

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, HELD ON FEBRUARY 18, 2013 AT 7:00 P.M. IN THE CIVIC CENTER, 16327 LAKEVIEW, JERSEY VILLAGE, TEXAS.

A. CALL TO ORDER AND ANNOUNCE A QUORUM IS PRESENT

The meeting was called to order by Mayor Russell Hamley at 7:00 p.m. with the following present:

Mayor, Russell Hamley
Council Member, Justin Ray
Council Member, Rod Erskine
Council Member, Harry Beckwith III, PE
Council Member, Sheri Sheppard
Council Member, Jill Klein

City Manager, Mike Castro, PhD
City Secretary, Lorri Coody
City Attorney, Bobby Gervais

Staff in attendance: Mark Bitz, Fire Chief; Eric Foerster, Chief of Police; Danny Segundo, Director of Public Works; Isabel Kato, Director of Finance; and Michael Brown, Director of Parks and Recreation.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

1. Prayer and Pledge by Boy Scout Troop 1944

C. CITIZENS COMMENTS

Citizens who have signed a card and wish to speak to the City Council will be heard at this time. In compliance with the Texas Open Meetings Act, unless the subject matter of the presentation is on the agenda, the City staff and City Council Members are prevented from discussing the subject and may respond only with statements of factual information or existing policy. Citizens are limited to five (5) minutes for their presentation to the City Council.

Mark Maloy, 7803 Hamilton Circle, Jersey Village, Texas (713) 937-0408 – Mr. Maloy spoke to Council about item No. 4 on this agenda concerning re-imposing the City's one and one half percent (1.5%) sales and use tax on residential use of gas and electricity. In connection with same, Mr. Maloy would like Council to demonstrate why this tax is needed. He stated that should Council approve the tax, he would like for Council to restrict how the revenue from the tax is used. He stated that the City receives revenue from other sources and he named the franchise fees and general sales tax.

Additionally, Mr. Maloy spoke to Council about Clear Channel's request for electronic bill boards. He gave Council a handout in connection with this item. *(There were only five (5) handouts and the City Secretary was not presented one of these copies for the record.)* He suggested that Council refer this item to the Planning and Zoning Commission for review and recommendation and stated that public hearings should be conducted concerning this matter.

Zana Carter, 16242 Seattle Street, Jersey Village, Texas (713) 937-6119 – Ms. Carter spoke to Council about the sales tax issue being considered on the evening's agenda. She told Council that she does not understand this tax and would like more information about it.

She also addressed Council concerning the US 290 expansion project and noise abatement, asking for continued Council support on this issue. She mentioned a new problem with regard to

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noise and US 290. She explained her concern about the use of “jake brakes” on big rigs and the loud noise that this type braking system makes for trucks traveling along US 290. She stated that she would like to see the use of this braking system outlawed within our City limits.

LC Beckwith, 8006 Senate, Jersey Village, Texas (713) 466-4300 – Ms. Beckwith spoke to Council in support of the digital signs being proposed by Clear Channel Outdoors. She explained how these signs will benefit the small businessman.

Henry Hermis, 16118 Crawford Street, Jersey Village, Texas (713) 466-7480 – Mr. Hermis spoke to Council about the “no net fill” Ordinance. He stated that on a recent project, he was not permitted to use sand when pouring concrete. He believes that in certain instances, “net fill” is needed and would like to have the Ordinance re-evaluated.

D. CITY MANAGER’S REPORT

City Manager, Mike Castro, gave his monthly report and called special attention to the 2012 Racial Profiling Report. In addition to the items listed below, Police Chief Eric Foerster introduced three (3) new Peace Officers joining his department.

- 1. Monthly Fund Balance Report, Red Light Camera Fund Report, Enterprise Funds Report, Governmental Funds Report, Property Tax Collection Report, and Budget Projections as of January 2013**
- 2. Open Records Request**
- 3. Fire Departmental Report and Communication Division’s Monthly Report**
- 4. Police Activity Report, Warrant Report, Investigations/Calls for Service Report, Red Light Camera Summary Report, Crime Prevention Unit Monthly Report, and Staffing/Recruitment Report**
- 5. Municipal Court Collection Report, Municipal Court Activity Report, Municipal Court Courtroom Activity Report, Speeding and Stop Sign Citations Within Residential Areas Report, and Court Proceeds Comparison Report**
- 6. Public Works Departmental Report, Phase 3 CIP Project Breakdown and Phase 3 Project Update**
- 7. Golf Course Monthly Report, Golf Course Financial Statement Report, and the Parks and Recreation Departmental Report**
- 8. Report from Code Enforcement**
- 9. Capital Improvements Projects Report**
- 10. 2012 Racial Profiling Report**
- 11. Introduction of Peace Officers**

E. CONSENT AGENDA

The following items are considered routine in nature by the City Council and will be enacted with one motion and vote. There will not be separate discussion on these items unless requested by a Council Member, in which event the item will be removed from the Consent Agenda and considered by separate action.

