other uses set forth as permitted uses in the B-2 Local Business District.
3. A Site Plan/Plan of Operation Permit shall be **submitted, reviewed and approved** by the Town Plan Commission **and Waukesha County Planning and Zoning Division Staff** prior to occupancy of the building for **any new or modified uses**.

With a conditional rezoning of the property, the issue of spot zoning is avoided, as any other proposed use that is not an appropriate amusement place or similar operation would require that the property comply with the provisions of the B-2 Local Business District. To ensure that the proposed use is compatible with the surrounding land uses and that the proposed use and its attendant parking, lighting, signage and related needs do not adversely affect the surrounding land uses, the Town of Oconomowoc Plan Commission and the Waukesha County Planning and Zoning Division Staff are required to review and approve a Site Plan and Plan of Operation for the proposed use. Any concerns related to these issues can be further addressed in those reviews.

Respectfully submitted,

Amy Barrows

Amy Barrows
Senior Land Use Specialist

Attachment: Exhibits "A", "B" and Map

N:\PRKANDLU\Planning and Zoning\Rezones\Staff Reports\1721A James Chapman oct.doc

167-0-064

5.

RESOLUTION NO. 2012-21**RESOLUTION RECOMMENDING APPROVAL OF REZONING
(JAMES CHAPMAN PROPERTY)**

WHEREAS, James Chapman petitioned to amend the conditions of the zoning on property owned by him located at W359 N5740 Brown Street, Tax Key No. OCOT 0535.995.004, from B-3 General Business District allowing specific uses to the B-3 General Business District allowing other specific uses; and

WHEREAS, the purpose of the rezoning is to allow the improvements on the parcel to be used as a golf center; and

WHEREAS, on October 16, 2012, a joint public hearing was held with the Waukesha County Department of Parks and Land Use to consider amending the zoning map to place the above referred to parcel in the B-3 General Business District conditionally for the operation of a golf center, an amusement place; and

WHEREAS, the Town of Oconomowoc Comprehensive Land Use Plan-2035 designates this parcel in a commercial land use category; therefore, the proposed use is consistent with the goals and objectives of the Town of Oconomowoc Comprehensive Land Use Plan-2035; and

WHEREAS, after hearing the petitioner's presentation and comments by all interested persons, the Plan Commission, at a Plan Commission meeting held on October 30, 2012, and after review of the Town Planner's report dated October 24, 2012, recommended rezoning to conditional B-3 General Business District, subject to the conditions set forth in the amended Planner's Report which is attached hereto and incorporated herein by reference; and

WHEREAS, the Town Planner and the Town Plan Commission recommend the aforementioned rezoning, subject to the limited use of an amusement place or similar operation only, subject to each specific use being approved by the Town Plan Commission, the current proposed use being that of a golf center including golf simulators, indoor driving range and sand trap, which use is hereby recommended be approved by Waukesha County, subject to conditions set forth in the required site plan and plan of operation and conditions that might be imposed by the Town of Oconomowoc.

NOW THEREFORE, BE IT HEREBY RESOLVED that for the reasons set forth in the recital paragraphs of this resolution and in the amended Planner's report, the Town Board of the Town of Oconomowoc does hereby recommend that Waukesha County rezone the parcel with Tax Key No. OCOT 0535.995.004 located at W359 N5740 Brown

Street from B-3 General Business District allowing specific uses to the B-3 General Business District allowing other specific uses for the purpose of allowing an amusement place or similar operation, with specific uses required to be approved by the Town Plan Commission, the current proposed use being a golf center including golf simulators, indoor driving range and sand trap, which is hereby specifically approved and which it is recommended also be approved by Waukesha County, along with a retail golf merchandise operation, subject to the following conditions.

BE IT FURTHER RESOLVED that notwithstanding the conditional rezoning of the subject property to B-3 General Business District, the future use of the subject property shall be that of its former and continued use of a retail tropical fish and pet store and video sales and rentals, and all other uses set forth as permitted uses in the B-2 Local Business District.

BE IT FURTHER RESOLVED that this recommendation is for a conditional rezoning which shall not take effect unless and until the site plan and plan of operation has been approved by the Town Plan Commission and the Waukesha County Department of Parks and Land Use.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Waukesha County Department of Parks and Land Use for presentation to appropriate county committees, and ultimately the County Board.

