

**WHITEFISH CITY COUNCIL MINUTES**  
**MAY 5, 2014**  
**REGULAR SESSION 7:10 PM**  
**CLOSED EXECUTIVE SESSION 8:50 PM TO 9:45 PM**

**1. CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Anderson, Feury, Barberis and Frandsen. Councilor Hildner was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Public Works Director Wilson, Police Chief Dial, and Fire Chief Kennelly. Approximately 9 people were in attendance.

**2. PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Jane Latus Emmert to lead the audience in the Pledge of Allegiance and presented her with a plaque and flowers for her years of service as Recording Secretary.

**3. PRESENTATION – FY13 Audit presentation for fiscal year ended June 30, 2013 – Denning, Downey and Associates (p. 41) (CD 1:41)**

Bob Denning with Denning, Downey and Associates reported that for the past several years they've been talking about cash controls and old bonds in the City Court. That is now all corrected and he gave special thanks to the Judge and the Court Clerk. He said last year they had issues regarding some of the Federal grants. This year, there are no issues. He said last year they had issues regarding how the financial statements were presented and they had recommendations for improvements and that was also corrected. The best thing an auditor can say is nothing. He is pleased with the City's work and it has received the highest opinion, which is called, "unmodified." He said that is considered as a clean opinion and he hoped that good news would make the newspaper.

Councilor Frandsen asked about a missing column on the spreadsheet on page 77 in the packet on the long term debt and Mr. Denning explained where those details are listed. Manager Stearns said there are a few pages that deserve their attention. He said page 59 of the packet gives a capsule view of the City's finances. The bottom line of the cash balance shows an increase over the year's beginning balance. Page 62 of the packet shows the same thing for the water and sewer fund, reflecting that both water and sewer had a good financial performing year. Bob Denning discussed page 59 of the packet and said it shows that the City paid over \$500,000 in Capital Outlay, and still ended with an increased yearend balance. Manager Stearns said page 71 explains the Cost Allocation Plan for administrative costs. On page 84 of the packet, #9 shows some of the inter-fund loans that have been made over the past number of years and the City's progress in paying the loans back to the other funds. Mr. Denning said on page 90 of the packet, under the Resort Tax ordinance, the money has to be earmarked for three different purposes. This report shows where that money is earmarked for. Mayor Muhlfeld said 25% goes to tax relief and it will be rebated in the following year.

**Councilor Anderson offered a motion, seconded by Councilor Sweeney, to approve the FY13 Audit. The motion passed unanimously.**

4. **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) (CD 15:49)

Mark VanNyhuis, 415 Geddes Avenue, had sent the Council information late this afternoon which they should now have copies of. He said the Geddes Avenue street project started three years ago and involved a lot of neighborhood meetings. He negotiated an easement for his property so he could get the parking they needed. Following the project's completion, the no-parking signs went up and some mysteriously disappeared, and it has created chaos in their neighborhood. The streets aren't wide enough for parked cars and through traffic. He said the City hired good engineers for that construction project and they worked well with the neighbors. City Standards call for 20'; he measured these in the neighborhood and they range from 19' 10" to 20' 3". He talked to the Fire Chief and Fire Marshall as well as the Fire Department in Kalispell, they need an unobstructed 20' driving lane. He said Whitefish Fire Department has a ladder truck on their wish list. Kalispell said their ladder truck is 10' wide, plus three feet for outriggers so it could barely make it down a 20' road. The narrowness of the road caused a delay for an ambulance because people were parked on both sides of the road. He said parking enforcement is an issue. Plowing is an issue on narrow streets, so snow builds up and then that causes run-off issues in the spring. He noted some of the other neighborhoods in town with narrow streets and parking restrictions. He said the research he did shows that there should be no parking on 20' streets.

Mayre Flowers, Citizens for a Better Flathead, 35 4<sup>th</sup> Street West in Kalispell, addressed the decision-making process on land use issues. She said the Council and the public need more time to have adequate time to review the issues. She is concerned about issues that are coming up and would like better notice available for the public. Better notice through the website and email would give the public more time to have the chance to be better prepared. She thinks some issues haven't had adequate public participation time. She said the West Highway 93 Corridor Plan had a public comment period in the beginning, but there hasn't been anything since. She requested updates from the Planning Office, but they said nothing has been available. She thought phases of the report should be available to the public along the way. She said the Planning Staff is bringing changes to the Growth Policy for their two year review and she feels it hasn't been advertised well. She thinks they can do better at providing information for the public and staff to review materials and give comments in an earlier time frame. She asked if they were open to a work session on public participation.