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1. **Consider approval of the Minutes for the Regular Session Meeting held on January 21, 2013 and the Special Session Meeting held on January 24, 2013.**
2. **Consider Resolution No. 2013-06, authorizing a contract with the law firm of A Linebarger Goggan Blair & Sampson, LLP for the collection of delinquent taxes.**

RESOLUTION NO. 2013 -06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, ENTERING INTO A CONTRACT WITH THE LAW FIRM OF LINEBARGER GOGGAN BLAIR & SAMPSON, LLP FOR THE COLLECTION OF DELINQUENT TAXES.

3. **Consider Resolution No. 2013-07, authorizing the City Manager to enter into an Interlocal Agreement with Harris County allowing the City of Jersey Village to utilize Harris County's current contracts in order to purchase goods and services from vendors under executed Harris County contracts.**

RESOLUTION NO. 2013-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH HARRIS COUNTY, ALLOWING THE CITY OF JERSEY VILLAGE TO UTILIZE ITS CURRENT CONTRACTS IN ORDER TO PURCHASE GOODS AND SERVICES FROM VENDORS UNDER EXECUTED COUNTY CONTRACTS

Council Member Beckwith moved to approve items 1 through 3 on the consent agenda. Council Member Ray seconded the motion. The vote follows:

Ayes: Council Members Ray, Erskine, Beckwith, Sheppard, and Klein

Nays: None

The motion carried.

F. REGULAR AGENDA

1. **Consider Resolution No. 2013-08, reviewing and accepting the 2012 Comprehensive Annual Financial Report (CAFR) Presentation of the Audit Report.**

Isabel Kato, Finance Director, introduced the item. The City of Jersey Village is required to publish each year a complete set of financial statements presented in conformity with Generally Accepted Accounting Principles (GAAP), and audited in accordance with generally accepted auditing standards by a firm of licensed certified public accountants.

She introduced Ben Cohen from Belt Harris & Associates LLLP who gave a presentation based on the audit findings and the financial position of the City.

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Upon completion of the presentation, Council Member Sheppard moved to approve Resolution No. 2013-08, reviewing and accepting the 2012 Comprehensive Annual Financial Report. Council Member Beckwith seconded the motion. The vote follows:

Ayes: Council Members Ray, Erskine, Beckwith, Sheppard, and Klein

Nays: None

The motion carried.

RESOLUTION NO. 2013-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, ACCEPTANCE OF THE 2012 COMPREHENSIVE ANNUAL FINANCIAL REPORT.

2. **Consider Resolution No. 2013-09, receiving the Planning and Zoning Commission's Preliminary Report as it relates amending Chapter 14, Article IV of the Code of Ordinances to include Child Day-Care Operations as a permitted use with a specific use permit by amending Section 14-105(a)(21) by adding a subsection (b), by amending Section 14-106(a)(19) by adding a subsection (e), and by amending Section 14-110(a)(4) by adding a subsection (c).**

Debra Mergel, Chairman of the Planning and Zoning Commission, introduced the item. She told Council that the Commission met on February 12, 2013 to consider the proposal to amend Chapter 14, Article IV of the Code of Ordinances to include Child Day-Care Operations as a permitted use with a specific use permit by amending Section 14-105(a)(21) by adding a subsection (b), by amending Section 14-106(a)(19) by adding a subsection (e), and by amending Section 14-110(a)(4) by adding a subsection (c).

After review and discussion, the Commissioners preliminarily proposed that Chapter 14, Article IV of the Code of Ordinances be amended to include Child Day-Care Operations as a permitted use with a specific use permit in zoning districts F, G, and K, and presents its preliminarily report in connection with its findings to City Council tonight and asks that it be received.

With limited discussion on the matter, Council Member Ray moved to approve Resolution No. 2013-09, receiving the Planning and Zoning Commission's Preliminary Report as it relates amending Chapter 14, Article IV of the Code of Ordinances to include Child Day-Care Operations as a permitted use with a specific use permit by amending Section 14-105(a)(21) by adding a subsection (b), by amending Section 14-106(a)(19) by adding a subsection (e), and by amending Section 14-110(a)(4) by adding a subsection (c). Council Member Sheppard seconded the motion. The vote follows:

Ayes: Council Members Ray, Erskine, Beckwith, Sheppard, and Klein

Nays: None

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The motion carried.

