

City Council
Regular Meeting
May 14, 2002

The City Council of the City of Titusville, Florida met in regular session in the Council Chamber of City Hall, 555 South Washington Avenue, on Tuesday, May 14, 2002 beginning at 6:35 p.m.

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Present were Mayor Ron Swank, Vice-Mayor Jeff Rainey, and Council Members Ken Ward and Conrad Eigenmann. Council Member Chris Broome arrived at 7:10 p.m. Also in attendance were City Manager Tom Harmer, City Attorney Dwight Severs, and City Clerk Karan Rounsavall.

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Mayor Swank called the meeting to order and invited Reverend Dale Aubrey of First Church of the Nazarene to give the invocation. The Titusville Police Department Honor Guard presented the Colors. The entire assembly recited the Pledge of Allegiance to the Flag. Mayor Swank presented a proclamation declaring the week of May 12 – 18 as National Police Week and May 15, 2002 as Law Enforcement Memorial Day to the Police Department. Police Chief Frank Ross announced an open house at department headquarters on May 15, 2002.

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Vice-Mayor Rainey moved to table approval of minutes for the regular meeting April 23, 2002 until the following meeting. Member Ward seconded the motion and it carried unanimously.

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Presentations Mayor Swank presented a proclamation declaring May 23 – 27 as “*Poppy Days*” to representatives of American Legion Auxiliary Unit One of Titusville.

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Member Linda Haas presented the semi-annual report for the North Brevard Library District Board highlighting summer activities planned at the library.

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Consent Agenda Prior to receiving a motion, it was noted that Item K, being an interlocal agreement with Kiwanis Club addressing ownership of the Titan rocket was moved to New Business. Item L, being an interlocal agreement with the Brevard County School Board dealing with location of the Titan rocket, was withdrawn from the agenda. Nelly Strickland commented on the Florida Department of Transportation agreement for median landscaping and irrigation. She pointed out the over spray of irrigation sprinklers on U.S. Highway One and felt this situation should be corrected as part of the agreement. As to Item G, being advisability to increase residential density in the Central Business District (CBD) zoning classification, Member Ward pointed out that a conditional use was required for residential uses in this zoning district. He did not want his action to be misinterpreted. Member Eigenmann had similar feelings.

Member Eigenmann moved to approve Items A, B, C, D, E, F, G, H, I, J, and M in accordance with the following recommendations:

A. Incentive bonus payouts for Fiscal Year 2001 to marina manager and dock master in the amounts of \$10,000 and \$5,000 respectively. Recommendation: Authorize payouts as stated with funds available in Marina Fund Working Capital.

B. Amendment to interlocal agreement with City of Cocoa relating to perpetual purchase of potable water by reducing minimum guaranty from 1.0 million gallons per day (mgd) to .5 mgd over a five-year period; reducing projected average consumption from 3.0 mgd to 1.5 mgd; and reducing impact fee payments by \$45,283 annually and reducing balloon payment by \$4,301,884 should Titusville exercise its option to extend the agreement. Recommendation: Authorize execution of amendment to interlocal agreement with City of Cocoa dated April 12, 1994.

C. Cost share agreement with St. Johns River Water Management District for receipt of \$83,600 in grant funds for Garden Street Stormwater Basin Improvement Project. Recommendation: Authorize execution of cost share agreement to provide grant funding for project design, surveying and bid documents associated with the Garden Street Stormwater Basin Improvement Project.

D. Agreement with Trucks and Parts of Tampa for rental of two grappler trucks for Solid Waste Division at an estimated cost of \$32,000 for four months with funds available in Solid Waste Working Capital Fund. Recommendation: Authorize execution of rental agreement with understanding that 50 percent of rental cost would be applied toward purchase in the event the capital outlay request for Fiscal Year 2002/2003 was approved and the trucks performed satisfactorily.

E. Fixed assets to be disposed of at quarterly consignment auction on May 19, 2002. Recommendation: Approve list of fixed assets as presented.

F. Resolution No. 20-2002 authorizing Local Agency Program agreement with Florida Department of Transportation for median landscaping and irrigation system project on State Road 50 between Barna Avenue and U.S. Highway One. Recommendation: Adopt resolution authorizing city manager to execute agreement.

G. Advisability to proceed with amendment to *Land Development Regulations* increasing residential density in Central Business District (CBD) from 15 to 25 units per acre as requested by Attorney John Evans on behalf of Harbor Towne of Titusville, Inc. Recommendation: Direct staff to research advisability of increasing density in CBD zoning districts. First public hearing scheduled for July 9, 2002 and final public hearing on July 23, 2002.