Neil Wilke, 432 Geddes Avenue, said he was concerned that when they put the utility boxes and power pole in, then didn't fill it in well. He said it should be leveled off. When they put the sewer down 5<sup>th</sup> Street, they put City service on both sides of him, but there is no sewer jack on either side. He had asked them to provide a sewer jack so he wouldn't have to dig the road up if he ever had to connect. He wondered if they were going to fix the ditch. He said the heavy truck broke the asphalt on the edges of 5<sup>th</sup> Street. He agreed with Mark VanNyhuis about not allowing parking, and he thinks the corner of 3<sup>rd</sup> and Jennings should be re-done before there is a critical accident. He said the new boulevards took away parking, and when they designed that street they should have taken snow removal into consideration.

John Lyman, 228 Somers Avenue, said he has lived there since 1972. He said Somers Avenue is dangerous due to potholes, and supports moving it up as a priority for Resort Tax Street Projects.

**5. COMMUNICATIONS FROM VOLUNTEER BOARDS – None.**

**6. 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) (CD 40:31)

**6a. Minutes from the April 21, 2014 Council regular meeting (p. 110)**

**6b. Consideration of approving the Declaration of Condominium Covenants, Conditions, and Restrictions for Great Northern Heights Phases 3 and 3A Subdivisions (p. 118)**

**6c. Resolution No. 14-12; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City a certain tract of land known as 1726 West Lakeshore Drive, for which the owner has petitioned for and consented to annexation (p. 134 and incorporated herein)**

**RESOLUTION NO. 14-12**

**A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City a certain tract of land known as 1726 West Lakeshore Drive, for which the owner has petitioned for and consented to annexation.**

WHEREAS, Richard W. Bennet, III, as Trustee of the Richard W. Bennet, III, Revocable Trust Agreement dated October 26, 2001, has filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owner of real property representing 50% or more of the total area to be annexed, described and shown more fully on Exhibit A, attached hereto and made a part hereof. Therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

WHEREAS, services to the annexed area will be provided according to the City of Whitefish Extension of Services Plan, adopted by the City Council by Resolution No. 09-04 on March 2, 2009, as required by and in conformity with §§7-2-4610 and 7-2-4732, MCA, available at the office of the City Clerk; and

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish that the City is able to provide and has been providing municipal services to the area proposed for annexation. Further, it is hereby determined by the Whitefish City Council to be in the best interest of the City of Whitefish, and the inhabitants thereof, as well as the current and future inhabitants of the area to be annexed described herein, that the area be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate boundaries of the City of Whitefish be extended to include the boundaries of the area described in the Petition for Annexation within the limits of the City of Whitefish.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petition for Annexation, according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, and legally described as:

Lot 19 of Block 2 of Lake Park Addition to Whitefish, Montana, according to the map or plat thereof on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana.

and

That portion of Lyford Street located in the Lake Park Addition to Whitefish, Montana, according to the map or plat thereof on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana.  
Known as Tract 1 Certificate of Survey No. 16472.

Section 2: The minutes of the City Council of the City of Whitefish, Montana, incorporate this Resolution.

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the May 5, 2014 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to §7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5th DAY OF MAY, 2014.

/S/ John M. Muhlfeld, Mayor

ATTEST:

/S/ Necile Lorang, City Clerk

City Manager corrected Item 6b, noting that consideration of this is for the initial approval of those covenants, not an amendment as stated on the Agenda. Councilor Frandsen inquired about the declarations on page 132, if the City responsibilities were standard and Director Wilson said they are fine.

**Councilor Anderson offered a motion, seconded by Councilor Sweeney, to approve the Consent Agenda. The consent agenda, as amended, passed unanimously.**

**7. 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)

None.

**8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD 42:34)**

**8a. Resolution No. 14-13; A Resolution establishing "No Parking" Zones along portions of West Sixth Street, West Fifth Street, Geddes Avenue, Jennings Avenue, West Third Street and Good Avenue, between Baker Avenue and West Second Street (p. 146)**

Public Works Director Wilson said that the Public Works Department presented a proposal at the April 21st City Council meeting to create No Parking zones along all or portions of West 6<sup>th</sup> Street, West 5<sup>th</sup> Street (aka North Street), Geddes Avenue, Jennings Avenue, West 3<sup>rd</sup> Street and Good Avenue, between Baker Avenue and West 2<sup>nd</sup> Street, as was contemplated during design of the 6<sup>th</sup> and Geddes Street Reconstruction Project. After discussion at the meeting the City Council directed Public Works to prepare a resolution for consideration at this meeting, including provisions for No Parking zones and limited areas with parking allowed on one side of the street. Councilor Anderson asked and Director Wilson said he doesn't think they need to indicate no-parking near the fire hydrant. The blanket rule allows parking one vehicle on each side of the fire hydrant with the 10' setbacks. Attorney VanBuskirk said she believes that this is the rule and Chief Dial agreed, but said people have to park 15' from the hydrant.

