

**CRIMINAL JUSTICE SERVICES BOARD  
COMMITTEE ON TRAINING**

**MINUTES**

***MAY 13, 2004***

A meeting of the Criminal Justice Services Board Committee on Training (COT) convened at 9:00 a.m. on Thursday, May 13, 2004, in House Room D of the General Assembly Building in Richmond, Virginia.

**Members Present**

Ms. Mary Kay Wakefield, Chair

Sheriff Beth Arthur

Sheriff Charles W. Phelps

Mr. Gerald P. Eggleston (*Proxy for Gene Johnson, Director, Department of Corrections*)

Mr. Thomas W. Fore, Sr.

Mr. Frederick A. Hodnett, Jr. (*Proxy for Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia*)

Dr. Jay W. Malcan

Lieutenant Jeff Foxx (*Proxy for Colonel Steve Flaherty, Superintendent, Virginia State Police*)

**Members Absent**

Ms. Linda D. Curtis, Vice-Chair

Chief Atlas L. Gaskins

Chief Alfred Jacocks

Colonel Andre Parker

Mr. Christopher R. Webb

**DCJS Staff Present**

Leon Baker  
George B. Gotschalk, Jr.  
Dale Kastelberg  
Judy Kirkendall  
Katya Newton

Ronald E. Bessent  
John Byrd  
Lisa Hahn  
Frank Johnstone  
Donna Bowman

**Others Present**

George Haudricourt, A.D.T.

**Call to Order**

The meeting was called to order by Chairman Wakefield at 9:00 a.m. The roll was called with eight members present, constituting a quorum. The Chairman asked if there were any questions or comments regarding the minutes of the last meeting. Hearing none, she asked for a motion to approve the minutes as written. Motion was made and seconded to approve the minutes; minutes were approved with one abstaining due to absenteeism at last meeting.

**Public Hearing**

Ms. Wakefield explained the procedures for holding a public hearing during the COT meeting.

Ms. Wakefield then introduced Katya Newton.

**Regulations for the Implementation of the Law Permitting DNA Analysis Upon  
Arrest for all Violent Felonies and Certain Burglaries -- Katya Newton**

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On January 1, 2003 Virginia became the first state in the nation to begin collecting DNA samples upon a person's arrest. The law -- §§ 9.1-102, 19.2-310.2:1, and 19.2-310.3:1 of the *Code of Virginia* -- requires a saliva or tissue sample to be taken from every person arrested for a violent felony and certain burglaries. When passed, the law specified that the Division of Forensics Sciences was to adopt regulations for implementation, and these are the regulations before you today.

The regulations and the procedures set forth herein relating to the taking, handling, and identification of saliva or tissue samples, and the completion or filing of any form or record prescribed by these regulations, are procedural in nature and are not substantive. Substantial compliance therewith shall be deemed sufficient.

The regulations state that all warrants for qualifying offenses shall contain the following language: "Take buccal sample if LIDS shows no DNA sample in the data bank." A buccal sample means a sample taken by swabbing the cheek inside an arrestee's mouth. LIDS means the local inmate data system administered by the State Compensation Board. The data bank is the database of DNA profiles from biological samples maintained by Forensics Sciences for convicted felons and arrestees.

The regulations also provide guidance to the agencies responsible for collecting the DNA biological samples; how to collect a DNA sample; how to use the DNA sample tracking application in the data bank; and instructs agencies that if a DNA sample is already on file, no other sample shall be taken. They address who shall take a sample and when. Samples shall be

collected during booking by the sheriff's office, police department, or regional jail responsible for booking upon arrest.

An internet-accessible DNA sample tracking application, developed by the State Compensation Board through LIDS, shall be accessible through the State Compensation Board's website.

Access to the DNA sample tracking application shall be located under the website's restricted access section. User ID's and passwords shall be assigned to all law enforcement agencies responsible for taking saliva or tissue samples from arrestees. The use of LIDS will minimize the additional workload on jail staff, as DNA samples will only be collected from arrestees who have not previously been sampled. Also, only the information required by statute and necessary to track the final disposition of the arrestee offenses is requested on the submission forms. There is absolutely no cost to access the internet-based LIDS DNA sample tracking system developed for use with this regulation.