H. Advisability to proceed with amendment to Section 12-2 of *Code of Ordinances* to permit discharge of firearms for businesses providing outdoor/indoor activities within a controlled environment. Recommendation: Direct staff to proceed with amendment. Public hearing scheduled for June 11, 2002.

I. Award bid for repair and replacement of "B" and "C" docks at Titusville Municipal Marina damaged by Hurricane Irene in 1999 to Saturn Builders of Brevard for \$484,453 and authorize budget amendment to transfer insurance proceeds - \$225,000; Federal FEMA Grant -

\$225,000; State FEMA grant - \$37,500; and Marina Fund Current Year Working Capital - \$37,500 into project account. Recommendation: Award bid as recommended.

J. Authorize transfer of conservation easement in The Sanctuary Section One (specifically a 100-foot strip on the eastern boundary of the subdivision) back to the developer. Recommendation: Authorize transfer of easement to Sonny Arnoff, who in turn, would deed the preservation area to St. Johns River Water Management District.

M. Payback agreement with Oak Park of Titusville, Inc. for installation of reuse line along Helena Drive to serve The Sanctuary Section Two. Recommendation: Authorize execution of payback agreement with Oak Park of Titusville, Inc.

Member Ward seconded the motion and roll call was:

Mayor Swank	yes
Member Ward	yes
Member Eigenmann	yes
Vice-Mayor Rainey	yes

The motion carried.

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Petitions and Requests from the Public Present Joan Wheeler asked for clarification of Ordinance No. 23-2001 waiving annexation-related fees through September 30, 2003. Specifically, if an individual did not sign a water service agreement during this time frame, would they have to pay these fees later? Attorney Severs responded that annexations were processed on a voluntary basis; if a property owner did not sign an agreement, they would not be annexed. Ms. Wheeler had further questions about enclaves and referendum elections to annex property. It was suggested that she speak privately with the city attorney.

Nelly Strickland questioned the legality of council's directive to remove five acres at Marina Park from the city's agreement with Brevard County Parks and Recreation. She expressed concern with the manner in which the Vector Works proposal was being handled and alluded to the unavailability of the city manager, to activity outside the Sunshine Law and to deliberate misfiling of documents. She had asked Brevard County Commissioner Truman Scarborough to put this item on the Commission's May 21st agenda. Mayor Swank refuted several of her statements relating to the Sunshine Law and the city manager's activities.

Michael Gaich thanked current and past councils and staff for their cooperation and assistance over the years to accomplish the sale of the McDonnell Douglas site. The property was sold to Knight Enterprises and represented a major building block in the economic growth of North Brevard's residential, commercial, and industrial marketplace.

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Ordinances – First Reading Attorney Severs read ORDINANCE NO. 19-2002 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTIONS 21-241(a)(2) AND 21-241(b)(2) BY AMENDING AND MODIFYING THE WATER AND SEWER SERVICE AVAILABILITY CHARGES AND RATES FOR MASTER METERED MULTI-FAMILY RESIDENTIAL CUSTOMERS; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 20-2002 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 47-331 AND 47-332 OF THE *LAND DEVELOPMENT REGULATIONS* BY AMENDING AND MODIFYING WATER AND WASTEWATER IMPACT FEES AND PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 21-2002 AMENDING ORDINANCE NO. 5-1993 OF THE CITY OF TITUSVILLE, FLORIDA BY AMENDING THE ZONING MAP MADE A PART OF SAID ORDINANCE BY REFERENCE BY CHANGING PROPERTY LOCATED AT 3205 SOUTH WASHINGTON AVENUE FROM ITS PRESENT PUBLIC USE (P) AND SHORELINE MIXED USE (SMU) CLASSIFICATIONS TO SHORELINE MIXED USE (SMU) CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 22-2002 OF THE CITY OF TITUSVILLE, FLORIDA AMENDING THE CODE OF ORDINANCES BY AMENDING ORDINANCE NO. 60-1988 WHICH ADOPTED THE COMPREHENSIVE PLAN OF THE CITY, BY AMENDING THE VARIOUS ELEMENTS OF SAID PLAN AND MAPS BY AMENDING THE FUTURE LAND USE MAP BY CHANGING THE FUTURE LAND USE OF A 50-FOOT STRIP OF PROPERTY LOCATED ON THE WEST SIDE OF RIVEREDGE DRIVE JUST SOUTH AND JUST WEST OF 5402 RIVEREDGE DRIVE FROM PLANNED INDUSTRIAL PARK TO SHORELINE MIXED USE LAND USE; AMENDING THE FUTURE LAND USE MAP TO ANNEX CERTAIN PROPERTIES LOCATED AT 5415 AND 5421 RIVEREDGE DRIVE WITH A SHORELINE MIXED USE LAND USE CLASSIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE and