Mayor Muhlfeld said the only difference since the last meeting is a loading zone on Good Avenue and a few parking spaces. He wondered if it would affect the business if this area is listed as open parking versus a loading zone and he wondered if they could protect that parking for the business. Director Wilson said it was his goal to help mitigate the impact on this business, so he thought the loading zone was a good idea; but he really wants to have no parking except for the loading zone. Councilor Frandsen asked and Director Wilson said the asphalt width is 21 feet. Chief Kennelly said the Fire Marshall couldn't make it, but he supports no parking on either side of the road. They need the full width of the street for emergency vehicle access. Councilor Anderson asked how the Resolution should be re-worded to reflect the changes. Director Wilson said in Section g regarding the loading zone: the 90 foot section on the east side of the road should be designated as a 30-minute zone. In d and e, delete "excluding" and all wording after it. Director Wilson said the parking changes were recommended in comments from Michael Jamieson at the April Council meeting because of his concerns about limited parking, and Manager Stearns said Mr. Jamieson's testimony also dealt with the traffic speed on the streets. Mr. Jamieson thought that wide open streets without parking allows traffic to travel at higher speeds, so he supported parking for guests in the neighborhood and said it would also slow traffic speeds. Councilor Anderson recognized Mark VanNyhuis for more discussion. Mark continued to support no parking and thought strict enforcement important. Councilor Frandsen said that at the last meeting Staff was asked to consider options, but facts show the recommendation for no parking for these widths of streets is best. Mayor Muhlfeld said this is a matter of public policy and living up City road standards. He said that the Public Works Director and Emergency Services staff all recommend limiting the parking. He has a problem with someone coming to the City after the no-parking signs have been up for one year to request their removal.

**Councilor Feury offered a motion, seconded by Councilor Sweeney, to adopt Resolution No. 14-13; A Resolution establishing "No Parking" Zones along portions of West Sixth Street, West Fifth Street, Geddes Avenue, Jennings Avenue, West Third Street and Good Avenue, between Baker Avenue and West Second Street, eliminating conditons d and e starting with and**

**after the word, “excluding” and to redesignate the section listed in g as a 30-minute designated loading zone only. The motion passed unanimously.**

**8b. Consideration of a recommendation from the Resort Tax Monitoring Committee to move Somers Avenue up on the Resort Tax street reconstruction priority list to be the next project after the West 7<sup>th</sup> Street project (p. 161) (CD 59:51)**

Public Works Director Wilson reported that in April the Resort Tax Monitoring Committee (RTMC) voted to recommend Somers Avenue be designated as the project to follow West 7th Street on the Street Reconstruction Priority List. The scope of work would include roadway reconstruction, water main replacement and drainage improvements from East 2nd to East 8th Street, with new curb, gutters, sidewalks and street lights. Public Works had planned to reconstruct Somers in phases, but it isn't realistic. By holding off for a couple of years it can be done right. Councilor Sweeney asked and Director Wilson said that originally the funding was to come from street and water funds. Now, the funds will come strictly from the Resort Tax. The proposed action does not involve an immediate financial requirement. Although a detailed estimate is not available, they expect the cost of engineering and construction for a Somers Avenue project would be around \$1,500,000 to \$1,750,000 in today's dollars.

**Councilor Frandsen offered a motion, seconded by Councilor Anderson, to amend the Street Reconstruction Priority List to rank Somers Avenue as the #2 project, immediately following the West 7<sup>th</sup> Street project.**

Councilor Anderson said he sits on the Resort Tax Committee and it seemed clear that the patchwork fix they hoped to implement was not going to work. The committee supports this change.

**The motion passed unanimously.**

**9. COMMUNICATIONS FROM CITY MANAGER (CD 1:02:29)**

**9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 166) - None.**

**9b. Other items arising between April 30<sup>th</sup> and May 5<sup>th</sup> – None.**

**9c. Consideration of awarding a construction contract to Meredith Construction for Depot Park restrooms as an addition to the O'Shaughnessy Center (p. 169)**

City Manager Stearns said that Karl Cozad, former Parks and Recreation Director, came to the City Council on March 17<sup>th</sup>, 2014 for authorization to go out to bid for the Depot Park Restrooms as an addition to the O'Shaughnessy Center. The City Council approved going out to bid for the restrooms which had an engineer's estimate of \$191,838. Karl's staff report, architectural drawings, and the engineer's cost estimate are attached in the packet. Staff opened bids on April 16<sup>th</sup> and the following were the bid results:

Meredith Construction -	\$191,500.00
Swank Enterprises -	\$213,500.00
Camas Creek Contracting -	\$218,757.00

All three bidders said they could meet the August 8, 2014 completion date.

The original budget request one year ago was \$100,000 so that is what was budgeted in the Tax Increment Fund. However, the rest of Depot Park Master Plan Phase 2 project had an additional budget of \$547,000 in the TIF, so this contract award will cut into the remainder of the Depot Park Phase 2 improvements. The primary remaining improvement in Phase 2 is the construction of a gazebo in the southeast corner of Depot Park.

Councilor Anderson said signage for the restrooms will be important. Manager Stearns said the Parks Department could try to deal with something like that or it could be done through the way finding signs project. He said people will point folks in the right direction. Councilor Sweeney said the original budget amount was \$100,000, so they missed it by quite a lot. Manager Stearns said he didn't know how Director Cozad came up with the estimate—he must not have had all of the information he needed a year ago because the plans hadn't been finalized.

**Councilor Anderson offered a motion, seconded by Councilor Sweeney, to award the construction contract for the Depot Park Restrooms at the O'Shaughnessy Center to Meredith Construction in the amount of \$191,500.00 and direct staff to return the bid security at the appropriate time. The motion passed unanimously.**

**9d. Consideration of approving an architectural agreement with Mosaic Architects of Helena, MT for the design of a new City Hall and Parking Structure (p. 179)**

Manager Stearns said Section 4 (Payment) in the contract on page 181, has a typo to be corrected; the amount in parenthesis (\$65,700) is correct, but the written amount needs to be amended.

A new City Hall was one of the specific projects of the Urban Renewal Plan adopted in 1987. In December 11, 2013, the City Hall Steering Committee held a design competition among four architectural firms who were the finalists selected for the City Hall architectural design project, resulting in the City Hall Steering Committee's recommendation for Mosaic Architecture of Helena, MT as the preferred architectural firm to negotiate a contract with. The City Council approved their recommendation that staff negotiate a contract with Mosaic Architecture at the City Council meeting on January 21, 2014.

Since January, staff has worked on contract negotiations and scope of services with Mosaic Architecture. The contract will outline all the phases of architectural and engineering work, however, staff will only authorize proceeding with one phase at a time. The contract can be terminated by either party at the end of each phase, so the City's initial obligation is only for Phase 1 work of design and development. Much of that work will involve meeting with each department that will be located in City Hall and meeting with the City Hall Steering Committee.

Councilor Anderson said the language in the services exhibit indicate that some work has been done and Manager Stearns said in 2005 there was a "space needs" analysis completed in all City departments in order to help with the planning of the new City Hall. That needs to be updated, so the architects will meet with each department and the Steering Committee to consider the workings between departments and how best to design for optimum results.

Councilor Frandsen had a question on page 184, B-1-2-1 which says they'll review the City's Downtown Master Plan. She wondered if they would have to do that twice. Manager Stearns said they would have them review the initial plan as well as the updated plan. He said they'll just have to read the plans to get the flavor of what the City is trying to do, so he doesn't anticipate extra costs. Councilor Sweeney said if the initial part of the contract is boiler plate, he wondered about the liability insurance cost. Manager Stearns said their standard insurance coverage is \$1.5 million dollars because beyond that they are covered by governmental immunity. He said the certificate of insurance is on page 204 of the packet. Councilor Sweeney said the professional liability covers errors and omissions and it is only \$1 million. Attorney VanBuskirk said the first phase is only for analysis, so it is a preliminary phase only. Councilor Sweeney asked and Attorney VanBuskirk said if they go into development then those amounts will be reviewed and amended. Mayor Muhlfeld asked and Manager Stearns said this includes geo-tech investigations as part of this phase.