RESOLUTION NO. 2013-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, RECEIVING THE PLANNING AND ZONING COMMISSION'S PRELIMINARY REPORT AS IT RELATES AMENDING CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES TO INCLUDE CHILD DAY-CARE OPERATIONS AS A PERMITTED USE WITH A SPECIFIC USE PERMIT BY AMENDING SECTION 14-105(A)(21) BY ADDING A SUBSECTION (B), BY AMENDING SECTION 14-106(A)(19) BY ADDING A SUBSECTION (E), AND BY AMENDING SECTION 14-110(A)(4) BY ADDING A SUBSECTION (C).

3. **Consider Ordinance No. 2013-03, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend Chapter 14, Article IV of the Code of Ordinances to include Child Day-Care Operations as a permitted use with a specific use permit by amending Section 14-105(a)(21) by adding a subsection (b), by amending Section 14-106(a)(19) by adding a subsection (e), and by amending Section 14-110(a)(4) by adding a subsection (c).**

Danny Segundo, Director of Public Works, introduced the item. He told Council that in receiving the preliminary report in the preceding item on the agenda, the next step in the process is to call for a Joint Public Hearing with the Planning and Zoning Commission. This item is to consider calling for the Joint Public Hearing for locating Child Day-Care Operations in Zoning Districts F, G, and K.

With no discussion on the matter, Council Member Ray moved to approve Ordinance No. 2013-03, calling a joint public hearing of the City Council and the Planning and Zoning Commission concerning the proposal to amend Chapter 14, Article IV of the Code of Ordinances to include Child Day-Care Operations as a permitted use with a specific use permit by amending Section 14-105(a)(21) by adding a subsection (b), by amending Section 14-106(a)(19) by adding a subsection (e), and by amending Section 14-110(a)(4) by adding a subsection (c). Council Member Erskine seconded the motion. The vote follows:

Ayes: Council Members Ray, Erskine, Beckwith, Sheppard, and Klein

Nays: None

The motion carried.

ORDINANCE NO. 2013-03

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS CALLING A JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE PLANNING AND ZONING COMMISSION CONCERNING THE PROPOSAL TO AMEND CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES TO INCLUDE CHILD DAY-CARE OPERATIONS AS A PERMITTED USE WITH A SPECIFIC USE PERMIT BY

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AMENDING SECTION 14-105(A)(21) BY ADDING A SUBSECTION (B), BY AMENDING SECTION 14-106(A)(19) BY ADDING A SUBSECTION (E), AND BY AMENDING SECTION 14-110(A)(4) BY ADDING A SUBSECTION (C).

4. Consider Ordinance No. 2013-04, re-imposing the City's one and one half percent (1.5%) sales and use tax on residential use of gas and electricity.

Isabel Kato, Finance Director, introduced the item. Background information is as follows: The 81st Legislature passed SB 575, permitting crime control and prevention districts to impose sales tax throughout special purpose districts on residential use of gas and electricity. Legislation enacted in 1978, (House Bill 1, 65th Legislature, Second Called Session) exempted residential use of natural gas and electricity from sales and use taxes. However, the legislation also included a grandfather clause that authorized any city that imposed sales tax prior to October 1, 1979 to either retain the tax by ordinance on or before May 1, 1979; or if the city properly exempted residents from the tax, it could re-impose the tax at any time after May 1, 1979. The City of Jersey Village by Ordinance No. 1978-15 properly exempt residents from the sales tax for the use of natural gas and electricity effective October 1, 1978.

With the passage of SB 575, Council should consider re-imposing the local sales tax which may be done by a majority vote. If adopted, the re-imposition would take effect beginning on the first day of the calendar quarter next succeeding the elapsed quarter. The exemption or re-imposition of the local tax does not apply to sales of natural gas and electricity for residential use made during a customer's regular monthly billing period which begins before the effective date of the exemption or re-imposition. The exemption or re-imposition shall apply to each regular monthly billing period beginning on or after the effective date of the exemption or re-imposition.

In checking the records, 772 cities across the State impose this tax, and 21 of those cities are from this area, also 147 cities are eligible to re-impose the sales tax. The local tax applies to sales of natural gas and electricity for use in a city that has adopted the local tax and must be collected for the city in which delivery is made to the consumer.

A spreadsheet was included in the Council packet, showing the projected revenue that this tax would generate for the City should Council re-impose the tax.

Council engaged in discussion concerning the average impact of such a tax on each resident. Finance Director Kato told Council that her calculations set this estimate at approximately \$20 per household per year.