Prior to taking the saliva or tissue sample, the LIDS DNA sample tracking application -- or any such other DNA sample tracking application approved by Forensics Sciences and permitted by the *Code of Virginia* -- shall be queried to determine if there is a DNA sample already in the data bank for the arrestee. If the DNA sample tracking application indicates that a sample previously has been taken from the arrestee, no additional sample shall be taken. If the DNA sample tracking application indicates no sample has been taken from the arrestee, a saliva or tissue sample shall be taken in accordance with the procedures outlined in this Chapter.

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The samples shall be collected during booking by the sheriff's office, police department, or regional jail responsible for booking upon arrest (fingerprinting, etc.). Saliva and tissue samples shall be collected using buccal sample kits, specified and distributed by Forensics Sciences. Each buccal sample kit shall contain a submission form, at least one buccal sample collection device, and instructions on the proper procedures for using the device. These instructions shall be followed at all times when collecting the buccal samples. Kits may be mailed or hand-delivered to the nearest regional laboratory. Also, if the arrestee is ultimately convicted of a felony, a \$25.00 fee will go to the general fund of the locality where the sample was collected.

In circumstances where a buccal sample kit is unavailable, Forensics Sciences may accept samples collected without using the buccal sample collection devices contained in the buccal sample kits. These samples shall be collected through the use of sterile swabs and must satisfy the sealing and labeling requirements as set forth in the regulations.

All saliva and tissue samples collected shall be placed in sealed, tamper-resistant containers.

Samples shall be submitted with the following identifying information:

- the arrestee's name,
- social security number,
- date of birth,
- race and gender,
- the name of the person collecting the samples,
- the date and place of collection,

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information identifying the arresting or accompanying officer,  
the qualifying offense or offenses, and  
the document control number (DCN).

<The document control number is the number that is pre-printed on the fingerprint card  
(CCRE arrest forms SP179 and SP180) and/or assigned by Live-Scan.>

Samples shall be transported to Forensics Sciences in sealed containers not more than fifteen  
(15) days following collection. A copy of the arrest warrant or capias shall be included with the  
sample when it is transported to Forensics. Samples may be hand-delivered or mailed to  
Forensics.

Timely submission of the final disposition of a qualifying offense to the Central Criminal  
Records Exchange (CCRE), operated by the Virginia State Police, by the clerk shall satisfy the  
requirement that the clerk notify the Division of Forensics Sciences of final disposition of the  
criminal proceedings under the *Code of Virginia*.

During the APA process, the Division of Forensics Sciences held public comments on these  
proposed regulations for 60 days. During that comment period, we received comments from 15  
law enforcement agencies. Suggestions and comments have been included in the document  
presented to you today.

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Ms. Wakefield asked if there were any questions. She then asked if there was anyone in the audience who had signed up to speak at the public hearing. Ms. Kirkendall indicated that there was no one. Ms. Wakefield then asked if members of the COT had any questions.

The question was raised if all law enforcement agencies could access the data bank and Ms. Newton indicated yes, by the internet. All law enforcement agencies have been notified by Forensics how to access the data bank.

Another question was raised about using regular mail and not certified mail; what level of security is available? Ms. Newton indicated that the samples that actually go to the data bank are not the samples that are used in court. They are used just to get hits from the data bank. At that point, when a hit is made, we ask the agency to get another sample from the person we received the hit. That particular sample is the one used in court.

Since there were no more questions, Ms. Wakefield indicated that the COT will go page-by-page for review for exceptions before voting on approval of these proposed regulations.

Starting with Page One -- Definitions, are there any questions, concerns, or suggestions for change? Hearing none, we'll go to Page Two.

On Page Two, starting with 6 VAC 20-210-20 through 6 VAC 20-210.50, are there any questions, concerns, or requests for changes? Hearing none, let's continue.

On Page Three, Part IV and ending with Part V, are there any questions, concerns, or changes? A question was raised -- for Part Two on page two, if it should not read "all qualifying warrants and indictments"? Ms. Newton indicated that they could not be specific because of generic language on a capias. If an arrest is made, more specific language can then be used.

Ms. Wakefield stated that if there were no more questions, is there a motion to accept the regulations as proposed? Motion was made and seconded. A vote was held and it was unanimously voted to accept the regulations as proposed.

### **Old Business**

Ms. Wakefield then moved on to the next item on the agenda under Old Business.

#### **A. Radar Operator Training Guidelines -- *George Gotschalk***

During the Allen Administration, we went through the regulatory process to set rules and regulations and requirements for training for radar operators. However, the Governor refused to sign a set of rules requiring radar training despite a lack of opposition from the criminal justice community. Therefore, due to the efforts of the Standards and Training Section of the Department of Criminal Justice Services (DCJS), training guidelines were created and distributed to all Virginia law enforcement agencies. They have been used widely over the years and we have not had any problems with agencies using those guidelines.

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Until recently the provisions have only dealt with the use of radar. By law, unless a locality was specifically named, radar was the option available for speed measurement. During the 2003 Session of the General Assembly, LIDAR was approved for use statewide. Since July 1, 2003, law enforcement has had options for speed measurement.

DCJS has a radar (now speed measurement) advisory committee. They reviewed the guidelines and pilot tested several trainings using the proposed guidelines. The document you have before you today is the recommendation of the advisory committee. We tried to make the guidelines as economically feasible as possible and as concise and efficient as possible.

At previous meetings, you were advised of the intentions of Standards and Training to revise these guidelines. On February 23, 2004, a memorandum was mailed to all certified academy directors requesting their comments on the revisions. We only received one response, and that was from Captain George Daniels, Virginia State Police.

Captain Daniels' first suggestion was to eliminate the need for night training for LIDAR if the officers had been previously radar trained. This is due to the night training that is provided for radar.

Captain Daniels' second suggestion was similar in that it removed the requirement for visual speed estimations if the officer had been previously radar trained, given that visual speed estimations are part of radar training.

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The last suggestion provided by State Police and the advisory committee was to change the name of these guidelines to *Speed Measurement Training Guidelines* from *Radar Operator Training Guidelines*.

We concur with all of the suggestions provided.

As a follow-up, these are guidelines -- not rules. Consequently, they do not have the force and effect of law. While it is not mandatory, it is guiding. Previous experience indicates that the vast majority of agencies will and are using these guidelines. Today, I am here to make the COT aware of the proposed revisions.

Also, I will be meeting with the Attorney General's Office very soon to review two sets of regulations we are looking at for future revisions to the in-service rules and revisions to the instructor certification rules. Instructor certification for radar training right now has a 40-hour required training program. This advisory committee has pilot-tested a speed measurement instructor's school which will retain that certification at 40 hours.

I wanted to advise the COT of these changes and we will be sending this information out to all the chiefs of police, sheriffs, agency administrators, and academy directors in the very near future. If there are no questions and/or unless I hear objections from the members of the Committee on Training, I will have the guidelines revised as suggested and distributed.

Ms. Wakefield asked if there were any questions; hearing none, she moved to the next item on the agenda.

**B. Report on T-Rex Usage – *John Byrd***

At our last meeting, we heard about the new T-Rex automated reporting system. Mr. Byrd is going to give us an update on that system today.

I'm here today to give you an update on T-Rex. Basically, this is a training records system that is available to all agencies. We affectionately call it T-Rex because the dinosaur evolved over many years and we started playing with this system a long time ago. It seems like a thousand years ago, but we finally got it operational; and when it goes fully operational, it's going to be very big -- just like a dinosaur.

We began preparing for the T-Rex system in about 2002. The actual development programming began in July of 2003 and was pilot-tested from August to October of 2003. It was first implemented on October 13, 2003 by starting with a few agencies and then expanding.

T-Rex allows agencies to have direct access to the Standards and Training database online. Access is limited to information about their agency only in Real Time. They can look up what we have on file about employment status, hire date, training status, etc. It also allows agencies to enter employment information, such as initial hires (Forms 21). They can also enter changes in

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employment (Forms 31); such as function changes, rank changes, name changes, and terminations and retirements.

In order to maintain security, each agency head signs an application to get permission for an individual to enter data and that individual is given a log-on password. Everything entered under that password is considered to be an official document from that agency. Each user has a unique ID, which they keep confidential because the T-Rex system shows each transaction by date, time, and user ID. If an agency needs more than one person to enter data, each individual should have their own user ID. Each agency or user is responsible for entering accurate information. If there are any errors, each agency or user must identify the errors and take the necessary action to correct them, since the Standards and Training staff have no paperwork to know what is correct or incorrect. However, only the staff at Standards and Training can change individual Social Security numbers. If those numbers get mixed up or are wrong, then the agency must notify us and we will change it. What happens is if, for example, a person is listed under one number and training is credited under another number, that individual has no training history and all personal records are lost.

There are several advantages to the T-Rex system including:

instantaneous update of records,

the error rate has decreased because our staff do not have to re-enter all data,

it eliminates paperwork for the agencies and Standards and Training staff.

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Presently, we are in a transition stage where we still get paper forms as well as electronic entries.

There are currently 268 agencies that now have access to T-Rex; 449 individuals have user ID's; agencies in just the last six months are averaging 810 transactions per month; and our staff average 1,289 transactions per month. There are four academies that still do not use ACETRAK, but are now using T-Rex to submit training (Forms 41) information. This means that all the academies are now submitting their training records electronically.

This workload shift means less data entry, less filing for Standards and Training staff; but more one-on-one training and more technical assistance is required of the staff. The Standards and Training staff are just now beginning to see a slight decrease in their paperwork.

The Standards and Training staff have conducted T-Rex training for 13 pilot agencies, starting back in August. We have conducted training sessions at various locations including Central Shenandoah Academy, Richmond Police Department, Hampton Roads Academy, Rappahannock Academy (all campuses), Virginia Beach Academy, and too-numerous-to-count individual visits and telephone contacts. Usually, we can talk somebody through this system over the phone; sometimes lasting five minutes, sometimes several hours.

There are still many challenges to be faced. We need to encourage all agencies, especially the larger agencies, to use T-Rex. The larger agencies that do use T-Rex include the Newport News Police Department, Norfolk Police Department, Hampton Police Department, and the Richmond Police Department. The larger agencies that are just beginning to use T-Rex include the Fairfax

Police Department and the Virginia State Police. The other big challenge for our staff is training all users in T-Rex's proper use and handling, as well as Standards and Training procedures; such as function changes and cross-referencing name changes or for those individuals who have more than just one job function (deputy, jailor, civil process, etc.). The turnover rate of those who enter the data makes training an on-going, never-ending challenge.

Are there any questions about the T-Rex System?

The question was asked if this system is mandated in its use, and Mr. Byrd replied that it is strictly voluntary. Mr. Byrd further stated that, if the COT remembers, Standards and Training provided computers for all the agencies and academies to use the ACETRACK for electronic reporting. Those four academies who do not use the ACETRACK system are using the T-Rex system because you can also enter training data as well as employment data. This cuts down on all the paperwork associated with training.

**C. Update on Special Conservators of the Peace -- Lisa Hahn**

Ms. Wakefield then moved on to the next item on the agenda, an update presented by Lisa Hahn of the Private Security Division of DCJS.

Special Conservators of the Peace are those individuals who are appointed by the Circuit Courts under §19.2-13 of the *Code of Virginia*. They perform only those powers, functions, duties, and responsibilities authorized within geographic limitations as the Courts deem appropriate.

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During the 2002 Session of the General Assembly, Senator Norment introduced Senate Bill Joint Resolution 69. SJR 69 directed the Virginia State Crime Commission to study Special Police and Special Conservators of the Peace (SCOP).

The Crime Commission studied the rationale for current appointments; i.e., training needs, proper manner of executing arrests, personal safety concerns, and issues when exercising the powers of the SCOP. Their results included the following:

Some individuals had law enforcement powers as a SCOP without any training, liability coverage, or qualifications.

There was no consistency, or uniformity, or limitations to appointments -- with some being appointed for life.

Qualifications that related to employment were not uniformly required by the Circuit Courts.

Local law enforcement agencies were unaware of individuals who had SCOP powers in their jurisdictions.

Because of the total inconsistencies among the Circuit Courts, the Crime Commission came up with the following recommendations:

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to require the Private Security Section to regulate and register SCOP,  
to require a bond or liability insurance,  
to recommend limitations for appointments,  
to require a fingerprint-based background check,  
to require a drug and alcohol screening check,  
to require minimum entry-level training,  
to develop a uniform identification card/badge/ID,  
to add a SCOP to the PSSAB, and  
to allow Private Security to charge a fee to applicants under a special-funded program.

As a result of the Crime Commission's study, Senate Bill 1240 was introduced during the 2003 Session of the General Assembly and subsequently approved -- giving the authority to regulate the SCOP program to the Private Security Section of DCJS.

This new law allows individuals to apply for registration on or after January 1, 2004. Effective September 15, 2004, no person shall seek appointment as a SCOP without a valid registration issued by Private Security. All current SCOP appointments become void on September 15, 2004 unless they have obtained a valid registration from our staff. All Special Police appointments become void after September 15, 2004.

The Private Security Section then began the development of the regulations governing the new SCOP program, establishing the registration process, setting the registration fees, and establishing the training standards.

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To apply for registration, an individual must be at least 18 years of age; successfully complete all initial training requirements, to include firearms training if applicable; and be a U. S. citizen or legal resident alien. To process an application, an individual must complete an application and pay the fee; provide fingerprint cards; complete a drug and alcohol screening; verify a surety or cash bond (\$10,000), or provide a certificate of liability insurance; and complete initial training.

Upon completion of the initial registration process, a temporary registration letter will be issued. This eligibility letter must be taken to the Circuit Court where the individual seeks appointment for SCOP. If granted an appointment by the Circuit Court, the individual must file a copy of the appointment order with Private Security. Once a copy of the appointment order is filed, the Private Security Section will issue a final registration letter that will allow the individual to receive a photo ID card.

The initial registration fee is \$60.00; the registration renewal fee is \$60.00; and the fingerprint card processing fee is \$50.00. Every 12 months, a SCOP must renew their registration and successfully complete in-service training and firearms re-training.

Initial training requirements for Unarmed SCOP is 24 hours of initial training. Initial training requirements for Armed SCOP is 40 hours of initial training, plus firearms training. The initial training requirements will include Virginia law and regulations, legal procedures, Constitutional law, search-and-seizure basic law, use-of-force and liability issues, obtaining arrest warrants, rules of evidence, courtroom testimony, and firearms training if applicable. Eight hours of in-

service training include the requirements of legal authority, job-related training, and firearms re-qualification if applicable.

Some of the benefits of the new Special Conservator of the Peace Program include:

there will be consistency in the initial training and in-service training,  
registration will be annually under a new tracking system,  
it's required to have a surety bond, cash bond, or a certificate of insurance showing  
liability insurance,  
there will be fingerprint-based background checks,  
there will be drug and alcohol screening checks, and  
appointments with the Circuit Courts are limited to four years.

We are currently operating under emergency regulations and promulgated proposed regulations. We began accepting applications for SCOP on January 1, 2004. So far, we have issued 82 temporary registrations, and 27 schools have been approved for the required training. We also sent out mailings to all police chiefs, sheriffs, Circuit Court Clerks, judges, and magistrates. We expect a large influx of applications by September 15<sup>th</sup> when all SCOP's will have their current appointments terminated.

**D. School Security Officer Training -- *Frank Johnstone***

Hearing no questions for Ms. Hahn, Ms. Wakefield moved to the next agenda item, school security officer training, presented by Frank Johnstone for Ms. Donna Bowman.

Based on the Virginia State Crime Commission Study (HD 31 2001) recommendations, the 2002 Session of the General Assembly passed legislation directing the Virginia Center for School Safety (VCSS) to collaborate with DOE and the Crime Commission to develop employment and hiring standards for School Security Officers (SSOs); entry-level and in-service curriculum and training standards for SSOs; certification standards for SSOs; and to begin by September 15, 2003.

Unfortunately, due to State budget cuts, the ensuing hiring freeze, and other restrictions, no additional funding -- nor two positions for the Virginia Center for School Safety -- was provided until July of 2003.

During September 2002, a School Security Officer Advisory Committee meeting was held to discuss training curriculum, training logistics, and to draft regulations. This committee consisted of members from DCJS, DOE, Virginia Crime Commission, school superintendents, security directors, Virginia Police Chiefs Association, and Virginia Sheriffs Association.

In October 2002, a part-time staff member was assigned to work on developing an RFP for curriculum development and to develop a draft of regulations for the SSOs.

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On January 16, 2003, an RFP for training curriculum was advertised, which included the following requirements:

must be based on adult-learning theory;

must consist of the following topics:

the role and responsibility of SSOs

relevant state and federal laws

security awareness in a school environment

school and personal liability issues

mediation and conflict resolutions

disaster and emergency responsibilities

student behavioral dynamics

On May 15, 2003, a meeting of the School Security Officer Advisory Committee met. An award was made to DynCorp for development of a training curriculum. This curriculum included:

a 32-hour curriculum -- 4 modules, which can be taught all at once or on separate days;

all curriculum is to be made in PowerPoint presentations on CD's -- for uniformity in instruction throughout the state; and

instructor guidelines for each module.

There was much discussion and concerns were expressed over the following:

**Logistic Issues** costs of training to localities  
most SSOs are on nine or ten-month contracts (can't train during the summer)  
most now do training on teacher days (means training will have to be done on separate days)

**Funding Issues** no state or local funds are available to pay for travel, per diem expenses for students

**Curriculum Issues** some wanted "use-of-force" issues, use of mace, pepper spray, handcuffs, etc., added to curriculum (*decision was made to stick with the seven core topics, above*)

**Staff was convinced that these issues could not be resolved in time to meet the September 2003 target date: an extension to September 15, 2004 was sought.**

In the Summer of 2003, staff made numerous trips to meet with security directors (and others) to try to resolve issues of training delivery and logistics involved. Some security directors wanted to train some of their SSOs to do the training under the auspices of VCSS. Some directors agreed to train SSOs from smaller departments to help control costs and facilitate getting every SSO trained. VCSS agreed to develop a "Train-the-Trainer" instructor development course.

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In October 2003, due to past experiences with completing the regulatory process -- with the APA process taking 18-to-20 months to complete -- staff believed that a failure to meet the September 15, 2004 date would constitute a public safety problem. Consequently, staff began to draft emergency regulations; and, in January 2004, a letter was sent to the Attorney General requesting authority to promulgate Emergency Regulations.

Also during this time (January – March 2004), staff worked with a consultant to develop the curriculum for the Train-the-Trainer course. March of 2004, the Attorney General authorizes promulgation of the Emergency Regulations; and, on April 9, 2004, the Emergency Regulations were placed on DCJS' Townhall website.

On April 22, 2004, staff met with the Department of Planning and Budget representatives, who made changes to the Emergency Regulations. On May 4, 2004, the Revised Emergency Regulations were submitted to DCJS for internal review.

Staff scheduled a Train-the-Trainer Course for May 24 – 27, 2004 at the Richmond Police Academy. Other courses are scheduled for August and October, 2004.

**New Business**

At this time, Ms. Wakefield asked if there were any questions from the audience or if anyone in the audience wished to speak. Hearing none and, due to time constraints, Ms. Wakefield suggested that the last item on the agenda under New Business -- *Legislative Issues* to be presented by George Gotschalk -- be postponed until the next meeting. Mr. Gotschalk agreed to do this.

**Next Meeting**

The next meeting scheduled for the Committee on Training is June 10, 2004, at 9:00 a.m., House Room D, General Assembly Building.

**Adjournment**

Ms. Wakefield asked if there was a motion to adjourn? Motion was made by Mr. Fore and seconded by Sheriff Phelps to adjourn. The meeting was adjourned at 10:30 a.m.

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Respectfully submitted,

Dale B. Kastelberg  
Recording Secretary

Approved:

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Mary Kay Wakefield  
Chair

Date:

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