**Councilor Sweeney offered a motion, seconded by Councilor Frandsen, to approve a Professional Architectural Services Contract with Mosaic Architecture of Helena, MT with the first phase not to exceed \$65,700. The motion passed unanimously.**

#### **10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 1:18:10)**

##### **10a. Consideration of making temporary appointments to the Whitefish City-County Planning Board to ensure a quorum until permanent appointments are made (p. 206)**

Mayor Muhlfeld said at the last meeting he asked for information from Attorney VanBuskirk about their options for appointments to the Planning Board. Attorney VanBuskirk said they have statutory authority for the City/County Planning Board. She said there was a lack of a quorum at the last Planning Board meeting, so every project had to be carried forward. She said the City wants to be sure that the quorum issue isn't based on a failure of appointment. At tonight's Special Session the City has filled its vacancy. Now, by law, if there is a citizen vacancy the City and County can take turns appointing an additional person to the Planning Board. The third option is for the Council to serve as a designated hitter so that if there is a lack of quorum a Councilor could serve as a temporary appointment. She cited Ordinance 02-02 which said a citizen appointee should be a citizen. This would preserve the quasi-judicial function for the Councilors. Attorney VanBuskirk said the county has filled all but one opening, so the City could appoint an end-of-term appointment for a citizen member. Mayor Muhlfeld said he feels it should be a citizen and not a Council member. He prefers the second option unless there are objections from the Council and he thinks it should be filled by someone from the extra-jurisdictional area. The Council discussed the options.

**Mayor Muhlfeld moved to appoint Karen Reeves to the City/County Planning Board.**

**Councilor Anderson offered a motion, seconded by Councilor Feury, to ratify Mayor Muhlfeld's recommendation to appoint Karen Reeves to the City/County Planning Board. The motion passed unanimously.**

##### **10b. Committee/board appointments not made during prior Special Meeting – None.**

Councilor and Mayor Comments:

Councilor Sweeney said Mark VanNyhuis' research was helpful and he thanked him. Councilor Feury talked about the restroom at the O'Shaughnessy Center. He said that in the past the Farmer's Market talked about helping to raise money for park improvements and he thought it would be good to ask them about helping financially. Councilor Anderson said they've talked about the Highway 93 South Corridor study for years and he would like to see that as an agenda item to get that project kicked off. Manager Stearns said he and Councilor Anderson talked about this, but the Planning & Building staff said they need to work on one corridor study at a time due to staff limitations. Right now the Whitefish West Corridor Plan is in process. Councilor Anderson wanted to know if they could overlap the two studies. Manager Stearns said he has no problem if the Council wants to put it on an agenda. He said staff also has to balance work load with all of the applications that come in the door. Director Taylor said he would be happy to discuss it or have a work session on it. Councilor Anderson said he would like to have it as a voting item to have this move forward. Director Taylor said during goal setting there was discussion to bump the Highway 93 South plan for the Wisconsin Avenue plan, because there is still no indication regarding the City's extra-territorial jurisdiction. Councilors Barberis, Frandsen and Sweeney supported the agenda item.

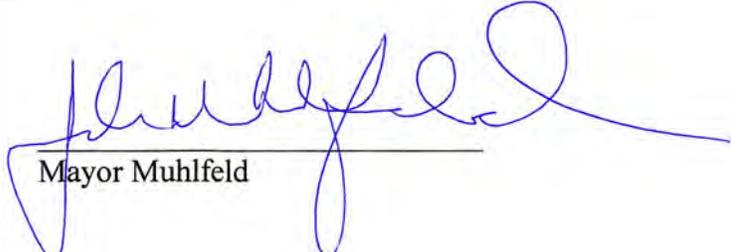
Councilor Barberis said this week is Teacher's Appreciation Week and she thanked the teachers.

Mayor Muhlfeld asked about the status of the Highway 93 Corridor Plan and Director Taylor said they just received the initial draft. The draft goes to the Steering Committee and they should be ready for a public hearing at the Planning Board in July. It will be posted on the City website.

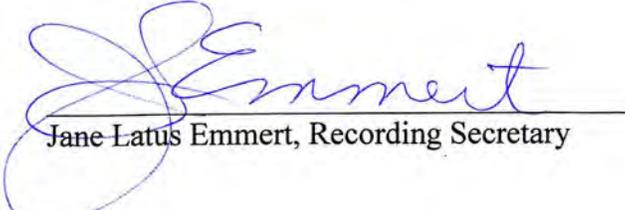
Mayor Muhlfeld said they need to talk to the Park Board about weeds in Soroptimist Park.

**11. ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 1:35:27)

Mayor Muhlfeld adjourned the Regular Session at 8:45 p.m., and announced that the Council will reconvene in a closed Executive Session with the Mayor and Council and City Manager Stearns pursuant to §2-3-203(3) MCA., and adjourned at 9:45 p.m.



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



\_\_\_\_\_  
Jane Latus Emmert, Recording Secretary

Attest:



\_\_\_\_\_  
Necile Lorang, City Clerk