

**CITY COUNCIL SPECIAL SESSION  
CITY COUNCIL CHAMBER CONFERENCE ROOM  
MONDAY, MARCH 18, 2013**

**CALL TO ORDER:**

Deputy Mayor Kahle called the meeting to order at 5:03 p.m. Councilors present were Sweeney, Hildner and Mitchell. Mayor Muhlfeld and John Anderson both arrived at 5:15 p.m. City Staff present were City Manager Stearns, City Attorney VanBuskirk and Assistant City Clerk Woodbeck.

**INTERVIEWS FOR APPLICANTS**

Council conducted an interview with Ryan Purdy who is applying for the Whitefish Community Wastewater Committee for the Lazy Bay area.

**PUBLIC COMMENT**-None.

**APPOINTMENT**

Councilor Mitchell offered a motion, seconded by Councilor Kahle to appoint Ryan Purdy to the Whitefish Community Wastewater Committee. The motion passed unanimously.

**ADJOURN**

Duty Mayor Kahle adjourned the special session at 5:21 p.m.



Deputy Mayor Kahle



Assistant City Clerk Woodbeck

March 18, 2013

**WHITEFISH CITY COUNCIL MINUTES**

**March 18, 2013**

**7:10 P.M.**

**1. CALL TO ORDER**

**Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Sweeney, Hildner and Hyatt. Councilor Kahle was seated at 7:25. Councilor Anderson was seated at 7:50 p.m. Staff present were City Manager Stearns, Assistant City Clerk Woodbeck, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Planning and Building Director Taylor, Senior Planner Compton-Ring, Public Works Director Wilson, Parks and Recreation Director Cozad, and Police Chief Dial. Approximately 8 people were in attendance.**

**2. PLEDGE OF ALLEGIANCE**

**Mayor Muhlfeld asked Greg Schaffer to lead the audience in the Pledge of Allegiance.**

**3. COMMUNICATIONS FROM THE PUBLIC**–(This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Greg Shaffer, an employee at Don K, said he wrote a letter about a portion of the Sign Ordinance that he would like to see revised. He was going to bring the mannequin to the meeting, but it isn't about the mannequin, it is about the Sign Ordinance. He said it needs to be more business friendly and cognizant of the changing business environment. He said he commutes from Somers and sees all the changes that are happening. He thanked Attorney VanBuskirk for her help. He thanked Phil, the enforcer of the Sign Ordinance and Manager Stearns. He is frustrated because Don K has brought a lot of money and time into the City, but this is his first run at coming before the Council. The mannequin decision came down to the sole discretion of the City Manager. Whitefish just lost the Quick Lube on Highway 93. He was interviewing an employee who worked at a Quick Lube in another city and their business has doubled. That means people are going outside of Whitefish to get their oil changed. He said the mannequin and sign were intended to let people know that Don K's business does oil changes. He said the traffic is going 45 mph and the right-of-way is better than 30 feet, so in order to attract and educate people you have to have signs to let them know what you offer. He said the temporary Sign Ordinance allows many sign decisions up to the discretion of the City Council. He said with the changing of the City and with growth and the deep right-of-ways and faster traffic, businesses need new means of advertising and creative marketing. He said it is time for the Council to revise the Sign Ordinance. He suggested a committee with business owners and residents of the community. He said 4-5 years ago he listened to woman brag about how she got the Sign Ordinance together and the sad thing was that she doesn't live here or do business here anymore. He said their employees count on them to generate their incomes. He said the Sign Ordinance is 4-5 pages on how a business can't attract customers. He would suggest a committee and perhaps, different districts. He said the City has to become more business friendly. He said Don K spent \$7 million to bring major franchises into Whitefish and they can't use most of the manufacturer's point-of-purchase materials. He asked them to make a change in the Sign Ordinance. He said he would be the first to volunteer for the committee.

