

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ SEPTEMBER 6, 2016 ~ 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 Director Don Hutchings, followed by the Pledge of Allegiance. On roll call the following members of the Board were present: Directors Keith Lau, Andre' Good, Mike Lorenz, George Catsavis, Tracy Pennartz, Kevin Settle and Don Hutchings. The Mayor declared a quorum present.

Mayor Sanders 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 August 16, 2016 regular meeting was presented for approval. Settle, seconded by Catsavis, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

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, and two (2) minutes for comments only.

Item No. 1 was an ordinance amending the 2009 Unified Development Ordinance of the City of Fort Smith (*home occupation standards*).

Director of Development Services Wally Bailey briefed the Board on the item advising Section 27-338-4(F) of the Fort Smith Municipal Code, which includes the Unified Development Ordinance, includes a list of standards that are applicable to all Home Occupation applications. Upon consideration of such applications, the Planning Commission has historically been adding two (2) additional comments which are as follows:

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1. No commercial trash containers shall be utilized.
2. All vehicles must be parked in accordance with the City's residential parking ordinances.

Due to common practice of including the above additional requirements and upon Board approval, the inclusion will add such to the list of conditions for all Home Occupation applications. The Planning Commission held a public hearing on August 9, 2016 with no individual present to speak in opposition. The Planning Commission approved recommendation of the amendment to the Board of Directors for consideration by a vote of eight (8) in favor and zero (0) opposed.

Hutchings, seconded by Lau, 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.

Prior to the vote, Director Pennartz inquired if staff ensures compliance with all the conditions after the Home Occupation permit is issued.

Mr. Bailey advised the City initiates no specific inspection to ensure compliance upon issuance of the permit; however, violations are investigated upon submission of a complaint. Prior to issuance of said permit, surrounding neighbors are notified of the application and advised of all required conditions; therefore, the neighbors have historically been very eager to advise the City when non-compliance occurs.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Hutchings moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the Mayor declared

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the motion carried and the ordinance and emergency clause were adopted and the ordinance was given Ordinance No. 49-16.

Item No. 2 was an ordinance rezoning identified property and amending the zoning map (*from Commercial Heavy (C-5) to Industrial Light (I-1) by classification located at 5725 South 29th Street*).

Mr. Bailey briefed the Board on the item advising such is per the request of Ron Brixey, agent for Maxx Owensby. The purpose of the rezoning is to facilitate the development of a machine shop and associated parking at the subject location. Although the property and surrounding properties are zoned Commercial-5, the land uses and development have a more Light Industrial appearance. The proposed development and the Industrial-1 zoning will present no significant changes to the development pattern of South 29th Street. The Planning Commission held a public hearing on August 9, 2016 with no individual present to speak in opposition. The Planning Commission approved an associated development plan and recommended the rezoning request be presented to the Board of Directors for consideration by a vote of eight (8) in favor and zero (0) opposed.

Catsavis, seconded by Lau, 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.

Prior to the vote, Director Pennartz inquired if any environmental issues could arise, i.e. use of toxins, etc., associated with the type of business/development on the subject property.

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Mr. Bailey advised although some toxins may be utilized by the subject business, nothing is foreseen to create a hazardous type situation for the neighborhood or the utility systems. If an issue occurs with toxins going into a utility system, regulations are in place whereby such must be reported and monitored by the City of Fort Smith Utility Department.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 50-16.

Mayor Sanders recognized Christopher Monk, Boy Scout Troop 110, who was in attendance to earn his *Citizenship in the Community* badge.

Item No. 3 was an ordinance rezoning identified property and amending the zoning map (*from Not Zoned & Planned Zoning District to Planned Zoning District by classification located at 7000 Chad Colley Boulevard*) ~ Reviewed at the August 23, 2016 study session ~.