Council also engaged in discussion about the US 290 expansion project and if this project will affect sales tax collections given the closure of several businesses. City Manager Castro explained that sales tax collection figures are reported to the City by the State as a total figure for the area and not on a business by business basis. Therefore, while the City will be able to review sales tax collections by totals over the course of the coming

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months, it will not be able to actively add up the sales tax revenue for the businesses that will be eliminated to arrive at some calculated average for lost revenue.

City Manager Castro pointed out that lost sales tax revenue is just one justification for implementing this tax. He reminded Council of the numerous unfunded mandates that have been placed upon local government by State and Federal mandates in recent years. He also explained/justified why staff is suggesting that now is the time to re-impose this tax.

The consensus of Council was that this item would be better understood and a better connection to City finances could be made if it were reviewed during the City budget process. No action was taken on this item, but the consensus was that staff would re-present during the budget work sessions.

ORDINANCE NO. 2013-04 – NO ACTION TAKEN

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, REIMPOSING THE CITY'S ONE AND ONE HALF PERCENT (1.5%) SALES AND USE TAX ON RESIDENTIAL USE OF GAS AND ELECTRICITY; MAKING OTHER PROVISIONS RELATED THERETO AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

- 5. Consider Ordinance No. 2013-05, amending the Hotel Occupancy Tax Fund budget for the fiscal year beginning October 1, 2012 and ending September 30, 2013 in the amount of \$12,000, to cover the increase in the Advertising line item 05-56-5044 for costs associated with advertising the Jersey Meadow Golf Course in the Houston and the Dallas-Fort Worth Link Magazine.**

Michael Brown, Director of Parks and Recreation, introduced the item. Background information is as follows: The Golf Course currently utilizes Hotel Occupancy Tax funds (HOT funds) to promote the course to potential customers outside of the Houston region. In the past, staff has specifically targeted media in the Dallas / Ft. Worth region. HOT funds are primarily used to contract for advertisements in regional golf publications in North Texas. The city attorney has opined that HOT funds may not be utilized to advertise in local media.

Through a staff error, staff contracted for an additional \$12,000 in advertising in a regional publication that concentrates in the Dallas area and is unable to void the contract at this time. Rather than amend the golf course fund, staff proposes to utilize HOT funds to pay for this mistake. Usage of HOT funds is consistent with past practices and has been deemed an allowable use by the city attorney. The city currently has a sufficient balance of HOT funds to absorb this amendment.

With limited discussion on the matter, Council Member Sheppard moved to approve Ordinance No. 2013-05, amending the Hotel Occupancy Tax Fund budget for the fiscal year beginning October 1, 2012 and ending September 30, 2013 in the amount of \$12,000, to cover the increase in the Advertising line item 05-56-5044 for costs

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associated with advertising the Jersey Meadow Golf Course in the Houston and the Dallas-Fort Worth Link Magazine. Council Member Erskine seconded the motion. The vote follows:

Ayes: Council Members Ray, Erskine, Beckwith, Sheppard, and Klein

Nays: None

The motion carried.

ORDINANCE NO. 2013-05

AN ORDINANCE OF THE CITY OF JERSEY VILLAGE, TEXAS, AMENDING THE HOTEL OCCUPANCY TAX FUND BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013 IN THE AMOUNT OF \$12,000, TO COVER THE INCREASE IN THE ADVERTISING LINE ITEM 05-56-5044 FOR COSTS ASSOCIATED WITH ADVERTISING THE JERSEY MEADOW GOLF COURSE IN THE HOUSTON AND THE DALLAS-FORT WORTH LINK MAGAZINE, AND PROVIDING FOR SEVERABILITY.

6. Discuss and take appropriate action relating to a proposal from Clear Channel Communications regarding electronic billboards.

Harry Beckwith, Council Member, introduced the item. He stated that Clear Channel has presented a proposal to replace an existing standard billboard with a digital billboard and for this installation will remove some of its existing standard billboard signs. Council Member Beckwith mentioned the positive responses he has received from local small business owners concerning the prospect of digital outdoor advertising.

Council engaged in discussion about the proposal. There was discussion about the collection of sales tax on this type of advertising. It was determined that sales tax is not collected; however, an annual sign permit fee does apply.

Lee Vela with Clear Channel Outdoor was present. He fielded questions about the proposal, particularly about the install/removal ratio and how that works. He also explained that their request is for the conversion of the same size sign from a standard format to a digital sign. He explained the location of the sign they desire to convert and explained that the sites for the accompanying sign removals were still being reviewed by his company and not known at this time. In discussing the matter further, Clear Channel Outdoor was asked if the conversion site and the removal locations were negotiable. Clear Channel Outdoor agreed that at this point everything is negotiable.