ORDINANCE NO. 23-2002 OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 7, OF CHAPTER 63-2001, LAWS OF FLORIDA, SPECIAL ACTS OF 1963, BY ANNEXING CERTAIN PROPERTY LOCATED AT 5415 AND 5421 RIVEREDGE DRIVE ON THE EAST AND WEST SIDE OF RIVEREDGE DRIVE TO BE INCLUDED WITHIN THE CITY LIMITS; DESIGNATING LAND USE CLASSIFICATION; PROVIDING ZONING CATEGORY; AND PROVIDING FOR AN EFFECTIVE DATE the first time by title only.

Second reading and public hearing were scheduled for May 28, 2002.

Rose Easley questioned the appropriateness of condominiums on Riveredge Drive. This was a dead-end road and she was concerned about speeding traffic as well as the potential for frequent turnover in ownership of condo units. The public hearing was scheduled for May 28, 2002.

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The meeting recessed at 7:28 and reconvened at 7:40 p.m.

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Old Business The first item was a Small Area Study on Riveredge Drive prepared by the city's Planning Staff. Portions of this road were within the city limits and others were in Brevard County's jurisdiction. There was a mix of residential, commercial, and other uses thereon. In addition, there were recent requests to annex and develop several vacant parcels. City Manager

Harmer advised that a similar request to prepare a small area study of this area was presented to Brevard County. He recommended that this item be tabled pending receipt of the County's comments.

Attorney Severs advised of the applicability of quasi-judicial proceedings and disclosure of ex parte communications relative to this item. As a general rule, he discouraged council members from participating in discussion on a land-use related item outside of a public meeting.

Individual council members disclosed communications with residents and other interested individuals. Member Ward had discussed development of Riveredge Drive with many residents and potential developers. Roger Molitor was a previous client who recently submitted a request for a land use change in the area. His discussions were of a general nature and not focused on a particular project. The council member had not made up his mind one way or another.

Member Broome made similar disclosures. He had spoken with Laura Ward and Jim Hildebrand concerning zoning along Riveredge Drive. At this point he was not prejudiced and kept an open mind. Member Eigenmann was likewise contacted by numerous residents of Riveredge Drive. He had not made up his mind. Mayor Swank met with Laura Ward and spoke with Sam Ackley. He was not swayed one way or another. Vice-Mayor Rainey had spoken with several citizens. To his recollection, however, he had not spoken with a developer.

Council heard from several residents as to their desire to preserve the neighborhood residential character of Riveredge Drive. Claudette Beggs lived on Riveredge Drive and pointed out that it was a dead-end road and off the beaten path. She felt that if uses other than single-family residential were allowed, it would attract uncaring visitors.

Laura Ward distributed an aerial map showing the existing and proposed development on Riveredge Drive. She saw the potential for approximately 60 multi-family residential units on undeveloped property and wondered if this was really the place for maximum density.

Jim Hildebrand urged council to consider the environmental impacts of large developments on the lagoon. Patty Mooney was concerned about height restrictions. She felt that three story structures would blend well with existing homes. Residents felt that density should be capped at six units per acre. She also expressed concern about the combining of projects and urged council to do what was right for the residents and keep safety in mind.

Tom LaForge had lived on Riveredge Drive for ten years. He wanted neighbors, not strangers in the area. Vikki Weinberg had lived on Riveredge Drive for 18 years and opposed Shoreline Mixed Use (SMU) zoning in the area. She liked her quiet neighborhood and preferred to have year-round residents.

James Furlong proposed to develop condominiums at the southern end of Riveredge Drive. He understood the residents' concerns. There would be a condominium association that would govern the use of the property.

Darrell Bushard urged council to study the area before making a decision as to proper zoning. Adam Hencin stated that residents had a lot of pride in their neighborhood and spoke to the area's potential.

Member Eigenmann moved to table this item to the May 28th meeting in order that planning staff could work with Brevard County to jointly prepare a small area study for Riveredge Drive.

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Human Resources Director Connie Collins presented an action plan for stabilizing the City's Group Health Insurance Fund. For the first six months of the fiscal year, the plan averaged a shortfall of \$166,557 per month. Projecting this utilization over the balance of the fiscal year, it was estimated that expenditures would exceed income and reserve balances in the group health fund by approximately \$600,000. Ms. Collins pointed out that the city's health plan was self-insured and it had been ten years since the last premium increase. The plan was no longer able to absorb medical inflation costs. At this time, a 20 percent premium increase was proposed along with increased deductibles and out-of-pocket maximums, and increased co-pays. By staggering the effective dates of some of the plan changes, Ms. Collins hoped to be able to reduce the projected deficit by approximately \$114,500. Ms. Collins also stressed the fact that the proposed changes only addressed the fund's ongoing expenses and did not address depleted reserves. Staff would carefully monitor the effects of the premium increase and benefit changes throughout the remainder of the fiscal year; if they were insufficient to stabilize the group health plan, staff would make further recommendations as to premiums and modified benefits. Ms. Collins went on to review the impact of the premium increases on different insurance coverages (e.g. employee & child, employee & spouse, and employee and family). The city would continue to provide 100 percent paid coverage for the employee.

Member Eigenmann stated that this fund previously enjoyed a substantial reserve balance, however, extreme medical cases and inflation jeopardized its stability. He was concerned about the fact that the recommended action did not address rebuilding reserves and was of the opinion that the issue would need to be addressed again in the near future.

Vice-Mayor Rainey knew that the answers were not easy and appreciated staff's efforts to keep expenses under control. He was committed to these premium increases and benefit modifications not eating up employee raises in the fall. These were hard issues. He moved to accept proposal D which included a 20 percent premium increase effective October 1, 2002, increased deductibles from \$200 to \$300 per person (three person maximum) and increased out-of-pocket maximums from \$1,000 to \$2,000 effective January 1, 2003, and increased copays for physician visits, prescriptions, diagnostic tests effective July 1, 2002. Member Eigenmann seconded the motion and it carried unanimously.

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At its May 14, 2002 meeting council heard from Glenn Perez, representing Oak Park Elementary and Madison Middle School, requesting funding for local students' participation in Odyssey of the Mind national competition in Boulder, Colorado. Council directed Mr. Perez to return to this meeting with a report on a specific amount needed. Mr. Perez advised that the schools were successful in meeting their fund-raising goals and would not need financial assistance from the City. He went on to thank council for its support and advertising efforts on the government access channel.

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Council was in receipt of an updated map depicting acceptable parking areas for recreational vehicles along Titusville's riverfront during Space Shuttle launches. Planning Administrator Keith Cunningham explained that parking was generally allowed along the riverfront except in those areas that were specifically designated as no parking areas. The referenced map was an exhibit to Section 12-13 of the *Code of Ordinances*.

Individual council members expressed concern with enforcement. In their opinion, this map was still somewhat vague. Mayor Swank asked about the selling of parking spaces on private property. Would it be possible to develop some type of minimal fee for this type of business activity to be certain that it was the property owner or his designee actually charging for parking? City Manager Harmer mentioned that this situation was not unique to Titusville and he would be glad to look into it.

Council asked that the map be expanded once again to provide a clearer explanation of parking restrictions, etc.

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The meeting recessed at 8:45 and reconvened at 8:48 p.m.

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Petitions and Requests from the Public Present Patricia Mooney suggested that Planning and Zoning Commission meetings be rebroadcast or videotaped. She attempted to obtain a copy of the May 8th Planning and Zoning Commission meeting to review the discussion on Riveredge Drive and was advised that no video copy was available and the audio tape was, for the most part unintelligible. City Manager Harmer would look into claims of a garbled audio tape and report back on provision of video tapes. This was a service-level issue.

Laura Ward advised that, in the past, several residents on Riveredge Drive inquired as to annexation but chose not to proceed because of the cost involved (e.g. tap-on fees, sewer line pay-back fees, annexation fees, etc.). She asked for information as to the designation of Riveredge Drive (i.e. local or collector street) and what type of road designation was required for Shoreline Mixed Use (SMU) development.

Jim Hildebrand and Tom LaForge also commented on planned development for Riveredge Drive.

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New Business The only item was a response to Brevard County on a proposed ordinance addressing landscaping and land-clearing activities relating to the eradication of certain invasive, noxious plants. Public hearing before the County Commission was scheduled for May 21st. Council shared many of the concerns noted in the planning staff report and had questions about enforcement issues. What was the additional staff burden to determine whether or not the development occurring within the city was eradicating these noxious species?

Member Eigenmann moved to direct staff to request that Brevard County Commission defer adoption of its proposed ordinance pending clarification of enforcement issues, etc. Member Ward seconded the motion and it carried unanimously.

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The only deferred item under Consent Agenda was an interlocal agreement with Kiwanis Club of Titusville addressing temporary ownership of the Titan rocket during renovation initiatives. The revised agreement made several scrivener's corrections and clarified that ownership of the rocket would revert to the City after completion of the renovation project to the Kiwanis's and City's mutual satisfaction. Member Eigenmann moved to authorize execution of the revised agreement. Vice-Mayor Rainey seconded the motion and it carried unanimously.

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Boards and Commissions There were two alternate member vacancies on the Titusville Environmental Commission. Member Broome nominated Kathryn Juarez and Alfonso Gutierrez for terms expiring November 2003 and November 2004 respectively. There were no other nominations. Ms. Juarez and Mr. Gutierrez were appointed by acclamation.

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Vice-Mayor Rainey moved to accept the semi-annual report submitted by the Titusville Housing Authority. Member Eigenmann seconded the motion and it carried unanimously.

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Mayor and Council Reports Mayor Swank provided a written report on his activities since the last meeting. Member Ward moved to approve the mayor's correspondence to the Ethics Commission on behalf of Jim Treder requesting a waiver of the fine for failure to file financial disclosure in a timely fashion. Member Broome seconded the motion and it carried on an all yes vote.

Member Eigenmann then moved to approve the mayor's correspondence to the Republic of Moldova responding to its request for donation of vehicles. Member Ward seconded the motion which carried unanimously.

Vice-Mayor Rainey thanked council and staff for its expressions of sympathy upon his mother's death.

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City Manager's Report Council acknowledged receipt of the manager's written report. City Manager Harmer went on to provide an update of the May 13th meeting of the Titusville-Cocoa Airport Authority. It recorded a four to three split vote in favor of removing the questioned runway from its master plan subject to several conditions, including statement of support for extending the north/south runway to 9,000 feet; adoption of land use designations for Flagler property as proposed by Ben Jeffries; provision of helicopter corridor; and adoption of airport overlay regulations. He appreciated council's support in working through these challenging issues.

The North Brevard Parks and Recreation Commission recommended that the building at Wuesthoff Park be named in memory of Homer Powell, a long-time member of the Commission.

Vice-Mayor Rainey moved to support the recommendation. Member Eigenmann seconded the motion and it carried unanimously.

Council concurred with the city manager's letter to the Republic of Moldova advising that Titusville's sister city program was in an inactive status, however, suggested changes to its tone.

Staff recommended flexibility as to receipt of semi-annual reports from boards, allowing the individual boards the discretion of providing either a written or verbal report. Member Eigenmann moved accordingly. Vice-Mayor Rainey seconded the motion and it carried.

City Manager Harmer read the names of employees receiving letters of appreciation: Management Information Systems – Rick Roberts; City Clerk's Office – Judy Renaud; Police Department – Karen Hooker, Barry Williams, Daedra Andis, Dave McCourt, Alexia Ferran, Marie Hall, David Butler, Jeanne Van Zandt, Rick Lanoue, Irene Lloyd, Kevin Hickey, Tony Bollinger, and Tom House.

The city manager reported on Titusville's performance in the Annual Trash Bash sponsored by Keep Brevard Beautiful (KBB). He also advised that KBB and TEAM Titusville were sponsoring a beautification project at Space View Park on May 18, 2002.

Member Broome moved for ongoing support for the city's grants coordinator to assist the Tourist Development Council in preparing grant applications for the birding festival and Space Fest. Vice-Mayor Rainey seconded the motion and it carried unanimously.

City Manager Harmer advised he would be attending the Florida City and County Management Association's annual conference May 21 –25. Police Chief Frank Ross would be acting city manager.

Member Eigenmann congratulated the city manager on his graduation from Leadership Brevard.

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City Attorney's Report Attorney Severs requested council's authorization to proceed with the sale of the south 20 feet of Lot 6, Block 1 of Read & Allen Subdivision to Park Villas Associates, Ltd. for \$1,000. This property was necessary for access to a proposed 160-unit apartment complex. Member Broome moved to waive existing policy and proceed with the sale as recommended. Vice-Mayor Rainey seconded the motion and it carried unanimously.

The city attorney advised that the Florida League of Cities invited Titusville to join in as a named party in litigation challenging the Division of Retirement's interpretation as to the use of tax premium monies for the purchase of "extra benefits" for police and firefighter pension plans. Council took no action.

Member Eigenmann moved to authorize the city attorney to file an appeal to the judge's decision denying challenges to proposed manatee zones. The appeal would be filed before May 17th. Vice-Mayor Rainey seconded the motion and it carried on an all yes vote.

City Attorney Severs responded to Member Broome's question about ongoing litigation with the Great Outdoors involving reuse water.

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The meeting adjourned at 9:53 p.m.

Ronald G. Swank, Mayor

ATTEST:

Karan J. Rounsavall, City Clerk