

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ JULY 5, 2011 ~ 6:00 P.M.

FORT SMITH PUBLIC SCHOOLS SERVICE CENTER

The meeting was called to order by Mayor Sandy Sanders, presiding. Invocation was given by Mayor Sanders, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Steve Tyler, Andre' Good, George Catsavis, Pam Weber, Kevin Settle and Phillip H. Merry, Jr.; absent - Director Don Hutchings. The Mayor declared a quorum present.

Mayor Sanders recognized Christopher Welch from Boy Scout Troop 19, who was in attendance to earn his Communication Badge.

The Mayor urged all those who wish to address the Board of Directors during the meeting to promptly complete a speakers card and submit to the City Clerk.

With regard to the time limit policy for persons wishing to address the Board, the Mayor communicated that five (5) minutes per side would be granted for controversial items with three (3) minutes for rebuttal per side. Two (2) minutes will be allotted for consent agenda items and for those participating in the citizens forum.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

The minutes of the June 21, 2011 regular meeting were presented for approval. Settle, seconded by Tyler, moved approval of the minutes as written. The members present all voting aye, the Mayor declared the motion carried.

Item No. 1 was presentation of the 2010 Comprehensive Annual Financial Report (CAFR).

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Director of Finance Kara Bushkuhl reviewed the information, noting an electronic copy of the CAFR was previously provided to the Board. The audit report was prepared by BKD, LLC and introduced BKD Manager Joel Haaser. The CAFR was reviewed by the Audit Advisory Committee (AAC); therefore, she also introduced Mr. Ken Pyle, AAC Chairman.

Mr. Pyle addressed the Board advising the ACC reviewed the audit citing excellent cooperation with staff and all involved. Issues were discussed regarding post employment retirement benefits, bond covenants, etc.; however, all issues are being addressed by staff in a satisfactory manner. Much appreciation was extended to Directors Tyler, Hutchings, and Settle for their service on the AAC, as well as Director Weber who attended meetings of the AAC. He further conveyed much appreciation to Fire Chief Mike Richards for his active role in working with the legislature and administrators of the police and fire retirement systems.

Ms. Bushkuhl also provided a brief explanation of the aforementioned issues and reiterated assurance that all comments of concern and recommendations of the AAC are being addressed.

Item No. 2 was an ordinance amending Ordinance No. 37-11 regarding property located at 2801 Royal Scots Way

City Administrator Ray Gosack briefed the Board on the item advising the structure was previously determined to be unsafe and detrimental to the public welfare; therefore, the Board authorized its demolition per Ordinance No. 37-11 on June 7, 2011. The property owners previously requested delay of the demolition to allow settlement with the

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insurance company; however, the Board took no action regarding the request thereby allowing the demolition to proceed. The property owners have now settled with the insurance company. Most of the funds went to the bank to pay off the mortgage; however, the owners plan to replace the roof and secure the structure until additional funds can be obtained to repair the interior.

The following individual was present to address the Board:

- John Verkamp, attorney for the owner

Re: Advised the insurance dispute has now been resolved and insurance funds disbursed. The owners wish to initiate the above noted repairs immediately, with completion anticipated by the end of July. He recommended approval of the proposed ordinance, which will cease pending demolition action and allow the owners to proceed with the necessary repairs.

Director Settle expressed much concern with the condition of the interior of the structure citing such has been open to the elements.

Director Tyler inquired if the Fianna Hills Property Owners Association have been notified of the proposed item and if they object to the proposed reversal of demolition action.

Mr. Verkamp clarified that only the garage area has been open to the elements and conveyed much assurance that the remaining interior of the structure is salvageable. Several surrounding neighbors have indicated no objection to the proposed delay of demolition action to allow exterior repairs, and submitted letters stating such.

Building Official Jimmie Deer clarified the aforementioned letters were not submitted to his office. With regard to notification, the Fianna Hills Property Owners Association was not notified of the proposed ordinance to delay demolition action.

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Director Good stated the main concern for the neighbors was the condition of the exterior; therefore, since the owners wish to proceed with such, he spoke in favor of the item.

Catsavis, seconded by Good, moved adoption of the ordinance. The members present voted as follows: ayes - Tyler, Good, Hutchings, Catsavis, Weber and Merry; nays - Settle. The Mayor declared the motion carried and the ordinance was adopted and given No. 46-11.

Item No. 3 was an ordinance adopting an amendment to the Land Use Matrix in the Unified Development Code (*allow limousine service as conditional use in Commercial 6 zoning districts*)

Director of Development Services Wally Bailey briefed the Board on the item advising the Planning Department received a business license application to operate a limousine service at 401 Towson Avenue. The address is located in the Commercial 6 (C-6) zoning district and is within the Central Business Improvement District (CBID). A limousine service is categorized in the land use matrix of the Unified Development Ordinance (UDO) as transportation service and is not permitted in the C-6 zone. The CBID reviewed the matter and approved a resolution of support to allow a limousine service as a conditional use in the CBID. The Planning Commission held a public hearing on June 14, 2011 with no individual present to speak in opposition. The Planning Commission approved the proposed amendment by a vote of nine (9) in favor and zero (0) opposed.

Director Settle questioned if taxicabs are permitted in a Commercial 6 zone whereby Mr. Bailey confirmed that taxicab companies are not allowed within said zoning classification.

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Settle, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried. Weber, seconded by Good, moved adoption of section 3 the emergency clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 47-11.

Item No. 4 was an ordinance rezoning identified property and amending the zoning map *(from Residential Multi-Family Medium Density (RM-3) to Residential Single-Family High Density (RS-4) by classification located at 3751 Park Avenue)*

Mr. Bailey briefed the Board on the item advising such is per the request of the City of Fort Smith. The purpose of the proposed rezoning is to limit development to single family dwellings, which is the most common use in the area. The City of Fort Smith acquired the property, along with a larger tract containing twelve (12) lots for construction of a detention pond in 1992; however, the subject area has remained undeveloped. The City wishes to sell the one-acre tract; therefore, staff feels the proposed zone change would be beneficial to expedite the sale. The Planning Commission held a public hearing on June 14, 2011 with no individual present to speak in opposition. The Planning Commission approved the request by a vote of nine (9) in favor and zero (0) opposed.

Tyler, seconded by Merry, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its

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readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 48-11.

Item No. 5 was an ordinance rezoning identified property and amending the zoning map *(from Commercial Heavy (C-5) to Residential Multi-Family Medium Density (RM-3) by extension located at 2301, 2307, 2309, 2313, 2317, 2321 and 2325 North 28th Street)*

Mr. Bailey briefed the Board on the item advising such is also per the request of the City of Fort Smith. The purpose of the request is a corrective rezoning to reflect how the area has developed. A neighborhood meeting was held on June 6, 2011 with one (1) property owner in attendance, but conveyed no objection to the proposed zone change. The Planning Commission held a public hearing on June 14, 2011 with no individual present to speak in opposition. The Planning Commission approved the rezoning request by a vote of nine (9) in favor and zero (0) opposed.

Weber, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 49-11.

Item No. 6 was an ordinance rezoning identified property and amending the zoning map *(from Residential Single-Family Duplex Low/Medium Density (RSD-2) to Residential Single-Family Medium Density (RS-2) by extension located at 3201-3415 Leigh's Hollow Place; 3301 South "S" Street; 3400, 3408, 3518, 3520, 3600, 3610, 3618, 3624, 3710, 3716 South "O" Street; and 1600, 1604, 1614, 1616, 1714, 1716, 1800, 1810, 1820, 1906 Hendricks Boulevard)*

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Mr. Bailey briefed the Board on the item advising such is per the request of GaeVon Hoover, agent. The purpose of the proposed rezoning is to limit development to single family dwellings. The Master Land Use Plan currently identifies the property as Residential Detached (single family). A neighborhood meeting was held with approximately twelve (12) property owners in attendance; however, all were in support of the proposed rezoning. The Planning Commission held a public hearing on June 14, 2011 with no individual present to speak in opposition. The Planning Commission approved the request by a vote of nine (9) in favor and zero (0) opposed.

Settle, seconded by Catsavis, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 50-11.

Item No. 7 was an ordinance amending the Master Land Use Plan map and rezoning identified property and amending the zoning map (*Master Land Use Plan from Residential Attached to Residential Detached; Rezoning from Residential Single-Family Medium/High Density (RS-3-SPL) and Residential Multi-Family Medium/High Density (FM-3-SPL) to Residential Single-Family High Density (RS-4) by classification located at 9000 Texas Road*)

Mr. Bailey briefed the Board on the item advising such is per the request of Travis Brisendine, agent. The purpose of the amendments is to facilitate a proposed 17.4 acre, 84 lot, single-family development to be constructed in two (2) phases located on the east

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side of Texas Road. The proposed subdivision is an extension of the existing Southfield Heights subdivision, which originally included 9.82 acres for single-family (RS-3) and 7.58 acres for multi-family development (RM-3). The proposal is to change the entire 17.4 acre tract to single-family (RS-4). The Planning Commission held a public hearing on June 14, 2011 with Mr. George Combs and Ms. Carolyn Ledbetter in attendance to address concerns regarding drainage, sidewalks and water pressure. The Planning Commission approved both the Master Land Use Plan and the rezoning by a vote of nine (9) in favor and zero (0) opposed.

Director Settle noted a park dedication was included within the original Southfield Heights development; therefore, he questioned if a portion of the development is still dedicated for park purposes.

Administrator Gosack confirmed the property has been dedicated to the City; however, such has not yet been developed.

If the developer does not adequately address the water pressure issues within the plumbing design, Director Catsavis expressed concern with such and questioned who will be responsible to address the issue after the fact.

Mr. Bailey advised the developer will be responsible to address the issue, unless such was created or caused by an action of the City.

Merry, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 51-11.

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Item No. 8 was an ordinance rezoning identified property and amending the zoning map *(from Residential Single-Family Duplex Low/Medium Density (RSD-2) to Residential Single-Family High Density (RS-4) by classification located at 5200, 5204, 5208, 5212, 5216 & 5220 Free Ferry Road)*

Mr. Bailey briefed the Board on the item advising such is per the request of Kelly Underwood. The purpose of the rezoning is to allow for the development of single family dwellings. In October 2008, the Planning Commission approved a preliminary plat, which created six (6) new lots with a 22 ft. wide circular drive on the subject property. On the same date, the Board of Zoning Adjustment also approved a variance to allow some lots to be smaller than required. Such was requested because of significant drainage improvements and utilities through the property. The owner now wishes to develop the property with a new layout that has a single driveway. A companion subdivision variance was submitted and approved for the design of the turnaround and a setback variance for the lots east of the private street. Upon approval, such will restrict construction to single-family homes. The Planning Commission held a public hearing on June 14, 2011 with Mr. Ronald Boitel and Mr. Mike Butler in attendance to express concerns regarding drainage issues. It was noted that drainage concerns would be forwarded to the City of Fort Smith Engineering Department for review and the Planning Commission requested a report regarding how the drainage issues will be resolved when the plat is submitted. The Planning Commission approved the rezoning request by a vote of nine (9) in favor and zero (0) opposed.

The following individual was present to address the Board:

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- Ronald Boitel
Fort Smith, AR

Re: Expressed much concern with existing drainage issues citing the level of the subject property must be raised for development. Due to such, he fears the proposed development will only increase existing drainage problems.

- Kelly Underwood, applicant
Fort Smith, AR

Re: Advised the proposed development will consist of “*very nice homes*” ranging in price from \$110 to \$120 per square foot. She further conveyed much assurance for a beautiful development stating such will be “*top of the line*” and “*first class all the way.*”

There was much discussion with regard to existing and potential future drainage issues created by the proposed development.

Director of Engineering Stan Snodgrass conceded such will be a challenge for the developer; however, drainage issues will be addressed during review of the final plat.

Director of Utilities Steve Parke also expressed concern with the location and water main size proposed for the development. Such creates a risk for the developer and maintains the potential for more extensive damage to surrounding property in the event of a main break; however, compliance with minimal standards will be required prior to installation.

Mr. Bailey advised the final plat and development plan must be submitted and reviewed by all pertinent City departments. Upon completion of said review, the final plat and development plan must be approved by the Planning Commission prior to issuance of a building permit.

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Upon approval, Director Tyler urged staff to ensure all drainage issues are adequately addressed during the review process.

Director Settle requested staff provide a courtesy notification to Mr. Boitel when the final plat is reviewed and presented for approval.

Good, seconded by Weber, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 52-11.