Mr. Bailey briefed the Board on item as discussed at the August 23, 2016 study session advising such is per the request of the Arkansas Colleges of Health Education (ACHE). The purpose of the rezoning is to facilitate the development of mixed uses, which include the existing Arkansas College of Osteopathic Medicine campus, and a Traditional Neighborhood Development (TND) that will include residential, commercial and retail uses. A TND is designed to increase human interaction through the provision of civic spaces and thoroughfares, a mix of uses, housing and building types all integrated into a walkable context that promote a health lifestyle. The proposed Planned Zoning District (PZD) requires inclusion of a project booklet, which provides a detailed design concept of the

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development. Upon approval of the PZD, a master plan will be developed and submitted to the City for final approval. The subject area consists of one-hundred-fifteen (115) acres in Fort Smith; however, the entire development also includes one-hundred-thirteen (113) acres in the city of Barling. In order to ensure consistency, the applicant has requested both the City of Fort Smith and the City of Barling adopt the same standards for the TND. The City of Barling has already adopted the proposed PZD. At the August 23, 2016 study session, there was an unresolved issue with regard to Sanitation vehicle access. The matter has been addressed whereby the design standard was amended to accommodate rear access (alley) for Sanitation trucks. The Planning Commission held a public hearing on August 9, 2016 with no individual present to speak in opposition. The Planning Commission voted eight (8) in favor and zero (0) opposed to recommend the proposed rezoning to the Board of Directors for consideration.

Pennartz, seconded by Lorenz, 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.

Prior to the vote, Director Hutchings advised he is a member of the Degen Foundation; therefore, advised of his intent to abstain from voting on the item.

Director Pennartz noted that for future such rezonings, she would like to have a percentage breakdown of the different transect zones.

The motion remaining on the floor and the members all voting affirmatively, with the exception of Director Hutchings who abstained, the Mayor declared the motion carried and

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the ordinance was adopted and given Ordinance No. 51-16.

Item No. 4 was an ordinance amending Section 24-72(a) of the Fort Smith Code of Ordinances to provide for east bound truck traffic on Phoenix Avenue to serve real property located south of Phoenix Avenue and within 500 feet of the Phoenix Avenue - Old Greenwood Road Intersection.

Director of Engineering Stan Snodgrass briefed the Board on the item advising the City has been made aware of a safety issue for trucks entering and exiting the Coca-Cola property on Phoenix Avenue, located just five-hundred (500) feet west of the intersection with Old Greenwood Road. The situation primarily applies to large, over-the-road tractor trailer trucks, not local delivery trucks. Coca-Cola representatives have indicated an average of five (5) large, over-the-road tractor trailer trucks deliver product to the facility daily. During peak travel times of the day, eastbound traffic along Phoenix Avenue increases to the point such blocks the driveways to the Coca-Cola property. Such requires westbound trucks accessing the property to stop in the thru lane and wait for an opening to cross three (3) lanes of eastbound traffic, which increases the likelihood of a rear-end accident and complicates navigating the truck thru three (3) lanes of opposing traffic. The City has designated certain streets throughout the city as truck by-passes whereby said trucks are required to travel on the designated truck by-pass routes; however, trucks may turn off the designated route for the purpose of making deliveries or picking-up merchandise. The trucks must proceed as near their destination as possible before turning off the truck by-pass and return same by the nearest direct route. The existing ordinance requires trucks accessing the Coca-Cola property to utilize Interstate 540 and proceed west

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along Phoenix to the facility. The proposed amendment will allow trucks accessing the Coca-Cola property to proceed only in the eastbound direction on Phoenix Avenue (from Wheeler Avenue) to make deliveries or pick-up merchandise at the facility and exit only in the same easterly direction when leaving the facility. The ordinance does not designate Phoenix Avenue between Wheeler Avenue and Old Greenwood as a truck by-pass route for through trucks.

Settle, seconded by Pennartz, 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.

Prior to the vote, Director Catsavis noted information indicates that if a truck diverts off one (1) of the designated truck by-passes, such is a misdemeanor; therefore, he questioned if such will result in merely a traffic citation or if such is an arrestable offence.

Interim Police Chief Dean Pitts confirmed a subject citation is a misdemeanor and confirmed such is not an arrestable offence.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried. Hutchings, seconded by Lorenz, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and the ordinance was given Ordinance No. 52-16.

Item No. 5 was an ordinance ordering the owners of certain dilapidated and substandard structures to demolish same, authorizing the City Administrator to cause the

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demolition of such structures to occur and for other purposes (*1834 North 13th Street / 1306 North "R" Street & rear garage building*).

Building Official Jimmie Deer briefed the Board on the item advising the matter includes three (3) structures located on one (1) lot and have been determined to be unsafe and detrimental to the public welfare. Upon approval, the owners will have approximately thirty (30) days to demolish the structure. If such is not accomplished, the City will be authorized to have the structures removed.