DATED: October 30, 2012

TOWN OF OCONOMOWOC

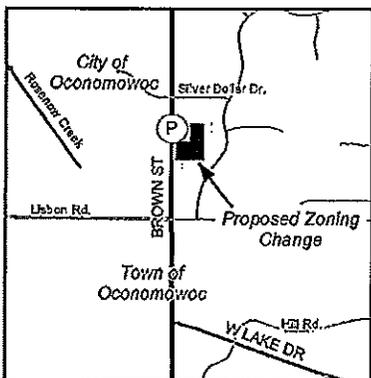
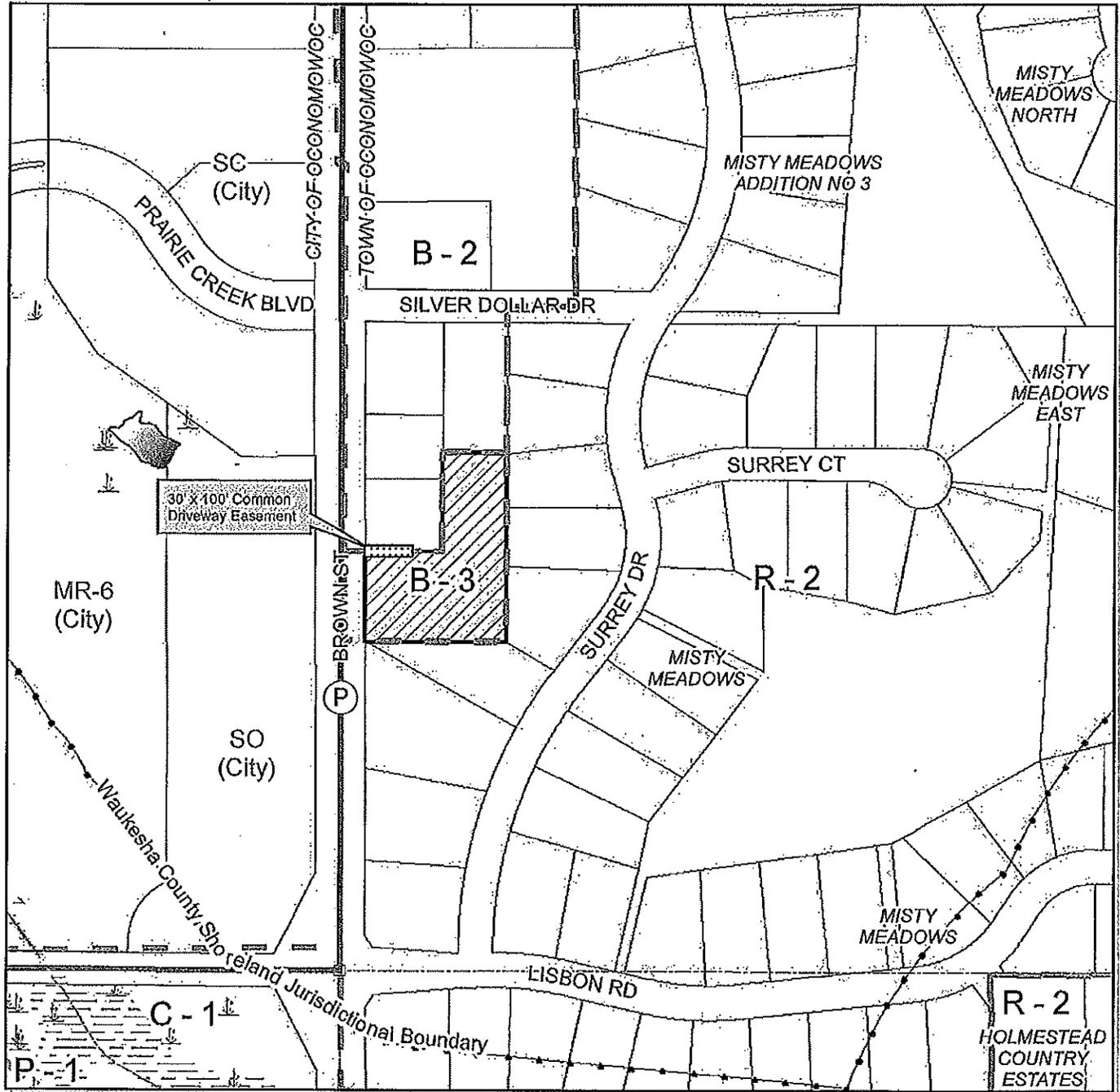
By: Robert C. Hultquist
Robert C. Hultquist, Chairman