Item No. 9 was an ordinance rezoning identified property and amending the zoning map (*from Unzoned to Industrial Moderate (I-2) by classification located at 11802 Roberts Boulevard*)

Mr. Bailey briefed the Board on the item advising such is per the request of Randy Coleman, agent. The purpose of the rezoning is to allow the property to be utilized as a petroleum distribution facility. A companion conditional use application was also required for the proposed business whereby the Planning Commission approved such contingent upon approval of the proposed rezoning. The Planning Commission held a public hearing on June 14, 2011 with no individual present to speak in opposition. The Planning Commission approved the rezoning by a vote of nine (9) in favor and zero (0) opposed. The Fort Chaffee Redevelopment Authority has authorized the sale of the subject property and support the proposed rezoning.

Merry, seconded by Weber, moved adoption of the ordinance. The motion included

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suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given No. 53-11.

Item No. 10 was an ordinance amending Article IV of Chapter 11 of the Fort Smith Municipal Code regarding procedure for fill and grading

Mr. Snodgrass briefed the Board on the item advising the Arkansas Department of Environmental Quality (ADEQ) Municipal Separate Storm Sewer System Permit requires that the City's fill and grading ordinance be updated to be at least as stringent as the statewide General Stormwater Permit for Construction Activities by August 1, 2011. Failure to do so constitutes a violation of the Clean Water Act and is grounds for enforcement action and possible permit termination. He further noted that the proposed ordinance has been revised to include an additional section for minimum standards, which was inadvertently omitted, and to address number sequencing of subsections. A copy of the revised ordinance was presented the Board prior to the meeting. The proposed amendments are those necessary to meet the ADEQ requirements; therefore, he recommended approval.

Settle, seconded by Good, moved adoption of the ordinance as revised. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance for its readings and the members present all voting affirmatively, the Mayor declared the motion carried. Good, seconded by Catsavis, moved adoption of Section 9 the emergency

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clause. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given No. 54-11.

Item No. 11 was a resolution establishing an Animal Services Task Force

Administrator Gosack briefed the Board on the item citing such was requested at the June 28, 2011 study session. The proposed resolution establishes a seven (7) member task force, whose responsibilities will be as follows:

- ▶ Identify problems, concerns, and issues with dogs and cats in Fort Smith
- ▶ Develop, research, and analyze possible solutions
- ▶ Make recommendations to the Board of Directors

The task force will be supported by Police Department staff and will have thirty (30) days to complete its work. Upon completion of such, the task force will be dissolved. Upon approval, staff will solicit nominees to serve on the task force with appointments anticipated to be presented at the August 16, 2011 regular meeting.

The following individual was present to address the Board:

- Elizabeth Mayo
Fort Smith, AR

Re: Spoke in favor of the proposed resolution and inquired if a veterinarian will be appointed to the task force.

Administrator Gosack advised individuals must complete an application for appointment by the Board of Directors; therefore, those wishing to serve, including veterinarians, may apply if they so desire.

Merry, seconded by Good, moved adoption of the resolution. The members present all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and numbered R-122-11.

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The Consent Agenda (Item No. 12) was introduced for consideration, the items being as follows:

- A. Resolution authorizing a change order for the construction of Sunnymede Tributary Drainage Improvements, Project No. 09-06-A (\$11,803.31 / Engineering Department; Budgeted - Street Sales Tax Fund)
- B. Resolution authorizing a time extension, accepting completion of and authorizing a final payment for the construction of Sunnymede Tributary Drainage Improvements, Project No. 09-06-A (\$63,190.68 / Engineering Department; Budgeted - Street Sales Tax Fund)
- C. Resolution authorizing the Mayor to designate and authorize a contract with Western Arkansas Planning and Development District, Inc. for administration services of the IKE-2 Arkansas Community and Economic Development Grant (\$23,720.00 / CDBG Department; Not budgeted - Funding from IKE-2 Grant)
- D. Resolution accepting bids and authorizing a contract for the Fort Smith Transit Bus Stop Shelter Improvements Project, Project No. 10101A (\$67,432.00 / Transit Department; Encumbered from the 2010 budget, Line Item No. 305 - Funding from the American Recovery and Reinvestment Act)
- E. Ordinance authorizing the purchase of six (6) segway patrolers for use by the Fort Smith Police Department (\$44,368.58 / Police Department; Not budgeted - Funding from Federal Asset Forfeiture funds)
- F. Ordinance authorizing the purchase of Rock River Arms AR-15 Patrol Rifles for use by the Fort Smith Police Department (Not to exceed \$104,7816.13 / Police Department: Not budgeted - Funding from Federal Asset Forfeiture funds)
- G. Resolution authorizing Change order Two with The Burgess Company, Inc. for the Midland Boulevard 30-Inch Water Transmission Line (\$11,753.91 / Utility Department; Budgeted - 2008 Revenue Bond Fund)