Catsavis, seconded by Lorenz, 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. There being no Director wishing to comment and the members all voting affirmatively, the Mayor declared the motion carried. Good, seconded by Settle, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and the ordinance was given Ordinance No. 53-16.

Item No. 6 consisted of the following items regarding adjustments to the 2016 Budget:

- A. Ordinance amending the 2016 Budget (*Police Department*)
- B. Ordinance amending the 2016 Budget (*Parks Department*)
- C. Ordinance authorizing the appropriation of donated funds for the Blue Lion Bikeway
- D. Ordinance authorizing the appropriation of funds for Parks Department equipment purchases

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- E. Ordinance authorizing the appropriation of funds received from the sale of City equipment and from the April 29, 2016 hail storm and other insurance settlements

Director of Finance Jennifer Walker briefed the Board on all the items collectively advising Item No. 6A merely authorizes the transfer of funds within the Police Department to purchase L-3 PatrolScout software, which includes licensing and installation of said software. A typographical error in the account code in the first whereas was discovered within the previously distributed ordinance; however, the account code has been corrected and a revised ordinance distributed to the Mayor and Board. Also, the second whereas within the ordinance is included and addressed within Item No. 6E; therefore, she requested the proposed ordinance be amended to remove the second whereas in its entirety. The motion to adopt the ordinance should include *“as revised”* and, upon concurrence of the Board, should also include the aforementioned amendment.

Item No. 6B transfers funds within the Parks Department budget. In 2016, the fuel costs were over-calculated, which has resulted in having excess funds in the Parks Maintenance Program 6201. The Parks Department partnered with the Central Business Improvement District (CBID) to add shade structures to the Downtown Compass Park Splash Pad; however, the funds for such was encumbered in the 2015 budget. Due to the generous offer of the CBID to share the cost for the shade structures, such has also resulted in excess funds within the Riverfront/Downtown Maintenance Program 6206. The Parks Departments mowing fleet is aging rapidly; therefore and upon approval, such will transfer excess funds to a capital line-item and allow the purchase of two (2) new mid-mount mowers.

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Item No. 6C relates to the Blue Lion Bikeway, which has been completed. The project was made possible with a \$50,000 charitable donation from Arvest Bank. Upon approval, such merely authorizes the appropriation of the aforementioned amount from the Parks Contributions Fund to the Parks Department Program 6208 to help fund the Blue Lion Bikeway Project.

Item No. 6D authorizes the appropriation of \$108,870.50, which is the proceeds from the sale of the Belle Grove Community Center (former Girls, Inc. property) to The Future School of Fort Smith. Such funds will be utilized to help fund the Compass Park Splash Pad shade structures, construct a maintenance shed on Riverfront Drive, and purchase two (2) mowers and a tractor with front end loader.

Item No. 6E authorizes the appropriation of funds received from the sale of surplus equipment, an insurance settlement for the April 29, 2016 hail storm damage and various insurance claims to associated City departments. Unfortunately, an error was discovered within the previously distributed ordinance whereby the dollar amounts were incorrect. The ordinance has been revised, and distributed to the Mayor and Board, to correct the error; therefore, the motion to adopt the ordinance must include "*as revised.*"

Lorenz, seconded by Pennartz, moved adoption of all items. The motion included the aforementioned amendment to Item No. 6A and "*as revised*" for Items No. 6A and 6E.

Prior to the vote and regarding Item No. 6E, Director Settle requested confirmation that the subject funds were deposited and posted into a revenue account and the proposed ordinance merely redistributes such funds to the appropriate department.

Mrs. Walker confirmed such advising the action follows proper accounting

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procedures; therefore, the matter is required solely for auditing purposes.

With regard to Items 6B and 6D, Director Settle noted such essentially authorizes use of the subject funds for the purchase of multiple mowers; therefore, he questioned if such will reduce any anticipated request for equipment purchases in 2017. Upon approval, he further inquired the anticipated life of the soon-to-be purchased mowers.

Director of Parks and Recreation Doug Reinert advised that upon approval of the proposed items, the Parks Department 2017 Budget will contain no funds or requests for purchase of mowers. With regard to the anticipated life of the mowers, such depends solely on the use of the equipment; however, several of the existing mowers to be replaced are approximately ten (10) years old.