Mark Svennungsen, Lion Mountain, said the articles in the Interlake were not done right. The highway construction is west. He said he would like to see underground utilities. Director Wilson said the \$287,000 extra fee is from Cow Creek out to the railroad tracks. Mark Svennungsen said he would hope they would make underground utilities mandated by the City for City projects. Mayor Muhlfeld clarified the Highway 93 West utilities will be underground.

#### **4. COMMUNICATIONS FROM VOLUNTEER BOARDS**

Jan Metzmaker, 915 Dakota Avenue, said WCVB will be bringing the marketing plan in April. She said the Amtrak promotion ended with \$215,000 and 1400 people participating.

Councilor Mitchell asked and Director Cozad said Smith Field will be the recipient of trees for the Arbor Day celebration. Councilor Hyatt asked and Director Cozad said the Park Board meeting overviewed the budget and it will be broken down by project and by area. Councilor Hyatt said they reviewed the fee schedule and the multitude of parks that have come onboard since Director Cozad joined the City.

**5. CONSENT AGENDA**-(The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

**5a. Minutes from the March 4, 2013 Council regular session (p. 28)**

**5b. Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (2<sup>nd</sup> Reading) (p. 40)**

**5c. Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (2<sup>nd</sup> Reading) (p. 42)**

**Councilor Mitchell offered a motion, seconded by Councilor Hildner, to approve the consent agenda. The motion passed unanimously.**

**6. PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

**6a. Continuation of public hearing from February 19<sup>th</sup> - Consideration of a request by Dan Graves on behalf of Winter Sports Inc. for an extension to the Glades preliminary plat, phases 3-13 (p. 47)**

Senior Planner Compton-Ring said at the February 19, 2013 public hearing, staff recommended extending three phases of The Glades preliminary plat. These phases – 4 (development Pod 'P'), 6 & 7 (development Pod 'R') – were identified in the Big Mountain Neighborhood Plan as development areas, while the remaining areas of the original plat were either identified for new uses (Haskill Preserve or the Clinic) or were simply not included as development areas. The applicant, Dan Graves, agreed with

staff's assessment and formally requested a 24-month extension to only those phases, allowing the remaining phases to expire. Please see the attached letter and revised preliminary plat map on page 50.

At the public hearing, Council raised the following concerns/questions:

1. How close is the stream to the development? Specifically Units 56 and 57 and the end of the cul de sac were mentioned.

According to the materials and a 'to scale' drawing, the stream is approximately 70-feet from the closest proposed structure and the cul de sac. The current Water Quality Protection regulations require a 100-foot buffer that can be averaged over the project, but can be no less than 50-feet. Even though this particular project pre-dates the WQP regulations, the project appears to meet this standard.

2. Is the Council being asked to abandon the Neighborhood Plan?

No, the Neighborhood Plan was a cooperative planning process between the City, the mountain and the various property owners and was adopted as part of the City's Growth Policy. This request further implements the Neighborhood Plan.

3. Can the Council extend only portions of the preliminary plat and let remaining phases expire?

Yes, as was described in the previous staff report, the amendments to the Subdivision Regulations gave Council maximum flexibility in extending preliminary plats.

It is important to note that additional conditions of approval cannot be added to an already approved preliminary plat. 76-3-610(2), M.C.A.

The phases include 52 townhouses and 22 cabins for a total of 74 units – a reduction from the original preliminary plat of 178 units. One new road is being proposed and it meets the City's private road standards. The project is served by the Big Mountain Water Company and the Big Mountain Sewer District. No comments have been received from neighbors.

Staff recommends the Council approve Phase 4, 6 and 7 of The Glades preliminary plat, as depicted on the revised preliminary plat map dated February 25, 2013 for 24 months, expiring on August 18, 2015 based on the findings of fact in the staff report.

