

MINUTES OF MEETING, ATHENS CITY COUNCIL, JUNE 16, 2015

The Athens City Council met in regular session on Tuesday, June 16, 2015, at 6:00 p.m. with Mayor Davis presiding. The invocation was given by Council Member Burris; and upon roll call, the following members were present:

Burris, Pelley, Raper, Perkinson, Davis

The following decisions were made and ordered made a part of the records of the Athens City Council.

- 1 -
MINUTES

The Minutes of the regularly scheduled meeting of May 19, 2015 was submitted and approved by unanimous consent.

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COMMUNICATIONS

RESOLUTION OF COMMENDATION TO REPRESENTATIVE JOHN FORGETY FOR "LEGISLATOR OF THE YEAR"

Council Member Raper read a resolution commending Representative John Forgety for "Legislator of the Year". **A motion was made by Vice Mayor Perkinson, seconded by Council Member Burris, to approve Resolution No. 2015-17.** Resolution No. 2015-17 was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

Representative Forgety thanked the Council for the recognition and stated he was extremely honored and flattered and it was his privilege to serve the 23rd House Legislative District.

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PRESENTATION OF PROCLAMATION – AMATEUR RADIO WEEK

Council Member Pelley read a proclamation declaring the week of June 22- 28, 2015 as Amateur Radio Week. Several members of the McMinn County Amateur Radio Club were present to accept the proclamation. Everyone was invited to attend the Amateur Radio Field Day exercises June 27- 28, 2015 at the Athens Regional Park lake pavilion.

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PRESENTATION OF VIVID AWARD – BARBARA BRAKEBILL

Vice Mayor Perkinson presented the Very Important Volunteer Individual Award for June 2015 to Barbara Brakebill. Ms. Brakebill thanked everyone for the award. She stated it takes a group effort to operate the Humane Society and she was honored and humbled to accept the award on behalf of all the members of the Humane Society.

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PRESENTATION OF PROCLAMATION – 25TH ANNIVERSARY OF MCMINN REGIONAL HUMANE SOCIETY

Council Member Burris read a proclamation commending the McMinn Regional Humane Society on their 25th Anniversary. Members of the Humane Society were present to accept the award. Barbara Brakebill, on behalf of all the members of McMinn Regional Humane Society, thanked the Council for this recognition and commended Shawn Lindsey for allowing them to have some leeway at the shelter to find homes for the animals.

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SPEAK UP ORGANIZATION

Mayor Davis recognized Heidi Lucas from the Speak Up Organization. Ms. Lucas stated she established a program called the Speak Up Club located in downtown Athens working with the homeless and needy in town. In order to become a member of this club, a person fills out an application and needs to qualify in only one area such as being on TennCare, receiving food stamps, being low income, on disability or living in government housing. If they qualify in any of those areas, the applicant could come into their store and shop. Everything in the shop is \$.50 to a dollar. Free food and toiletries are given away. Homeless people in need can shop for free. John Gentry, County Mayor was allowing her to have a self-help group meeting in the Blue Room at 3:00 p.m. every Tuesday for those needing direction, help with goal setting, self-esteem, and assistance finding jobs and housing. Her organization works with about 35 people that live in tents in Athens and do not have any income, place to live, or family support. Ms. Lucas noted that Athens does not have an emergency shelter. She hoped to come back to the City Council at some future work session to discuss the homeless issues and options for helping them without enabling them.

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NATIONAL LEAGUE OF CITIES SMALL CITIES COUNCIL

Vice Mayor Perkinson stated he was honored to be able to serve the state of Tennessee and the City of Athens on the National League of Cities Small Cities Council. June is "Small Cities Month" drawing attention to the importance and accomplishments of small cities and celebrating their efforts to build better communities. Members of the Small Cities Council work together to provide opportunities for small city leaders to share best practices. Small cities are classified as places that have a population of less than 50,000. Communities are responsible for providing a wide range of services and programs to meet the needs of their citizens. They celebrate their successes and commit themselves to building partnerships to make small cities and towns stronger, safer, and more vibrant places for people to work and live. Vice Mayor Perkinson noted that he had shared several of the best practices for the City of Athens including the fleet management program, parks and recreation planning, and the Mother Son and Daddy Daughter Dances.

Mayor Davis called attention to the City's recent recognition as the 12th best city in Tennessee to start a business. Athens had passed cities such as Cleveland, Knoxville, Maryville, Oak Ridge and Chattanooga in the rating. She stated one of the reasons Athens was doing so well was because of City Manager Moore. Recently the Tennessee City Management Association named Mr. Moore as City Manager of the Year. Staff submitted the nomination and city managers all over the state of Tennessee voted for the City Manager of the Year. Vice Mayor Perkinson and former mayor Hal Buttram said a few words and congratulated Mr. Moore on this award. City Manager Moore stated he was only as good as those that surround him and allow him to be there. He remarked that he had some of the best department heads in the state of Tennessee, some of the best employees in the state of Tennessee and a Council that was willing to allow them to do their job and do it well. If you can't work together then you are never going to achieve. Here in Athens we have worked together and will continue to work together. Sometimes he had to make some unpopular recommendations but that is in fact part of what he does. City Manager Moore thanked everyone for recognizing him and commented that we are good and are going to get better.

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MISCELLANEOUS CORRESPONDENCE

Mayor Davis acknowledged receipt of letters of appreciation for services performed by City staff.

PETITIONS AND REQUESTS

AUDIENCE

Mayor Davis opened the meeting for petitions and requests from the audience. Hal Buttram, 228 Circle Drive, stated that he wanted to see the City remain financially strong and stable. Before he left the City Council, they were talking about the necessity of a tax increase to fund the school system and meet city departments' needs. He wanted to see the City continue to move forward in a positive way. The Council is charged with making decisions that benefit the whole community both now and in the future to make the city an even better place to live, work and play. If the Council approved the property tax increase on second reading and followed it with a sales tax referendum on the ballot to be approved by the citizens, they will insure financial stability for the city. If the referendum passes, the property tax increase would be rescinded. This will give property owners the incentive to support the local sales tax increase. It is not good fiscal management to continue to use one time dollars from fund balance in order to fund recurring costs for the city school system and the city budget. Darrell McCormick, 701 High Street, spoke about the proposed ordinance limiting the number of cars on a person's property. A man in his neighborhood works on cars and tries to make a living that way. He may have a number of cars on his property while he makes the necessary repairs. Mr. McCormick asked that Council not to pass the ordinance and penalize this man. He asked the Council to reduce both property taxes and sales tax because people may buy more if they have a reduction in their taxes. If the City wants to pave roads, he suggested they sell the property where the Farmers Market is located and sell the Collins and Aikman property and plow the money into the road project. Larry Eaton, 1409 Housley Drive, agreed with Mayor Buttram's comments regarding keeping the City financially secure. He felt the problem was the Council takes the budget as it was presented instead of reviewing it and looking for ways to cut expenses. He suggested using people that have community service to wash the police vehicles instead of taking those vehicles to the car wash. Mr. Eaton stated he was opposed to a property tax increase and conducting a special election for a sales tax referendum. Mr. Eaton also suggested the City Council conduct their retreats in the City instead of going somewhere else and spending tax dollars. He suggested the City Council ask the City Manager to look at ways to cut the departments budgets. Mayor Davis stated their retreats have been held in the city of Athens ever since she came on the Council in 2008. City Manager Moore stated that since he had been with the City the retreats have been held in the city. Sean Cook, 418 East Madison Avenue, commented on Ordinance No. 1039 concerning the number of vehicles on private property. Mr. Cook stated that he and his wife had five kids and almost all of them are of driving age or will be soon. They have multiple vehicles and his property does not look like junk. He felt that the Council should be focusing on derelict vehicles and targeting those that detract from property values. There are a lot of circumstances he did not feel the Council was considering when passing this ordinance and urged them not to pass it on second reading.

REPORTS

FINANCE DEPARTMENT REPORT

Mr. Michael Keith, Finance Director, presented the Finance Department Report for the month of May 2015. Mr. Keith noted that the Government Accounting Standards Board (GASB) Statement Number 68 on the pension plan will be affecting the City this year. A lot of time had been spent over the last three years working on that statement and also Statement Number 67, which impacted the city last year. Statement Number 68 was related to the defined benefit pension plan, which had been terminated for new employees. The city will be required to keep up with the pronouncements until the plan terminates, which will be when the last employee or their beneficiary passes away. The city continues to be well funded in that plan. The report was accepted as presented.

POLICE DEPARTMENT REPORT

Chief Chuck Ziegler presented the Police Department Report for the month of May 2015. The report was accepted as presented.

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FIRE DEPARTMENT REPORT

Chief Dyer presented the Fire Department Report for the month of May 2015. The report was accepted as presented.

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CONSENT AGENDA

Mayor Davis advised that the following items were discussed during the recent work session and are presented as a part of the Consent Agenda. The recording clerk read the items into the record:

- a.) Approve Athens Utilities Board budget for Fiscal Year 2015/16;
- b.) Approve Resolution No. 2015-15 authorizing the grant and execution of a permanent underground utility easement at or near Cedar Grove Cemetery on White Street to Athens Utilities Board;
- c.) Approve Resolution No. 2015-16 authorizing the acceptance of Byrne Justice Assistance Grant (JAG) Program through the U.S. Department of Justice for Fiscal Year 2015;
- d.) Approve staff's recommendation to declare assorted items as surplus property and authorize trade, public sale or disposal thereof as detailed in memorandum from Matthew Marshall, Director of Purchasing dated May 27, 2015;
- e.) Reappoint Chad Goodin to Recreation Advisory Board, term expires June 30, 2019;
- f.) Reappoint Lou Pascarella to Athens Utilities Board, term expires June 30, 2019;
- g.) Appoint Carey Hicks and Joni Walker to fill vacancies on Keep McMinn Beautiful, terms expire March 6, 2017;
- h.) Appoint Whitney Kimball Coe to fill vacancy on Council Advisory Committee, term expires March 21, 2016.

On motion by Vice Mayor Perkinson, seconded by Council Member Raper, the Consent Agenda as stated above was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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ORDINANCES

ORDINANCE NO. 1038 – SECOND/FINAL READING – PUBLIC HEARING

AN ORDINANCE TO ADOPT A BUDGET AND SET THE TAX RATE ON TAXABLE PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF ATHENS, TENNESSEE, FOR THE FISCAL YEAR JULY 1, 2015 THROUGH JUNE 30, 2016.

The caption of the above-described Ordinance was read by the recording clerk. Mayor Davis opened the public hearing. There being no one present wishing to discuss the Ordinance, Public Hearing was closed. **A motion was made by Vice Mayor Perkinson, seconded by Council Member Raper, to approve Ordinance No. 1038 on Second and Final Reading. A motion was made by Council Member Pelley, seconded by Council Member Burris, to amend the motion to not include a property tax increase, take \$1,200,000 from fund reserves, reduce street paving from \$500,000 to \$250,000, not hire two new Public Works employees, and reduce sidewalk projects from \$50,000 to \$25,000.** Council Member Burris stated he was against a property tax increase because everyone is not going to pay that tax only the property owners. Everyone that comes to the city will pay sales tax. He pleaded with the Council to let the citizens of Athens vote on whether they want an increase in the property tax or