ATTEST:

Jo Ann Lesser
Jo Ann Lesser, Clerk

ZONING MAP AMENDMENT

PART OF THE SW 1/4 OF SECTION 26
TOWN OF OCONOMOWOC



AMEND CONDITIONS OF REZONE CZ-1721 TO ALLOW OTHER SPECIFIC USES UNDER B-3 ZONING (1.79 AC)

FILE.....CZ-1721A
 DATE.....11/15/12
 AREA OF CHANGE.....1.79 ACRES
 TAX KEY NUMBER.....OCOT 0535.995.004



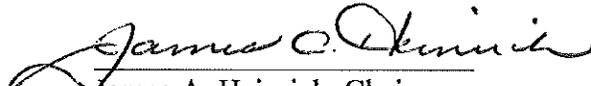
1 inch = 300 feet
 0 150 300 Feet

Prepared by the Waukesha County Department of Parks and Land Use

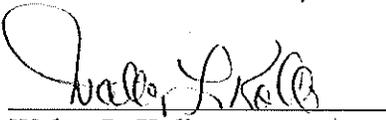
167-0-064

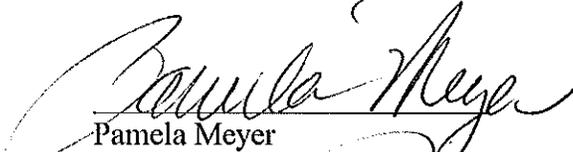
AMEND THE TOWN OF OCONOMOWOC DISTRICT ZONING MAP OF THE WAUKESHA COUNTY ZONING CODE FOR THE TOWN OF OCONOMOWOC BY REVISING THE CONDITIONS OF A PREVIOUS CONDITIONAL REZONING, (ENROLLED ORDINANCE NO. 166-71), FOR CERTAIN LANDS LOCATED IN THE SW ¼ OF SECTION 26, T8N, R17E, TOWN OF OCONOMOWOC (CZ-1721A)

Presented by:
Land Use, Parks, and Environment Committee


James A. Heinrich, Chair

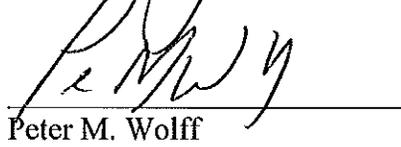

Jim Batzko


Walter L. Kolb

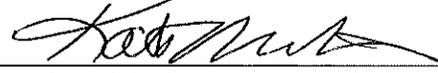

Pamela Meyer


Fritz Ruf

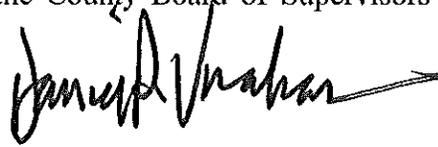

Thomas J. Schellinger


Peter M. Wolff

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 1/3/2013, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 1-3-13, 
Daniel P. Vrakas, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-12/18/12

(ORD) NUMBER-1670064

1 C. SLATTERY.....AYE
 3 R. MORRIS.....AYE
 5 J. BRANDTJEN.....AYE
 7 J. GRANT.....AYE
 9 J. HEINRICH.....
 11 F. RUF.....AYE
 13 P. DECKER.....AYE
 15 W. KOLB.....AYE
 17 D. PAULSON.....AYE
 19 C. CUMMINGS.....AYE
 21 W. ZABOROWSKI.....AYE
 23 K. HAMMITT.....AYE
 25 G. YERKE.....AYE

2 D. FALSTAD.....AYE
 4 J. BATZKO.....AYE
 6 J. JESKEWITZ.....AYE
 8 P. HAUKOHL.....AYE
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 P. MEYER.....
 16 M. CROWLEY.....AYE
 18 L. NELSON.....AYE
 20 T. SCHELLINGER....AYE
 22 P. JASKE.....AYE
 24 D. DRAEGER.....AYE

TOTAL AYES-23

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS 1

TOTAL VOTES-23