Councilor Mitchell said the main issue was how close they were to water. The map really helped him understand it tonight. Mayor Muhlfeld said with the buffer averaging it will meet those standards. Councilor Hildner asked Planner Compton-Ring for her assurance that the water quality protection is as good as if the current water quality protection standards were in place and she said Dan Graves said they would make sure they followed those standards. Councilor Hildner asked where the storm water and melt water runs off. Planner Compton-Ring said the applicants are not subject to the City's stormwater standards; they get reviewed by the State. Councilor Hildner said he wants to be sure they don't get run off into First Creek and their water supply. Mayor Muhlfeld said they have rights there, but they don't

currently draw from First Creek. Councilor Kahle asked and Councilor Hildner confirmed he was talking about the impervious surfaces.

Mayor Muhlfeld opened the public hearing.

Dan Graves, 2309 Dillon Road, Whitefish Winter Sports, said he was available to answer questions. He said the neighborhood plan will not be abandoned. The storm water drainage will be determined by the DEQ and State during the time of construction.

Rebecca Norton, 530 Scott Avenue, read from the Critical Areas Committee report. She said City Engineer Karin Hilding did a report on the history of stormwater management solutions. In 1997 Whitefish adopted runoff standards. About 5-6 years ago an engineering consulting firm, HDR, mapped critical conveyances and recommended an ordinance to limit development in these areas. It was adopted in April 2006. The ordinance provides protection for critical conveyance areas and prohibits development on steep slopes. The slope regulation was challenged, but the court upheld the City's position. The Federal Safe Drinking Water Act requires special protection of drinking water which includes Whitefish Lake and First and Second Creeks. The City needs to protect environmentally sensitive areas. The main reason they want larger buffers is because water quality is determined by what they receive from many smaller tributaries and streams. The buffers are larger than those required for commercial forestry land uses. She said if they lose the donut they will lose oversight of how people build. She said if they don't act on this they could lose the right to protect water quality for the City. She said this is not a hardship for Whitefish Mountain. She asked them to preserve the water supply at all costs.

Mayor Muhlfeld closed the public hearing.

Councilor Kahle said if the Mountain brought this in today and it was reviewed; it meets the minimum setbacks of the current water protection plan.

**Councilor Mitchell offered a motion, seconded by Councilor Kahle, to approve the Winter Sports Inc. request for an extension to the Glades preliminary plat, Phase 4, 6 and 7, based on the findings of fact.**

Councilor Mitchell thanked Dan Graves for his letter and said it explained things well. He said WSI needs to continue to spend money wisely and in a well-timed manner. Councilor Mitchell said this is a resort area that is trying to run a business during tough economic times. He said they haven't asked to cut any corners. It is a good business decision for both the mountain and the City. Mayor Muhlfeld said he sat on the Critical Areas Ordinance Committee and said they need to remember that when this was adopted in 2006 it required a buffer and now there is a 70% reduction in the number of units. He said the State does a good job with reviewing applications and stormwater plans.

**The motion passed unanimously with Councilor Anderson abstaining.**

## **7. COMMUNICATIONS FROM CITY MANAGER**

**7a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 72)**

Councilor Kahle said he saw the Baker Avenue overlay and it seems there was something in the process that was different. There was a tremendous amount of dust and it seemed like the gravel was not washed. He received comments from several concerned citizens. Director Wilson said the dusty work was a chip seal. An overlay is a layer of asphalt.

Councilor Hildner said on page 72 he read about the Baker Avenue milling and overlay scheduled by MDT and he said he thinks it would be good to change the speed limit to 25 across the viaduct. Director Wilson said Baker and Wisconsin Avenues are part of the urban highway and all the City can do is request a speed study by MDT. He didn't know that it would result in a lower speed limit. Councilor Hildner said it was a smart place to slow the traffic into town. Councilor Mitchell asked and Councilor Hildner said the speed limit could change at the stop light. Councilor Hyatt said he ran to Big Mountain today and a dump truck accelerated coming onto Edgewood and it was scary. Councilor Kahle asked and Chief Dial said people aren't going 45 there. Councilor Sweeney said he wasn't opposed to asking MDT. It is a good idea from a safety perspective. Councilor Kahle agreed with Councilor Sweeney, but he didn't want to waste time on it. He wasn't opposed to writing a letter. Mayor Muhlfeld said it is a valid suggestion and the Councilors indicated their willingness to ask Director Wilson to write a letter to MDT. Councilor Mitchell asked and Director Wilson said the milling and overlay, along with the new pedestrian crossing and traffic light bid was \$1 million. Councilor Mitchell asked and Director Wilson confirmed that the construction will occur after Labor Day. Councilor Hyatt asked if they can use the milling elsewhere and Director Wilson said they will check into it.