the sales tax. The referendum could be tied to the November 2016 election and it would not cost the City an additional \$20,000 to \$25,000. Vice Mayor Perkinson stated if they waited until November 2016 they would have a commitment of two years of deficit spending which is approximately \$2,000,000. The City had used its reserves for the past four years to fund the budget. Council Member Pelley stated that he had heard only one person speak for a property tax increase and that was Mayor Buttram. He had spoken to dozens of citizens and everyone said no to a property tax increase. He offered his amendment as an alternative. Council Member Raper stated she did not want a property tax. She was going to be retiring shortly and would be on a fixed income so she did not want a property tax increase but felt the community needed it in order to grow. An increase was not something they wanted but something that was needed. Council Member Pelley disagreed with Council Member Raper. He felt that they did not need a property tax increase. There was \$6,200,000 in reserves and taking \$1,200,000 would still leave \$5,000,000 in the reserves. Mayor Davis stated she did not like to propose any tax increase but the City cannot continue to operate on its current revenues. The city of Athens has one of the lowest property tax rates and also one of the lowest sales tax rates for a city with a school system. If the City continues to deplete its reserves to fund its budget, it will eventually affect the City's bond rating. This rating not only affects the City of Athens but also Athens Utilities Board when borrowing money and the interest rate they will pay on the money. Mayor Davis stated that if the bond rating decreased and it amounted to a 1% interest rate increase, it would cost the City an additional \$744,803 to borrow what was needed for the schools. City Manager Moore stated this was the first time as a city manager he had to recommend a property tax increase in any community that he had served. It was not an easy decision for him to make the recommendation to increase taxes. They had been discussing for several years the need for some type of revenue increase. In 2012, the schools received a large increase in the budget. It was stated at that time that it would probably necessitate a tax increase in the future. It was stated by one council member that it may be the following year. The city had been very fortunate that it did not happen that quickly. If the Council wanted to fund what they had said they want to fund with the Athens City Schools and at the same time do what needs to be done in the community with the roads and services then they were going to need a new recurring revenue source. One of the council members asked him two years ago how many employees he needed. He responded that he needed ten and was asking for two in the proposed budget for Public Works. City Manager Moore stated he does not do anything without a lot of thought and consultation with his department heads. They had cut approximately \$500,000 from the initial budget requests. The department heads do not ask for frivolous items. They ask for what is needed to do the job for the community. One way to not increase the property tax is to cut services. If they wanted to cut services that were delivered to the citizens of the community, they could do it but he had not heard anyone make that suggestion. As a city manager he would not want to see the Council take that action. At the conclusion of discussion and upon roll call, the motion to amend the motion failed by the following roll call vote:

AYES: Burris, Pelley
NAYS: Raper, Perkinson, Davis

At the conclusion of discussion on the motion and upon roll call, the motion passed by the following roll call vote:

AYES: Raper, Perkinson, Davis
NAYS: Burris, Pelley

ORDINANCE NO. 1039 – SECOND/FINAL READING – PUBLIC HEARING
 AN ORDINANCE TO ADD A CHAPTER 6 TO TITLE 13 OF THE ATHENS MUNICIPAL CODE RELATING TO PARKED OR STORED VEHICLES ON PRIVATE PROPERTY.

The caption of the above-described Ordinance was read by the recording clerk. Mayor Davis opened the public hearing. Paul Pierce, 717 East Madison Avenue, stated as the ordinance was written he would be subject to a \$50 fine. Mr. Pierce stated his yard was as immaculate as any yard in Athens. He has four boats, boat trailer, motorcycle trailer, three cars, lawnmower and tiller in plain view and did not understand what the Council was trying to do by passing the ordinance. Mr. Pierce had no problem with the Council dealing with derelict vehicles but someone needed to look at this ordinance again. Christian Medders, a land surveyor in McMinn County, stated in his opinion the ordinance was poorly written. One of the problems he saw in the ordinance was the wording “private property zoned residential”. There are multiple properties in the city that are zoned residential and are multi-family properties. There are also