Director Pennartz noted a large portion of the proceeds from sale of the former Girls, Inc. property will be utilized for the construction of a shed/maintenance shop on the fifty-one (51) acres on Riverfront Drive; therefore, she requested a brief explanation. Regarding the shed to be built on the fifty-one (51) acres on Riverfront Drive, she inquired if the shed will be constructed on the eastern-most portion of the property.

Mr. Reinert advised construction of the subject shed is essentially an inexpensive way to store equipment at the 51 acre site citing such will prevent the Parks and Recreation Department having to purchase a necessary trailer(s) to transport the equipment back and forth across the city. With regard to the construction site for the proposed shed, he confirmed such will be constructed on the actual site of the proposed/future recreation center. The shed will be constructed so it can be relocated when the aforementioned recreation center is constructed.

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The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinances were adopted and given Ordinance No. 54-16 through 58-16 respectively.

Item No. 7 was a resolution authorizing Change Order No. 1 with Beshears Construction, Inc. for the renovation and furnishings of the library annex building for use as office space (*\$3,085.00 / Utility Department / Not Budgeted - 2015 Revenue Bonds*)

• *Consent Decree ♦ Future Fort Smith*

Interim Director of Utilities Bob Roddy briefed the Board on the item advising such authorizes Change Order No. 2, which is the result of unexpected HVAC ductwork issues and required electrical and mechanical revisions discovered during construction.

Hutchings, seconded by Settle, moved adoption of the resolution. There being no Director wishing to comment and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-128-16.

Item No. 8 was a resolution accepting the project as complete and authorizing final payment to Beshears Construction, Inc. for the renovation and furnishings of the library annex building for use as office space (*\$28,685.00 / Utility Department / Budgeted - 2015 Revenue Bonds*) • *Consent Decree ♦ Future Fort Smith*

Mr. Roddy briefed the Board on the item advising staff has reviewed the final invoice for the project and agrees the contractor has satisfactorily completed the work as outlined in the contract; therefore, he recommended approval of the item.

Good, seconded by Settle, moved adoption of the resolution. There being no Director wishing to comment and the members all voting affirmatively, the Mayor declared

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the motion carried and the resolution was adopted and given Resolution No. R-129-16.

Item No. 9 was a resolution accepting the project as complete and authorizing final payment to MISSCO Contract Sales, LLC for the renovation and furnishings of the library annex building for use as office space (\$9,436.80 / Utility Department / Budgeted - 2015 Revenue Bonds) • *Consent Decree* ♦ *Future Fort Smith*

Mr. Roddy briefed the Board on the item advising staff has reviewed the final invoice and determined the City has satisfactorily received all components of the system walls and workstations as listed within the contract; therefore, he recommended approval.

Pennartz, seconded by Good, moved adoption of the resolution. There being no Director wishing to comment and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-130-16.

Item No. 10 was a resolution authorizing the Mayor to execute Authorization No. 2 to the agreement with Morrison Shipley Engineers, Inc. for engineering services for the Riverlyn Wastewater Pump Station Improvements (\$62,280.00 / Utility Department / Budgeted - 2015 Revenue Bonds) • *Consent Decree* ♦ *Future Fort Smith*

Mr. Roddy briefed the Board on the item advising as a condition of the Consent Decree, the City is required to implement improvements to wastewater pump stations and force mains. The Riverlyn pump station (Pump Station No. 8) is one (1) of three (3) stations scheduled for improvement and said pump station must be completed by the end of 2017. The proposed Authorization No. 2 consists of the final design and bidding phase services. The final design is anticipated to be complete by December 2016, which will provide twelve (12) months to complete construction and meet the Consent Decree deadline.

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Lorenz, seconded by Hutchings, moved adoption of the resolution.

Prior to the vote, Director Settle questioned if the subject pump station is above or below ground whereby Mr. Roddy advised such is “below” ground.

Director Pennartz inquired as to what percentage of pump stations are underground and if all pump stations are located on City-owned property.

Mr. Roddy advised the city of Fort Smith maintains twenty-three (23) pump stations with some being above and some below ground; however, he will obtain the requested percentage and advise. He further confirmed that all pump stations are typically located on property owned by the City of Fort Smith.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-131-16.