**7b. Other items arising between March 13<sup>th</sup> and March 18<sup>th</sup>. None.**

**7c. Consideration of approving a lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1<sup>st</sup> Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot (p. 78)**

Manager Stearns said there have been various discussions about leasing these lots. The Council asked to see a layout and it is in the packet. The City will pay for landscaping, millings and signage. The City will take on the obligation of keeping the sidewalks clear in winter. Councilor Hildner asked about the covering of the berm and Manager Stearns said it will have plantings and wood chips or bark. Councilor Hildner asked the width and Manager Stearns said they are 13x125 feet and they will be the same on First Street. Councilor Mitchell said if they narrow the berms will it give them more parking because 13 feet seems awfully wide to him. Manager Stearns said it doesn't look like they could put another parking space in there if they narrowed it down to the minimum requirement of 7 feet. Councilor Sweeney said this is a 2-year lease and any party can terminate it with 90-days notice. He said the City is investing \$17,000 and it could theoretically end in 90-days and they need to amortize that in. Manager Stearns agreed that this is the primary risk of this proposal. He said he thinks it will go at least 2 years. Councilor Mitchell asked if this has to all come out of the TIF fund or could the Heart of Whitefish help with this project. Manager Stearns said TIF is the logical candidate. TIF derives a lot from business investment. He said going out to business owners could delay the project. Mayor Muhlfeld said many more people benefit than just the Heart of Whitefish. It benefits the whole city if there is an increase in Resort Tax and the rebate that decreases personal property taxes. Mayor Muhlfeld thanked Michael Goguen for his lease proposal because he offered the lot for \$1/year.

**Councilor Sweeney offered a motion, seconded by Councilor Hyatt, to approve the parking lot lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1<sup>st</sup> Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot. The motion passed unanimously with Councilor Anderson abstaining.**

**7d. Discuss scheduling an extra work session to catch up on backlog of work session topics (p. 90)**

Mayor Muhlfeld said one question is whether they need another work session to discuss parking. Councilor Mitchell said he didn't want to deal with TIF money until City Hall and the Parking Garage decisions are made. Mayor Muhlfeld suggested an extra work session before a public hearing about City Hall and the parking structure. Councilor Hildner said in the annual goals setting they discussed the Whitefish River waterway issue and he would like to be able to present it to the rest of the Councilors. The Mayor and Councilors agreed.

**8. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

**8a. Standing budget item-None.**

**8b. Letter from Greg Shaffer of Don K Whitefish regarding suggested modifications to the sign ordinance (p. 93)**

Councilor Mitchell asked if the Council was willing to look at the Sign Ordinance again. Councilor Anderson said he knew that Don K worked on the prior committee to try to ease the tension between downtown and the corridor. He said a 45 mph traffic zone needs to be treated differently. He said a Corridor Study needs to be made of the highway corridor. He said it will take a budget item of about \$25,000 and public participation. He was not necessarily suggesting that the businesses help with funding. Councilor Mitchell said someone offered \$10,000 previously to help with a Corridor Study. He said he thought this was on hold until the donut issue was decided. He was interested in the study. Mayor Muhlfeld said they had \$25,000 budgeted for the 93 S. project, but it was recently moved to the Hyw. 93 West project. He said private individuals have been meeting with a planner about the corridor south, but the Commissioners are waiting until the donut litigation is settled. He said for that reason he doesn't think it is worth putting time and money to that area outside City limits, but he thinks it is appropriate to study within the City limits. Councilor Anderson said it probably has to wait for the budget cycle.