several commercial businesses on residentially zoned properties that have more than ten vehicles. Mr. Medders felt that before the ordinance was passed the Council needed to further clarify some items in order for the City to enforce it. His two daughters had Barbie Jeeps that would be classified as vehicles under the definition in the ordinance. Another issue he had was the meaning of an “enclosed building” which needed to be clarified in order for it to be enforced. Mr. Medders stated in his opinion Mr. Priest was the individual who was pushing for the ordinance. He didn’t know Mr. Priest but felt that when Mr. Priest was building his house he would have had to drive past all of the other houses on the street and know it was being overbuilt for the area. In his opinion, Mr. Priest cannot sell his house for the price he wants because it was overbuilt for the area and not because his neighbor has too many vehicles. Mr. Medders urged the Council to read the ordinance and not put it into law and expect staff to enforce the law when it was so poorly written. He asked the Council not to make the entire city have to live by the ordinance because one individual cannot sell his house because it was overbuilt for the area. Michael Maroon stated he owned a great deal of acreage in the city of Athens where he runs a business and farms the land. He wanted to know if the vehicles he used for his commercial business and the farm equipment used to maintain his land were going to be considered vehicles under the ordinance. City Manager responded that in his opinion the way it was defined in the ordinance it meant any vehicle including the farm equipment. Mr. Maroon stated this ordinance would put him into a very bad position because he needs lots of equipment to maintain his farm and operate his business. Sherry Tallent stated she was in the same situation as Mr. Maroon. She owned property that was annexed into the city and she too had a lot of farm equipment. Ms. Tallent stated she would like to see the ordinance reworded to take their situation into consideration. Wayland Budenski stated he agreed the ordinance needed clarification. He asked the Council if upon passage of the ordinance there would be an allotted time for building a structure to house the vehicles as construction could take several months. As there was no one further who wished to speak on the ordinance, the public hearing was closed. **A motion was made by Council Member Burris, seconded by Vice Mayor Perkinson, to table Ordinance No. 1039 and send it back to Work Session.** The motion was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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NEW BUSINESS

APPROVAL OF ATHENS BOARD OF EDUCATION RESOLUTION REGARDING FUND BALANCE AMOUNTS AT YEAR END

A motion was made by Council Member Pelley, seconded by Council Member Raper, to approve Athens Board of Education Resolution regarding fund balance amounts at year end that will be committed or assigned for specific purposes. The motion was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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ATHENS CITY SCHOOLS/CITY OF ATHENS FUNDING AGREEMENT

A motion was made by Council Member Pelley, seconded by Vice Mayor Perkinson, to approve the Athens City Schools/City of Athens Funding Agreement. The motion was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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LOCAL LIQUOR STORE PRIVILEGE LICENSE

Mayor Davis stated she had a letter from City Attorney Trew as he was unable to attend the meeting. He had reviewed all of the notices and sent her his recommendations on those notices. Mayor Davis read City Attorney Trew’s recommendations stating that based upon the

failure of the Applicants to comply with the publication requirements, he recommended that the Athens City Council, at the June 16 meeting, act as follows: A) Regardless of the Order on the Agenda, as Mayor, he recommended she take up the Applications of Blair Leroy Strong, Hiwassee Wine & Spirits, LLC and Jigarkumar Patel first and all at the same time. The publication of Blair Leroy Strong did not contain the required title (RETAIL LIQUOR LICENSE NOTICE) which must be in all capital letters and at least 10 point size. Mayor Davis reminded the Council these were State of Tennessee Alcoholic Beverage Commission regulations and not the City of Athens. Further, the size of the entire Notice was not at least two columns by two inches of newspaper space. Further, Mr. Strong had provided the wrong address for the City of Athens to which persons wishing to be heard on the Certificate may submit their views in writing. The publication of Hiwassee Wine & Spirits did not cover at least two columns by two inches of newspaper space. Further, the Notice did not provide an address for the City of Athens for persons wishing to be heard on the Certificate of Compliance to express their views. The publication of Jigarkumar Patel did not provide an address for the City of Athens for persons wishing to be heard on the Certificate of Compliance to express their views. **A motion was made by Mayor Davis, seconded by Council Member Burris, to recommended that the Athens City Council not convene a public hearing regarding the Application of Blair Leroy Strong, the Application of Hiwassee Wine & Spirits, LLC and the Application of Jigarkumar Patel, and that they deny the Applications based upon the failure of the Applicants to comply with the publication requirements.** Council Member Pelley stated it was important to note that if the City Council did not vote on the Applications at this meeting then the Applications would be automatically approved. The Council needed to either vote them up or vote them down. The motion was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