There was some concern from the Council that the digital billboards have safety issues and may be responsible for increased accidents. As a result, it was recommended that this billboard issue be reviewed by the Planning and Zoning Commission and that public hearings should be a part of the process before any ordinance changes are made.

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Discussion was had that in prior meetings with the Planning and Zoning Commission their review entailed “spectacular signs” and there was confusion between that of “spectacular” and “digital.” Any future discussions on this topic with the Commission should focus on separating “spectacular” from “digital.”

Council Member Beckwith moved to refer this issue to the Planning and Zoning Commission to develop a definition for digital billboards appropriate to Jersey Village, to develop the minimal requirements for replacing static billboards with digital billboards and also to develop spacing requirements that are at least as, if not more, restrictive as those in place by TXDOT. Council Member Ray seconded the motion.

Before voting on this motion, Council discussed the second option in Clear Channel Outdoors’ proposal; that of supplying the City with digital messaging signs at each entrance to the City as opposed to the conversion/removal option. It was the consensus of Council that the conversion/removal option was more favorable. With this in mind, Mayor Hamley called for a vote on the motion. The vote follows:

Ayes: Council Members Ray, Erskine, Beckwith, Sheppard, and Klein

Nays: None

The motion carried.

7. Discuss ways to engage elected officials regarding noise issues associated with the US 290 highway expansion.

Rod Erskine, Council Member, introduced the item. He began by giving a summary of all the steps taken by Council Members, City Staff, and residents in order to mitigate noise connected with the US 290 expansion project. Steps included the sending of some 200 to 300 letters to State Representatives, attending TxDOT Public Hearings for the US 290 expansion project conducted on December 11 and December 13, 2012, and writing follow-up letters to Senator Dan Patrick and State Representative Gary Elkins.

Council Member Erskine reported that despite all the efforts on behalf of the City to mitigate noise from US 290, the State plans to implement longitudinal tinning as the remedy for noise along this corridor. Council Member Erskine explained that his conversations with the noise experts revealed that any reduction in noise resulting for the use of longitudinal tinning would not be recognizable to the human ear.

Accordingly, there is concern for long-term noise issues associated with the expansion of US 290. Council Member Erskine stated that this item is to discuss ways to engage State elected officials regarding this problem. He wondered if Council was open to setting up a meeting with either State Representative Gary Elkins or State Senator Dan Patrick where Council could meet with these representatives as a group and discuss the issue.

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It was the consensus of Council to pass a Resolution seeking noise mitigation and assistance of elected officials with the noise issue. Once approved, Council would present the Resolution to the State representatives as a whole group. The Mayor would take active steps to arrange the meeting. The consensus was that the City's Noise Expert should attend this meeting so ample scheduling time should be given to ensure that arrangement can be made for his attendance.

A special meeting for March 4, 2013 was set for consideration of the Resolution. No action was taken on this item.

G. MAYOR AND COUNCIL COMMENTS

Pursuant to Texas Government Code § 551.0415, City Council Members and City staff may make a reports about items of community interest during a meeting of the governing body without having given notice of the report. Items of community interest include:

- Expressions of thanks, congratulations, or condolence;
- Information regarding holiday schedules;
- An honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;
- A reminder about an upcoming event organized or sponsored by the governing body;
- Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and
- Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Beckwith: Council Member Beckwith expressed his appreciation for Staff's work on the US 290 expansion project and for preparation of the materials presented in the Council Work Session Meeting.

Council Member Erskine: Council Member Erskine congratulated the Jersey Village Fire Department on receiving a September 911 relic and stated that it would be nice to communicate the receipt of same to the residents of the community via a JV Star article.

Council Member Ray: Council Member Ray welcomed the new officers to the Jersey Village employment family and also thanked Staff for the presentation on the US 290 expansion project.

Council Member Sheppard: Council Member Sheppard called attention to the Jersey Village Woman's Group that has been formed. She explained the focus of the group as being one for Jersey Village activities and events. She stated that the group has met and has set a calendar.

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Some events include a food drive at Thanksgiving and also a Tour of Homes event. She encouraged that those interested in joining the group contact her for more information.

Council Member Klein: Council Member Klein reported on the activity of the Recreation and Events Committee. She stated that two events are being planned, the Easter Egg Hunt on March 24 and the Spring Fling on April 19.

H. ADJOURN

There being no further business on the Agenda the meeting was adjourned at 8:25 p.m.

Lorri Coody, City Secretary