Councilor Mitchell recognized Greg Shaffer who said he is requesting that they put a volunteer committee together to look at the Sign Ordinance especially in areas where the speed limit is 45 mph. He is pleased to see that someone recognizes the need to revisit this issue. Mayor Muhlfeld said the Council has addressed the Sign Code in the last few years and they've acknowledged that some review of sign components are necessary. He said they asked for the Planning Board to give them suggestions and updates and haven't received any, so he suggested that Mr. Shaffer talk to the Planning Board.

**8c. Reconsider decision not to place the overhead utilities on the East 2<sup>nd</sup> Street reconstruction project underground (p. 94)**

Councilor Kahle said the City has a policy that requires all new utilities to be placed underground. He asked the definition of new utilities. There are new poles, new lines on the East Second Street project, and yet they are going into the same area. He said the private development community is concerned. He thinks the City should put utilities underground for safety and practical reasons. He said it is not too late on E. Second Street. He heard that they are “not going to get the bang for their buck,” but he didn’t like that wording or concept because that is arbitrary. He said they need to deal with the E. Second Street project, but also with the overall policy on underground utility requirements.

Director Wilson said it is not impossible to go back now, but they would look at re-design costs of about \$45,000 now. If they are going to keep services in place they will have to go on the south side of property and get private easements. Councilor Mitchell said he can see both sides. He thanked Mark Svennungsen for his letter. He thinks if they are putting them underground to the west they should do it to the east as well. He said 20 years from now they would be glad if the wires were underground. He said Chris Schustrom asked them to look at underground services for future projects, but he wonders when they want to start. His concern is that if they put money toward this then it affects other projects. Director Wilson said it does affect money they have to reconstruct streets. Councilor Kahle said he intended to make this a discussion about policy. They will be facing this issue again. The policy needs to be consistent and clear, not based on individual projects. Mayor Muhlfeld said he thinks some policy change will be considered and he thinks it would be short-sighted not to bury these lines for continuity. Director Wilson reminded the Council that at the February 19<sup>th</sup> meeting he told them Flathead Electric will not underground utilities at Rose Lane or down by Armory Park and those would be some of the most visible lines on E. Second Street. Councilor Hildner agreed that there are two different issues. He agrees that the first priority should be to underground utilities whenever and wherever possible. He said the Second Street project doesn’t offer much in the way of underground options. He said the Resort Tax Committee voted 4-1 not to use Resort Tax funds on Second Street at this time and he thinks they should be heard. He is an advocate for underground utilities.

Mayor Muhlfeld said there are three options: 1)Do nothing; 2)underground the utilities and maintain overhead services or: 3)underground the utilities and convert overhead services to underground. Director Wilson said he is not concerned about future policy, he is concerned about where they are on this project now and the cost of changing mid stream. Councilor Mitchell asked and Director Wilson said the gas main will be relocated this summer and the major build will happen in 2014. Councilor Sweeney asked if there is a cost or rule-of-thumb per 100 feet of putting utilities underground. He said \$300,000 seems like a lot of money. Director Wilson said they haven’t done enough of it for him to know a typical per/foot cost. He doesn’t think there are any unique issues to this road. Councilor Kahle said there was a discussion about the Resort Tax committee members and he has spoken to a lot of them and he thinks some minds have been changed.

**Councilor Kahle offered a motion, seconded by Councilor Hyatt, adopting option 1, to underground utilities, but maintain overhead services on the E. Second Street project.**

**The motion was tied with Councilors Hyatt, Kahle, and Mitchell voting in favor and Councilors Sweeney, Anderson, and Hildner voting in opposition. Mayor Muhlfeld voted in favor and the motion passed 4-3.**

Councilor Sweeney said they need to address the policy issue and the Council agreed..

