

## REGULAR MEETING – DECEMBER 8, 2015

The regular meeting of the Common Council of the City of Marshall was held December 8, 2015 in the Professional Development Room at the Marshall Middle School, 401 South Saratoga Street. The meeting was called to order at 5:30 P.M. by Mayor Byrnes. In addition to Byrnes the following members were in attendance: David Sturrock, Ellayne Conyers, John DeCramer, Glenn Bayerkohler, Larry Doom and Craig Schafer. Absent: none. Staff present included: Ben Martig, City Administrator; Dennis Simpson, City Attorney; Glenn Olson, Director of Public Works/City Engineer; Ilya Gutman, Plan Examiner; Lorna Sandvik, City Assessor; Ray Henriksen, Assistant Fire Chief; Jane DeVries, Deputy City Clerk and Thomas M. Meulebroeck, Finance Director/City Clerk.

The Pledge of Allegiance was recited at this time.

### **APPROVAL OF AGENDA:**

It was the general consensus of the Council that the agenda be approved with the removal of 2016 Liquor Store Budget Proposal and to Consider Joint Powers Agreement for the Regional Emergency Communication Board and also to move consideration of an Ordinance Amending Sec. 86-103 B-2 Central Business District Permitting Self-Storage Warehouses as a Conditional Use Permit - Public Hearing and Adoption of Ordinance to public hearing.

### **CONSIDER APPROVAL OF THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 17, 2015; THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 24, 2015; THE MINUTES OF THE WORK SESSION HELD ON NOVEMBER 24, 2015 AND THE MINUTES OF THE WORK SESSION HELD ON DECEMBER 1, 2015:**

Member (Craig Schafer) moved, Member (Larry Doom) seconded to approve the ORIGINAL motion 'the minutes of the work session held on November 17, 2015; that the minutes of the regular meeting held on November 24, 2015; the minutes of the work session held on November 24, 2015 and the minutes of the work session held on December 1, 2015 be approved as filed with each member and that the reading of the same be waived'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

### **ORDINANCE AMENDING SEC. 86-103 B-2 CENTRAL BUSINESS DISTRICT PERMITTING SELF-STORAGE WAREHOUSES AS A CONDITIONAL USE PERMIT - PUBLIC HEARING AND ADOPTION OF ORDINANCE:**

This was the date and time set for a public hearing on an Ordinance Amending Section 86-103 B-2 Central Business District Permitting Self-Storage Warehouses as a Conditional Use Permit. Glenn Olson, Director of Public Works/City Engineer, indicated that there was a request to allow mini-storage operations on the second floor of one of the buildings in Downtown along West Main Street. Currently, this use is not listed as permitted or conditional use in this district. Generally central business district is intended for government, shopping, and cultural activities. The city staff believes that ministorage use may be added as a conditional use without negatively affecting the district. It would be in everyone's interests to limit locations of such business to floors other than main level only so main street level spaces will still be reserved for retail, restaurants, offices, and similar uses. During the Planning Commission meeting on August 12, 2015, several Planning Commission members expressed some reservations about this change related to fire safety and possible garbage contamination. They requested to table the issue until

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the next meeting and also asked the property owner who initiated this change and a fire department representative to testify. During the Planning Commission meeting on September 16, 2015, Mike Henle, the owner who asked for this revision, said that he would include a condition prohibiting storage of any combustible products into his lease agreement and would also take care of any garbage left outside by renters. Ray Henriksen, First Assistant Fire Chief, also expressed some reservations about this change but it was agreed that owners and main floor renters may and do store things on other floors with no control. It was also explained by Staff that this would be allowed by a Conditional Use permit only so every request for such use will have to go through the standard process of review by the Planning Commission and approval by the Council. Both Planning Commission and the City Council may add any reasonable condition to each individual Conditional Use Permit request to mitigate possible negative impact. The Planning Commission voted for this change with three people voting yes and one voting no. At the meeting on 9-24-15, Legislative and Ordinance Committee voted to recommend to council the approval of amendment to Sections 86-103 B-2 Central Business District by adding “self-storage warehouse on floors other than main level” to (d) Conditional Uses. Two members voted for this recommendation and one member voted against it. The ordinance amending Sec. 86-103 B-2 Central business district by adding “Self-storage warehouse on floors other than main level” to (d) Conditional uses was introduced at November 24, 2015, City Council meeting.

Member (**Larry Doom**) moved, Member (**John DeCramer**) seconded to approve the **ORIGINAL** motion 'close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **NEW** motion 'to adopt ORDINANCE NUMBER 703, SECOND SERIES ordinance amending Sec. 86-103 B-2 Central Business District Permitting Self-Storage Warehouses as a Conditional Use Permit '. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF CONSENT AGENDA:**

Council Member Bayerkohler requested that the AIA Document G704 – 2000 City of Marshall Municipal Liquor Store Agreement with Salonek Concrete & Construction, Inc., of Springfield, Minnesota be removed from the consent agenda.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'that the following consent agenda items be approved'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

The adoption of RESOLUTION NUMBER 4222, SECOND SERIES, which is a Resolution Approving the Terms of up to a \$100,000 Interfund Loan in Connection with Tax Increment Financing (Redevelopment) District No. 1-11.

The proper City Personnel be authorized to enter into the Laredo Agreement with the Lyon County Recorder at the Level I plan at a cost of \$50.00 per month. This agreement provides for electronic access to documents recorded by the Lyon County Recorder's office.

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Consideration of a Joint Powers Agreement for the Regional Emergency Communication Board was removed for the agenda.

The introduction of an ordinance amending Chapter 86 of the Marshall City Code Regarding Planned Unit Development and call for a public hearing.

That the following bills and project payments be authorized for payment: ACCOUNTS PAYABLE, Voucher No. 96328 through 96447.

**CONSIDER AIA DOCUMENT G704 - 2000 CITY OF MARSHALL MUNICIPAL LIQUOR STORE AGREEMENT WITH SALONEK CONCRETE & CONSTRUCTION, INC. OF SPRINGFIELD, MINNESOTA:**

Ben Martig, City Administrator, reviewed the Certificate of Substantial Completion AIA Document G704 - 2000 City of Marshall Municipal Liquor Store Agreement with Salonek Concrete & Construction, Inc. of Springfield, MN. Mr. Martig indicated that the majority of the punch list has been completed and he indicated that \$22,000 retainage is sufficient to complete the remaining items.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'approve AIA Document G704 - 2000 City of Marshall Municipal Liquor Store Agreement with Salonek Concrete & Construction, Inc. of Springfield, Minnesota'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER RESOLUTION ESTABLISHING COMPENSATION FOR THE MARSHALL MUNICIPAL UTILITIES COMMISSION:**

Ben Martig, City Administrator, indicated that there has been discussion on amending the Marshall Municipal Utilities Commission Members compensation for a number of years. The Commission is unique from other City Boards and Commissions as it is a component unit of the City. They exercise the most authority and responsibility of any Board and Commission of the City. They oversee over \$50 million in electric sales per year in a dynamic and ever changing electric power company. Compensation certainly not expected to be a motivation but it is reasonable to consider some fair compensation in consideration of duties, responsibilities and expertise. The City Council and Charter Commission had amended the City Charter last year in preparation of clarification of responsibility of the City Council setting wages. It was suggested a fixed rate that would have automatic inflators of some kind would be pursued.

Member (**John DeCramer**) moved, Member (**David Sturrock**) seconded to approve the **ORIGINAL** motion 'adopt RESOLUTION NUMBER 4223, SECOND SERIES which is a Resolution Establishing Compensation for the Marshall Municipal Utilities Commission'. Upon a roll call vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

**PUBLIC HEARING HELD AT 6:00 P.M. FOR THE PRESENTATION OF PROPOSED 2016 BUDGET AND 2015 TAX LEVY PAYABLE IN 2016:**

This was the date and time set for a public hearing on the 2016 Budget and Levy. Ben Martig, City Administrator, provided a review of the 2016 Budget and Tax Levy. The purpose of this public hearing was to hear any comments from the City Council and from the general public in regard to the proposed budget and tax levy payable in the year 2016. Mr. Martig provided a power point presentation which included:

Proposed Tax Levy; Sample Tax Statements; How Property Tax Rates are Determined; Residential Property Tax Comparison 2015-2016; Commercial/Industrial Tax Comparison 2015-2016; History of Local (Tax Capacity Rates) for City-County-School; City of Marshall Total Tax Capacity Rate; City of Marshall Tax Capacity 2006-2016; General Fund Revenues; General Fund Revenue Comparisons 2014-2016; 2016 Proposed Use of Property Tax Revenue; LGA Payment History; How is my 2016 "City" Tax Dollar (\$1.00) Spent?; General Fund FY 2016 Expenditures; General Fund Expenditure Comparisons 2015-2016; General Fund Expenditure Breakdown by Type 2015 vs. 2016; and a Summary of Budgeted Revenues and Expenditures for the Marshall-Lyon County Library; Economic Development; and Enterprise Funds.

Council Member Bayerkohler was concerned that the contribution from the Liquor Fund to the General Fund will be less in 2016.

Lorna Sandvik, City Assessor, briefly reviewed the increase in taxes for residential area.

Norm Gregerson was concerned with the percent of increase in some commercial properties in the downtown area.

Member (**John DeCramer**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'to close the public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**INTRODUCTION OF ORINANCE CHAPTER 6 AND CALL FOR A PUBLIC HEARING:**

Ben Martig, City Administrator, indicated that the Legislative and Ordinance Committee discussed the proposed change regarding Chapter 6 – Marshall City Ordinance Alcoholic Beverages. There has been some businesses, within the City of Marshall, that have been delinquent on their taxes while having an open liquor license. Some cases have included significant delinquency held through the end of the year and become current at the very end of December in order to be eligible for renewal. Staff suggested changes to require to remain current throughout the year. City Attorney Simpson made revisions to the current ordinance that the city can suspend or revoke liquor license based upon failure of the licensee to pay State or local liquor taxes, real estate taxes and assessments. The City Attorney said right now when the City issues their liquor license in January one of the conditions is that they have to be current on their taxes. Martig stated that the City could have a new Administrative Procedure that would cover the issue if they were 30 days late staff would then notify them. However, staff has added this to the ordinance that is being recommended. Bayerkohler was concerned that by revoking their license because they did or could not pay their taxes, if the City took away their license then

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would it not make it harder for the establishment to pay. Simpson pointed out that the City may revoke so the council could review and decide not to revoke. Bayerkohler conducted some review of other cities including New Ulm, Fairmont and St. Cloud that are similar in nature with some more restrictive. Bayerkohler asked what the City would do after they revoked their license for 60 days and they still don't pay their taxes does the City revoke it again and it goes back to the City Council for review. Doom and Conyers agreed that it should be revoked until the taxes are paid. Staff has amended the ordinance from the L&O meeting to include a 30-day period of which the taxes would be due. This was a discussion at the L&O meeting and felt some leeway would be appropriate during the non-licensing time period. There was also discussion to incorporate language similar to St. Cloud that provided an exception if there were a legal appeal to the related taxes or obligations due. This was also added to the language. This is the introduction of ordinance only.

Member (**Craig Schafer**) moved, Member (**Larry Doom**) seconded to approve the **ORIGINAL** motion 'introduce an ordinance amending Chapter 6 - Marshall City Ordinance Alcoholic Beverages and call for a public hearing'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER APPROVAL OF THE ANNUAL RENEWAL FOR THE ON-SALE INTOXICATING LIQUOR LICENSES, SUNDAY ON-SALE INTOXICATING LIQUOR LICENSES, WINE LICENSES, BREWER TAPROOM LICENSE, 3.2 MALT LIQUOR BEVERAGE ON-SALE LICENSE, 3.2 MALT BEVERAGE OFF-SALE LICENSE, MICRO/SMALL BREWER OFF-SALE LIQUOR LICENSE (GROWLERS) AND TOBACCO LICENSE FOR 2016:**

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'the approval of the On-Sale Intoxicating Liquor Licenses, Sunday On-Sale Liquor Licenses, Wine Licenses, Brewer Taproom License, 3.2 Malt Liquor Beverage On-Sale License, 3.2 Malt Beverage Off-Sale License, Micro/Small Brewer Off-Sale Liquor License (Growlers) and Tobacco License for 2016 contingent upon all requirements being completed'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**ON-SALE INTOXICATING LIQUOR LICENSE (\$4,200 per year)**

American Legion	Applebee's Neighborhood Grill & Bar
Bello Cucina	Eagles Club
El Rancho #2	Gambler
Fuzzy's Bar & Grill	Hitching Post Eatery and Saloon
Ramada	TK's Steakhouse and Pappy's
Varsity Pub	Wooden Nickel

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**ON-SALE INTOXICATING SUNDAY LIQUOR LICENSE (\$200 per year)**

American Legion	Applebee's Neighborhood Grill & Bar
Brau Brothers Brewing	Dickey's Barbeque Pit
Eagles Club	El Rancho #2
Fuzzy's Bar & Grill	Hitching Post Eatery and Saloon
Hunan Lion	Hy-Vee Market Café
Ramada	TK's Steakhouse and Pappy's
Varsity Pub	Wooden Nickel

**TAPROOM (\$250 per year)**

Brau Brothers Brewing

**MICRO/SMALL BREWER OFF-SALE LIQUOR LICENSE – GROWLERS**

Brau Brothers Brewery

**WINE LICENSE (\$800 per year)**

Hunan Lion	Hy-Vee Market Café
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**3.2 MALT BEVERAGE ON-SALE LICENSE (\$250 per year)**

Dickey's Barbeque Pit	Hunan Lion
Hy-Vee Market Café	Mike's Café
SMSU	

**3.2 MALT BEVERAGE OFF-SALE LICENSE (\$90 per year)**

Casey's General Store	Cattoor's
Express Way of Marshall	Freedom Value Center
Hy-Vee Food Store	Hy-Vee Gas Station
La Mexicana	Prairie Pride Cooperative – Ampride West
Wal Mart	

**TOBACCO LICENSE (\$75 per year)**

Casey's General Store	Cattoor's
Express Way of Marshall	Freedom Value Center
Hy-Vee Food Store	Hy-Vee Gas Station
La Young Grocery	Marshall Tobacco Inc.
Prairie Pride Cooperative – Ampride Main	
Prairie Pride Cooperative – Ampride West	
Super America	Wal Mart

**CONSIDER UNDER 21 EXEMPTION FOR LIQUOR ESTABLISHMENTS FOR 2016:**

Thomas M. Meulebroeck, Finance Director/City Clerk, indicated that per Section 6-215 (c), of Ordinance Number 646, Second Series, those establishments that hold a Liquor License from the City may request an exemption under this ordinance if there Liquor Sales are less than 30% of their gross sales.

Member (**Larry Doom**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'to grant the Under 21 Exemption to Applebee's, Hitching Post, and TK's Steakhouse & Pappy's as per Ordinance Number 646, Second Series, Section 6-215 (c)'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER ADOPTION OF RESOLUTION ACCEPTING DONATION OF PERSONAL PROPERTY FOR THE MARSHALL FIRE DEPARTMENT:**

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'the adoption of RESOLUTION NUMBER 4224, SECOND SERIES Accepting the Donation of Personal Property for the Marshall Fire Department'. These donations will be used for equipment for the Fire Department. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**AIRPORT CAPITAL IMPROVEMENT PROGRAM (5-YEAR CIP):**

Glenn Olson, Director of Public Works/City Engineer, reviewed the proposed 5-Year Capital Improvement Program (2017-2021) submission to Mn/DOT Aeronautics. At their meeting on December 1, 2015, the Airport Commission unanimously recommended approval of the 5-year CIP. In the 5-Year CIP, the first two years of the CIP are intended to be fairly accurate for commitment for local funding. The items three or more years out are intended to be planning proposals to provide information to Mn/DOT-Aeronautics and the FAA as to what the local community needs may be. The major CIP items are related to runway improvements and equipment purchases. There is a possibility that the "New Business Hangar Site" will be requested in 2017 rather than 2018, as the City is discussing a need for a new hangar with a local business.

Member (**David Sturrock**) moved, Member (**Larry Doom**) seconded to approve the **SUBSTITUTE** motion 'that the Council approve the submission of the 5-Year Capital Improvement Program (CIP) to Mn/DOT-Aeronautics as recommended by the Marshall Airport Commission to Mn/DOT-Aeronautics with the New Business Hangar Site being moved from 2018 to 2017'. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**PROJECT Z28: NORTH 5TH STREET / PLEASANT AVENUE RECONSTRUCTION PROJECT – CONSIDER RESOLUTION AMENDING ASSESSMENT ROLL:**

Glenn Olson, Director of Public Works/City Engineer, indicated that on April 22, 2014, the City Council awarded the contract for Project Z28: North 5th Street / Pleasant Avenue Reconstruction Project. That project consisted of the reconstruction of streets and utilities on North 5th Street from West Marshall Street to Pleasant Avenue and Pleasant Avenue from North 5th Street to North 6th Street. Items included in the project are sanitary sewer, watermain and storm sewer replacement, curb and gutter, sidewalk reconstruction, bituminous surfacing, aggregate base,

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grading and other minor work. On September 22, 2015, the Marshall City Council adopted the assessment roll (Resolution Number 4195, Second Series) after the public hearing. On December 2, 2015 City staff met with Eve Wyffels, the property owner of 406 N. 5th Street (Parcel 27 825004 0). After analysis of the assessment, it was determined that the property should not have been assessed for 6" Sidewalk. The removal of this item results in a decrease to the assessment on the property in the amount of \$427.75 and revises the total assessment to this property from \$4,882.79 to \$4,455.04.

Member (**John DeCramer**) moved, Member (**Craig Schafer**) seconded to approve the **ORIGINAL** motion 'that the Council adopt RESOLUTION NUMBER 4225, SECOND SERIES, which is the Resolution Amending Assessment Roll for Project Z28: North 5th Street / Pleasant Avenue Reconstruction Project'. This resolution reduces the assessment for Parcel No. 27-825004-0 from \$4,882.79 to \$4,455.04. Upon a roll call vote being taken, the vote was: Aye: 7 Nay: 0. The motion **Carried 7 - 0**

**CONSIDER AWARD OF PROPOSAL FOR AUDIT SERVICES:**

Proposals were received for Audit Services for 2015 through 2018 from:

Conway, Deuth & Schmiesing, PLLP Litchfield, Minnesota \$188,475	Abdo, Eick & Meyers Mankato, Minnesota \$170,475	berganKDV St. Clout, Minnesota \$157,800
Clifton-Larson-Allen Baxter, Minnesota \$160,600	Redpath & Company St. Paul, Minnesota \$190,000	

Thomas M. Meulebroeck, Finance Director/City Clerk, reviewed the proposals, which included their fees, the number of hours by staff to perform the service, comparable Cities and the qualifications of the staff. The City of Marshall has in the past utilized the auditing services from three (3) of the five (5) firms submitting proposals. Abdo Eick & Meyers LLP (Abdo) has provided the auditing service to the City of Marshall for the past 8 years. The City has a number of projects in process at this time and with Abdo's knowledge of these, the qualifications of their staff, the wide range of other comparable City's they provide auditing services for, and their accessibility to the City (that is in staff and location) are valuable in renewing the contract with Abdo. Staff strongly recommends awarding the contract for services with Abdo, Eick & Meyers. The recommendation is upon full review of detailed proposals with consideration of the following: price; experience; implementation of financial recommendations of AEM Financial solutions; and an added emphasis on managing the transition of the retirement of the Finance Director/City Clerk. Staff anticipates that there should be significant stability at the end of the four year contract where there would be a good opportunity for consideration of a more thorough review and consideration at that time. This was reviewed by the Ways and Means Committee.

Member (**Larry Doom**) moved, Member (**Ellayne Conyers**) seconded to approve the **ORIGINAL** motion 'that the contract for auditing services for the City of Marshall be awarded to Abdo, Eick & Meyers LLP for 2015 through 2018 in the amount of \$170,475'. Upon a roll call



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vote being taken, the vote was: Aye: 6 Nay: 1. The motion **Passed 6 – 1** with Bayerkohler voting no.

**COMMISSION/BOARD LIAISON REPORTS:**

Byrnes No report.

Schafer Library Board interviewed two candidates for the new Director position.

Doom EDA met at noon on December 8<sup>th</sup>.

Bayerkohler Public Housing Commission will meet on December 14<sup>th</sup>; Planning Commission will meet on December 9<sup>th</sup>.

DeCramer Utilities Commission will meet on December 16<sup>th</sup> and finalize their budget; Ways and Means item was acted on earlier in the meeting.

Sturrock Airport Commission reviewed the 5-year CIP for the Airport.

Conyers Community Services Board met on December 2<sup>nd</sup>.

**COUNCILMEMBER INDIVIDUAL ITEMS**

Council Members indicated that there is a lot of activity on the Saratoga Bridge. There is a concern on the Saratoga Street turn lane markers. DeCramer indicated that the City Hall Renovation Project is on the pending Council Agenda list.

**CITY ADMINISTRATOR:**

Ben Martig, City Administrator, indicated that he is recommending that the work session scheduled for this evening be rescheduled for December 15, 2015 at 5:00 P.M. Open House will be held at the Liquor Store on Friday, December 11, 2015 and Saturday, December 12, 2015. Other items included: snow removal process for the pedestrian bridge.

**DIRECTOR OF PUBLIC WORKS**

Glenn Olson, Director of Public Works/City Engineer, provided an update on the bike path through the fairgrounds property and along the railroad tracks. He also indicated that the City should keep the Legacy Grant in place and file for a Federal Grant to keep the Legacy Grant in place for the next 2 years.

**CITY ATTORNEY:**

The auction for the old Liquor Store is scheduled for February 12, 2016. He indicated that if there is not sale then there is no commission for the auctioneers. Market Street Mall Project documents are being redone.

**PENDING ITEMS:**

There were no questions on the pending items.

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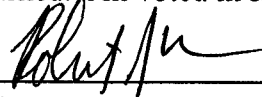
**INFORMATION ONLY:**

There were no questions on the information items.

**UPCOMING MEETINGS**

There were no questions on the upcoming meeting list.

Doom moved, Sturrock seconded, the meeting be adjourned. All voted in favor of the motion.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
Finance Director/City Clerk