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- H. Resolution accepting the project as complete and authorizing final payment to The Burgess Company, Inc. for the Midland Boulevard 30-Inch Water Transmission Line (\$169,655.11 / Utility Department; Budgeted - 2008 Revenue Bond Fund)
- I. Resolution approving an amendment to the convention center lease agreement with the Fort Smith Advertising and Promotion Commission

Administrator Gosack advised that Item No. 12I has been amended to correct the termination date from November 11, 2011 to November 30, 2011; therefore, in order to ensure the amendment is accepted, the motion to approve the consent agenda must include language "as amended" for Item No. 12I.

Regarding Item No. 12D, Director Settle inquired if additional bus top shelters will be constructed or if the proposed item utilizes the remainder of grant funds.

Upon approval, Director of Transit Ken Savage advised the grant provided for the construction of twenty-four (24) bus stop shelters and the proposed item will utilize all remaining grant funds.

With regard to Item No. 12E, Director Weber requested a brief explanation.

Police Chief Kevin Lindsey noted the segways run on electrical power and provide multiple benefits to police officers. Such allows an officer to be above crowd level and provides maneuverability, which would have been beneficial at the Mayor's 4th of July Celebration. Officers are required to wear bullet proof vests; therefore, utilizing segways helps to keep an officer cool, especially in extreme heat. No City funds are being utilized as such are being purchased with forfeiture funds.

Regarding Item No. 12F, Director Weber requested a brief explanation.

Chief Lindsey advised the Police Department has identified the need to transition

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from shotguns to patrol rifles advising such is a "less lethal weapon" and more useful in some situations, specifically in a crowd. Police officers are responsible for their own firearms; therefore, they will have the option to purchase a rifle with repayment to the Federal Asset Forfeiture Fund required in one (1) year. Such is permissible according to the United States Department of Justice.

Tyler, seconded by Settle, moved adoption of all consent agenda items. The members present all voting affirmatively, the Mayor declared the motion carried and the ordinances and resolutions were adopted with the ordinances numbered 55-11 and 56-11, and the resolutions given R-123-11 through R-129-11 respectively.

Mayor Sanders opened the Officials Forum with the following comments offered:

▶ **Mayor Sanders**

Re: Extended gratitude to all individuals who attended the "Mayor's 4th of July Celebration", and conveyed much appreciation to multiple individuals and organizations who helped to make the event a huge success.

▶ **Director Catsavis**

Re: Regarding the 1% Prepared Food Tax referendum petition, he noted that several individuals circulating petitions at the Mayor's 4th of July Celebration were requested to leave; therefore, he questioned if an ordinance prohibited such activity in the park.

Director of Parks and Recreation Mike Alsup advised the Parks and Recreation Commission adopted a policy whereby the event holder maintains the authority to allow or disallow solicitation within the park during their event.

▶ **Director Merry**

Re: Simply extended congratulations to the City of Fort Smith for many new projects getting underway in the

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city. He further noted a record-setting crowd recently welcomed Congressman Mike Ross to Fort Smith.

▶ Administrator Gosack

Re: Advised the 2012 Budget is now underway, with the first step in the process to discuss budget goals and objections. Such are currently scheduled for discussion at the July 12 study session.

Mayor Sanders then opened the Citizens Forum with the following individuals present to address the Board:

■ Louis Vincent
Fort Smith, Arkansas

Re: Simply advised newly appointed Deputy City Administrator Jeff Dingman is doing a "good job".

■ Ron Prince
Fort Smith, AR

Re: Conveyed no objection to the 1% Prepared Food Tax; however, he alleged and expressed discontent that the City has extended promises for an aquatic park and softball fields in the past and such have not been accomplished to date.

■ Eric Arthur
Fort Smith, AR

Re: Conveyed much discontent with the Fort Smith Police Department.

■ Elizabeth Mayo
Fort Smith, Arkansas

Re: Simply conveyed comments received while obtaining signatures for the 1% Prepared Food Tax referendum petition.

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There being no further business to come before the Board, Good moved that the meeting adjourn. The motion was seconded by Tyler, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:26 p.m.

APPROVED:


Mayor

ATTEST:


City Clerk