A motion was made by Mayor Davis, seconded by Council Member Raper, to advise Hiwassee Wine & Spirits, Blair Leroy Strong and Jigarkumar Patel as follows: 1) Each of their Applications for a Certificate of Compliance and a Local Liquor Store Retail License were denied, because each Applicant had failed to comply with the regulation of the Tennessee Alcoholic Beverage Commission which requires a certain public Notice before the Athens City Council can consider the Application for a Certificate of Compliance; 2) The Applications were being denied at this time for a failure to publish the required Notice in the Daily Post-Athenian, and for this reason, any decision regarding any other deficiencies or failures to meet the requirements of TCA Section 57-3-208 for a Certificate of Compliance are not waived, but are reserved, and will not be addressed by the City Council at this time; and 3) Each Applicant must publish the proper Notice in the Daily Post-Athenian before City Council will consider issuing a Certificate of Compliance at any future regular meeting of the Athens City Council and submit a new Application for a Certificate of Compliance. The City will not request nor require an additional Application fee provided the New Application is submitted within the next three months. The motion was approved by the following roll call vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

Mayor Davis opened the public hearing on the Certificate of Compliance for the Heni Corporation. There being no one present wishing to discuss the proposed liquor store, Public Hearing was closed. **A motion was made by Council Member Pelley, seconded by Council Member Burris, to approve a Certificate of Compliance for Heni Corporation.** Upon roll call, the motion was approved by the following vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

ANNUAL TDOT MAINTENANCE CONTRACT

RESOLUTION NO. 2015-17

A RESOLUTION AUTHORIZING THE EXTENSION OF A CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR MAINTENANCE OF STATE RIGHTS-OF-WAY WITHIN THE CITY OF ATHENS.

City Manager Moore stated he had received the proposed contract between the State of Tennessee Department of Transportation and the City of Athens for maintenance on state rights-of-way on June 15, 2015. A copy of his memo had been placed in the Council packets. He explained that this was an on-going contract with TDOT and would cover from July 1, 2015 to June 30, 2016. The contract was to reimburse the City for the upkeep and mowing of the rights-of-way on Highway 305 and Highway 30. It was City Manager Moore's recommendation to approve the contract so it may be in place on July 1, 2015. The caption of Resolution No. 2015-17 was read by the recording clerk. **A motion was made by Council Member Pelley, seconded by Council Member Burris, to approve Resolution No. 2015-17.** Vice Mayor Perkinson inquired about the number of mowings provided in the contract. City Manager Moore stated that contract did not provide for any certain number of mowings. It was based on how often the City could get around to it and because of the limited amount of people and equipment the City generally does about five state mowings a year. Upon roll call, the resolution was approved by the following vote:

AYES: Burris, Pelley, Raper, Perkinson, Davis
NAYS: None

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MANAGER'S REPORT

City Manager Moore presented the Manager's Report. He reviewed the progress of current city projects/meetings scheduled during the months of June/July. The report was accepted as presented.

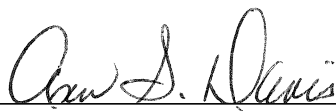
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ADJOURNMENT

There being no further business to come before the meeting and upon motion duly made and seconded, the meeting adjourned at 8:37 p.m.



MITCHELL B. MOORE, City Manager



ANN S. DAVIS, Mayor