**8d. Set a date for a public hearing on considering constructing the future City Hall with a parking structure**

Councilor Anderson urged that they aim for the first meeting in May. Councilor Hyatt asked for the 2<sup>nd</sup> meeting in May, which would be May 20<sup>th</sup>. The Councilors agreed. Councilor Kahle said the solution needs to be a much larger discussion about structural parking downtown. Mayor Muhlfeld suggested they talk about the parking structure at the April 15<sup>th</sup> work session. Manager Stearns said the discussion options will include City Hall with structure parking or City Hall with surface parking. Mayor Muhlfeld asked if staff could provide a staff report before the meeting and Manager Stearns agreed.

Councilor Kahle said he was approached by a staff member about the current location of City Hall. He said that person has concerns and doesn't feel that the decision was completely vetted, particularly by people who will still be working in this building. Mayor Muhlfeld said they went through several public hearings and a lengthy discussion, so he is comfortable with the decision to stay on this lot.

**8e. Email from Cheryl Watkins of Bookworks regarding a boutique hotel at 3<sup>rd</sup> and Central (p. 107)**

Mayor Muhlfeld acknowledged that they received the letter. Manager Stearns said he did respond to her via email to address some of her concerns. Councilor Mitchell said this letter was disturbing to him. They are just gathering information at this time. He wished people would talk to the Councilors first.

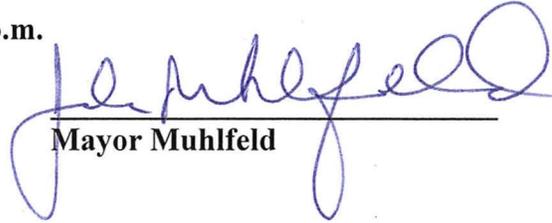
**Councilor Comments:**

Councilor Mitchell asked Councilors Sweeney and Hildner how the bids came in on the High School project. Councilor Sweeney said the bids came in for the gym and were under budget about 5-10%. The 2<sup>nd</sup> bid package has been opened, but they haven't been awarded yet. Several of the items were much higher than they anticipated so they are going back to re-visit that bid. It came in over bid by 10-15%. The 3<sup>rd</sup> bid package won't happen until June. Councilor Mitchell asked about Emergency Services Center final numbers and Manager Stearns said they are pretty close. The Tester grant expired December 31<sup>st</sup> so some supplies will have to be paid for from the tax increment fund. They will hope to have these finalized by June 30, 2013. Councilor Mitchell asked and Director Taylor said they got four bids for the Highway 93 West project and expect it to start in April. Councilor Sweeney said he appreciated Cheryl Watkin's letter, but he agreed with Councilor Mitchell that the public needs to understand that the Council is just beginning to discuss whether they should or should not allow the boutique hotel. He said he would like to have a policy discussion on the underground utility issue. He thinks they should have a public hearing on this issue. He would like to see some sort of Corridor Study for Highway 93 S. whether it incorporates the donut area or not. Mayor Muhlfeld said they could add these issues to the goal setting session.

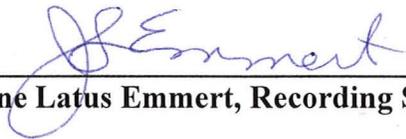
Councilor Kahle said he got to attend an award event and an academic achievements award ceremony at the High School . He said Whitefish is much more than a resort town; it is a heart town. Councilor Hyatt thanked the school staff and police department as they were out helping to change the routing of the traffic for school drop offs this morning. He said it went quite smoothly. Councilor Hildner said this is a great town and a great community and that is why they are here. Mayor Muhlfeld said there is a Whitefish River clean-up meeting with EPA Thursday at 3 p.m. He said they had the opportunity for annual reviews with Manager Stearns and City Attorney VanBuskirk and he wished there was a chance to sit down and tell the rest of the staff how important they are to the Council and to the City. He thanked all the staff and their departments.

**9. ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)

**Mayor Muhlfeld adjourned the meeting at 9:05 p.m.**



\_\_\_\_\_  
**Mayor Muhlfeld**



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**Jane Latus Emmert, Recording Secretary**

**Attest:**



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**Vanice Woodbeck, Assistant City Clerk**