The consent agenda (Item No. 11) consisting of the following items was presented for consideration:

- A. Resolution to accept the bid and authorize a contract for the construction of Street Overlays/Reconstruction, Project No. 16-03-B (\$2,424,784.30 / *Engineering Department / Budgeted - Sales Tax Program*) ♦ *Future Fort Smith*
- B. Resolution accepting bids for the purchase of water and wastewater chemicals for 2016-2017 (*Annual bid / Various Departments / Budgeted - Water & Wastewater and Sanitation Funds*)
- C. Resolution allowing the sale of surplus vehicles and equipment at public auction
- D. Resolution authorizing the execution of the memorandum of agreement between the City of Fort Smith, Arkansas and the Arkansas State Game and Fish Commission

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- E. Resolution accepting the project as complete and authorizing final payment to Goodwin & Goodwin, Inc. for the Lee Creek Reservoir Buoy Line Replacement (\$48,695.00 / Utility Department / Budgeted - Water and Sewer Operations Budget) ♦ Future Fort Smith

- F. Resolution authorizing partial payment to S.J. Louis Construction of Texas, LTD for construction of the Lake Fort Smith Water Transmission Line - Phase I (\$887,108.01 / Utility Department / Budgeted - 2014 Sales and Use Tax Bonds) ♦ Future Fort Smith

Hutchings, seconded by Settle, moved adoption of all consent agenda items.

Prior to the vote and regarding Item No. 11C, Director Pennartz noted the information for the surplus items indicate some are in good condition; therefore, she questioned a brief explanation as to why such are being sold. She further inquired if the surplus items are being posted on the website; if a live auction is being held and if so, the location; and, the anticipated proceeds for the upcoming auction.

City Administrator Carl Geffken advised that although several of the items are indicated as being in good condition, they're on the list because their either aged, obsolete or no longer usable by the City.

Purchasing Manager Alie Bahsoon confirmed the subject auction is promoted on the City's website; however, the City also utilizes GovDeals, which is an online auction site. The live auction will be held at the Transit facility located 6821 Jenny Lind Road. With regard to the anticipated proceeds, he advised there's no definitive method to determine such; however, in the past, the City's annual auction has resulted in proceeds as high as \$180,000. The City ensures all auction items are sold; however, in the event someone fails to retrieve a purchased item, such is either discarded or donated.

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The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolution No. R-132-16 through R-137-16 respectively.

Mayor Sanders announced the monthly Town Hall meeting will be held immediately following adjournment; therefore, he encouraged those wishing to address the Board in said meeting to sign-in at the City Clerk's desk.

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

▶ Mayor Sanders

- Re:
1. Extended appreciation to all involved in this year's *Unexpected Project*, which occurred over the weekend and continues throughout the week, and noted such brought many people downtown to see the artwork, including him and his family, who enjoyed it immensely.
 2. Announced early voting for the September 20, 2016 School Board election will begin next Tuesday, September 13th.
 3. Announced the Fort Smith Symphony's, "An Evening with Joshua Bell" is scheduled for 7:30 p.m., Sunday, September 11 at the ArcBest Corporation Performing Arts Center; therefore, he encouraged all to attend if possible.

▶ Director Settle

- Re:
1. Advised the Arkansas State Crit Championship 2016 Bike Race is scheduled for 8:00 a.m. - 5:00 p.m., Sunday, September 11, 2016 in downtown Fort Smith and encouraged all to attend.
 2. Advised of the recent passing of Joe Mundy, a beloved little league coach in Fort Smith, and extended condolences to the Mundy family.

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- ▶ Director Pennartz

Re: Reminded all of the upcoming dedication ceremony for the Blue Lion Bikeway, which is set for 11:00 a.m. to 1:00 p.m., Wednesday, September 7, 2016 at the University of Arkansas Fort Smith, at encouraged all to attend.

- ▶ Administrator Geffken

- Re:
1. Extended much appreciation to all who recently served on the panel to interview Human Resources Director applicants citing an announcement will be forthcoming regarding same.
 2. Interviews for Director of Utilities will begin on Thursday, September 8th.
 3. Interviews for Police Chief will begin on Thursday, September 15th.

There being no further business to come before the Board, Pennartz moved that the meeting adjourn. The motion was seconded by Lau and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 6:49 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK