REGULAR COUNCIL MEETING

March 12, 2013 7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, March 12, 2013, in the Council Chambers at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor C. A. Grenz called the meeting to order. Council Members present were Dwayne Andrews, Roxanna Brush, John Hollowell, Mark Ahner, Jerry Partridge, John Uden and Bill Melnik. Councilperson Sue Galbraith was excused.

Also present were Fire Chief Dale Berg, City Attorney Dan Rice, Grant Administrator Dawn Colton, City Planner Dianna Broadie, Public Utilities Director Al Kelm, Floodplain Administrator Sam Malenovsky, Human Resource/Payroll Officer Billie Burkhalter, Building Inspector Dennis Hirsch and Council Recorder City Clerk Becky Stanton.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

Regular Council Minutes - 2/26/2013

** Councilperson Brush moved to approve the minutes of the Regular Council Meeting of February 26, 2013, with a correction, seconded by Councilperson Uden. The motion passed unanimously, 7-0.

Public Services Minutes - 3/5/2013

The **Public Service Committee** met Tuesday, March 5, 2013, at 6:00 pm in the City Hall conference room. Present were Committee Chairperson Sue Galbraith and Committee Members Jerry Partridge and Dwayne Andrews. Committee Member John Hollowell was absent. Also present were Mayor C.A. Grenz, Public Utilities Director Al Kelm, Historic Preservation Director Connie Muggli and Committee Recorder Finance Clerk Linda Wildman.

Chairperson Galbraith called the meeting to order.

1. KEITH LEININGER, 422 MISSOURI: PERMISSION TO PUT UP A FENCE 4' FROM THE CURB ON $5^{\rm TH}$ STREET AND ALONG THE SIDEWALK ON MISSOURI STREET. THIS IS ON CITY PROPERTY.

Mr. Leininger explained he would like to construct this fence for safety of his children. He has a limited front yard on 5th Street and would like to build his fence 4 foot from the curb and on Missouri along the sidewalk.

Committee Member Andrews asked why he did not choose to construct a fence in his back yard. Committee Member Andrews is concerned about continuing to allow people to build on City right-of-way.

Committee Member Partridge said the Council has approved fences being built similar to this situation such as Joe Menyhart about a year ago.

Utility Director Kelm pointed out there is an 80 foot easement on 5th Street with only 20' from back of curb. Director Kelm asked what type of fence and how high Mr. Leininger was asking to build as code allows a maximum 42 inch height. Mr. Leininger stated he would build a chain link fence with no slats and would keep it under the 42 inch height requirement.

- ** Committee Member Partridge moved to allow Mr. Leininger to install a fence 4' from the curb on 5th Street and along the sidewalk on Missouri Street, seconded by Chairperson Galbraith. Upon roll call vote, motion passed 2-1 with Committee Member Andrews voting against.
- 2. DISCUSSION ON KIWANIS' WIBAUX PARK PROJECT

Mr. John Menyhart spoke representing the Kiwanis'. He presented a plan for projects the Kiwanis Club would like to do at the Wibaux Park Shelter. He explained they would like to do these projects in three phases and have \$500 currently for Phase I which would power wash the deck, repaint the shelter, signage and replace the new soap dispensers. Phase II would be to replace exterior outlet covers, hand dryers, and the exhaust fan. Phase III would be the most costly by demolishing interior walls and installing new privacy partitions. Phase IV would be replacing door and trim and installing a new overhead door and wood trim. Phase V would be demolishing a perimeter of uneven asphalt and replacing it with concrete. They expect these phases to stretch over a year. The Kiwanis Club would appreciate any donation of trees or inkind donation from the City to supplement their funding from private donations.

There was discussion of possible CTEP funds for sidewalk construction to the shelter and the frog pool for the handicapped. Director Kelm will meet with Grant Administrator Colton about any possible grants for this type of project.

Committee Member Andrews congratulated the Kiwanis Club for taking on this kind of project for the betterment of the community.

- ** Committee Member Andrews moved to recommend moving this item to the March
 12th Council agenda as new business, seconded by Committee Member Partridge and
 passed 4-0.
- 2. Request of Citizens

There were no requests of citizens.

- 5. ADJOURNMENT
- ** Having no further business Committee Member Partridge moved to adjourn the meeting, seconded by Committee Member Andrews and passed unanimously, 4-0.

The meeting was adjourned at 6:30 p.m.

** Councilperson Partridge moved to approve the minutes of the Public Services Meeting of March 5, 2013, seconded by Councilperson Melnik. The motion passed unanimously, 7-0.

Human Resources Minutes - 3/6/2013

The Human Resources Committee met Wednesday, March 6, 2013, at 12:00 p.m. in the Conference Room at City Hall. Present were Committee Chairperson John Uden, Committee Members Bill Melnik, Mark Ahner and Roxanna Brush. Also present were Councilpersons John Hollowell, Jerry Partridge and Sue Galbraith, Mayor C.A. Grenz, Finance Clerk Linda Wildman, Police Chief Doug Colombik, Fire Chief Dale Berg, Flood Administrator Sam Malenovsky, Public Utilities Director Al Kelm, Program Administrator Dawn Colton, Community Service Planner Dianna Broadie and Committee Recorder HR/Payroll Officer Billie Burkhalter.

- 1. Roll Call
 - Noted above
- 2. Review job description of Dianna Larson

Chairperson Uden explained that Dianna Larson could not attend this meeting and this item will be moved to a future agenda.

3. Discussion with Department Heads regarding Performance Evaluations for their employees

Chairperson Uden explained that Mayor Grenz, with City Attorney Rice present, completed all Department Head Performance Evaluations.

Chairperson Uden stated he was quite shocked that most City employees have never had a job performance evaluation. He understands that the Fire and Police departments have either completed evaluations or are in the process of completing them. Director Kelm stated he had not done evaluations in a very long time mainly due to Union 283A being opposed to evaluations being completed. He further explained that in the past 283A perceived this process as being hostile and refused to sign the documents. Director Kelm believes that the employees now would be more open to participating in this process. Committee Member Melnik pointed out that a job performance evaluation is used as a learning tool and should not be perceived as a threat.

Councilperson Galbraith questioned if there was a standard evaluation form or if the Directors could use any form. HR Officer Burkhalter stated that there is an evaluation policy but there is not a standard form in the policy to use. Fire Chief Berg presented an Employee Performance Evaluation form that had been given to him in the past. Chairperson Uden reviewed this form and found it to be acceptable as it was a generic form that could be used by any Department Director. Committee Member Ahner agreed, and further stated that the Employee Performance Self Evaluation is an asset to the evaluation process.

** Committee Member Ahner moved to recommend to Council to adopt the Employee Performance Evaluation form and the Employee Performance Self Evaluation form for use for this current year. Motion seconded by Committee Member Melnik.

Chief Colombik explained the Police department uses their own evaluation forms due to the complexity of their jobs. Mayor Grenz recommended to the Committee that due to the Police department having different needs than most departments that Chief Colombik remains using what their department has established.

- ** Committee Member Ahner amended the motion to exclude the Police Department from having to utilize these forms. Motion seconded by Committee Member Melnik. Upon roll call vote, motion was passed unanimously.
- Upon original motion and on roll call vote, motion was passed unanimously.
- ** Chairperson Uden moved to recommend to Council that all City employees have a completed Performance Evaluation within 2 months. Motion seconded by Committee Member Brush. Upon roll call vote, motion passed unanimously.

Chairperson Uden explained to the Committee that he will meet with City Attorney Rice to establish a policy on City wide job performance evaluations and will present it at the next scheduled meeting.

4. Consider hiring procedures as provided by the Mayor

Mayor Grenz explained he had City's Labor Negotiator Larry Martin review the City Personnel Policy manual and write for him a new hiring procedure policy. When he received the information from Attorney Martin, he stated it was so full of legalese that he decided to forward it to Dan Clark with MSU Local Government Center with a request to provide him a workable outline form. Mayor Grenz stated he was given some choices in the Local Government's outline, such as, having the Department heads do the hiring or the Mayor, and he selected to do it himself. Mayor Grenz stated that there is nothing new in the proposed hiring procedures it will just make it a lot easier and simpler to follow and is in line with City policy.

Committee Member Ahner questioned HR Officer Burkhalter as to whether this conformed to the current policy and if there were minor changes made. HR Officer Burkhalter replied that what was introduced was a good policy but would need clarification on a few things. The first being questioned is under the Hiring Process, concerning job description modification. She stated she was confused as this seems to refer to current employees' job descriptions and felt this didn't belong in this particular policy. She recommended it states future city employees. Committee Member Ahner agreed that it should state "potential" employees.

HR Officer Burkhalter further explained that under the Hiring Process where it referenced to collective bargaining agreements was not concise enough. She recommended that the current policy language be kept as the City is required to follow contract language to the extent applicable. She further explained she had been given two similar documents concerning the new hiring procedures, one from Mayor Grenz and the other from Local Government Center.

HR Officer Burkhalter questioned what the Committee's intention is on the existing policy, would the new procedures replace it or be combined into it. Mayor Grenz stated it was his understanding that these procedures would be in addition to the existing policy. Committee Member Brush stated she did not believe this would work as an addendum due to the documents saying two different things. She referenced the existing policy states Department Heads do the hiring; this would need to be changed.

** Committee Member Brush made a motion to update the City's current hiring procedure policy with the bullets from the City's Labor Attorney included in it. Motion seconded by Committee Member Ahner.

Councilperson Hollowell stated the proposed hiring policy does clarify some issues with the existing policy, but feels there are still questions that need to be addressed. Specifically under "Recruitment and Selection Policies" under #2; internal recruitment, where it states the "City reserves the right to open all job searches outside the organization". Councilperson Hollowell explained that he spoke with Deputy City Attorney Erica Griffith and questioned her on whom and what is considered the "City". She recommended that this be replaced with the "Mayor" to stay in line with the procedures. He also questioned #3; "open recruitment process", as he understands it, the open positions will start with the job registry, internal recruitment, external recruitment and once this is completed an applicant will be hired. Councilperson Hollowell would also like further clarification on who establishes the "hiring committee" and noted that Attorney Martin had recommended this be embodied in an updated recruitment policy.

Committee Member Ahner recommended HR Officer Burkhalter rework the existing policy incorporating the points of the proposed hiring procedures, and bring it back to the Committee for their review.

- ** Committee Member Brush amended the motion to create a rough draft of the Hiring Procedures to be brought back to the Committee. Motion seconded by Committee Member Ahner. Upon roll call vote, motion was passed unanimously.
- ** Upon original motion and on roll call vote, motion was passed unanimously.

Clerk Wildman questioned which form HR Officer Burkhalter would be using for integrating the policy, the one provided by the Mayor or Local Government Center. Chairperson Uden and the Committee were in agreement that both forms would be used. Chairperson Uden requested HR Officer Burkhalter inform the Committee when this has been completed.

5. Request of Citizens

Administrator Malenovsky questioned what was going on with the mediation for the grievances. Committee Member Brush stated that she has been contacted by Attorney Martin and mediation has been scheduled for Monday, March 11, 2013 at 10:30 am in the Fish, Wildlife and Parks building in Miles City. Administrator Malenovsky pointed out that since she did not have an attorney, would her mediation be at the same time as the other employees who do? Chairperson Uden recommended Administrator Malenovsky meet with the Human Resource Officer on how to proceed.

6. Committee Members' comments

Committee Member Ahner stated in reference to the deferred item of Dianna Larson's job description, it should be reviewed by her supervisor prior to her bringing it to the Committee. Chairperson Uden questioned if Director Kelm had written or reviewed Dianna Larson's proposed job description. Director Kelm replied he had not written it and had only reviewed part of it. Chairperson Uden stated that the Committee would not address this issue until Director Kelm had approved the job description and brought it back to the Committee.

7. Adjournment

** Committee Member Brush moved to adjourn the meeting. The motion was seconded by Committee Member Melnik and passed.

The meeting was adjourned at 12:55 p.m.

** Councilperson Uden moved to approve the minutes of the Human Resources Committee Meeting of March 6, 2013, seconded by Councilperson Melnik. The motion passed unanimously, 7-0.

SCHEDULE MEETINGS

Finance Committee: Wednesday, March 20, at 6:00p.m. Planning Board: Tuesday, March 19, at 6:00p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

Keith Leininger, 422 Missouri, asked if he was on the agenda for his fence and it is scheduled under new business.

Sigrid Laird, 203 N. Custer, updated the Council on the funds that she has raised for the pool improvements. She has raised over \$9,000 of the \$10,000 which was her goal. Some people are holding their pledges until they see progress on the pool. If something is not done this season, she will send the pledges back to the people.

Director Kelm responded that contractors will bid the roof for the bathhouse. He said that bidding could be completed by May 1.

<u>APPOINTMENTS</u>

-None

PROCLAMATIONS

-None

STAFF REPORTS

Building Inspector Dennis Hirsch explained that the State of Montana Legislature did not adopt the 2009 Building Codes. If they had been adopted, every new home would have to install a sprinkler system. The Insurance Services Office, Inc. (ISO) is the leading supplier of statistical data, underwriting information and actuarial analysis to the property/casualty insurance industry in the United States. It moved Miles City from a Class 4 to a Class 9, due to the City not adopting the latest edition of the Building Code, as well as a change in staff and corresponding certification since last evaluation. To correct this, the State of Montana is in the process of adopting the 2012 IRC Building Codes, which will eliminate the sprinkler systems requirements.

Councilperson Ahner asked if homeowners will have to pay higher insurance premiums because of the ISO rate change. Building Inspector Hirsch said they would not because the City is taking steps to develop a program to regain the Class 4 rating. The City Council will have to adopt the 2012 Building Codes.

Public Utilities Director Kelm covered the swimming pool under Requests for Citizens. He explained that the City has issued a back-to-work order for the Jackson Group to start work on the Riverside Park Restroom Project. They will start on March 18th.

Councilperson Partridge asked Director Kelm if they were going to control disease at the swimming pool again this year. He said that they were.

City Planner Dianna Broadie updated the Council on the encroachment issues in the wilderness area. She has contacted the two individuals who were encroaching. The fence will be removed as soon as weather allows and the horses will be moved immediately. The Mayor feels that the City will benefit from leasing it out.

CITY COUNCIL COMMENTS

Councilperson Hollowell – noted that the City Attorney has reviewed and approved the contract for Kadrmas, Lee & Jackson, Inc. (KLJ). They will provide the study for solutions to Floodplain issues in Miles City. The City Attorney wanted the Council to be certain of the scope of practices. The City

and Miles City Economic Development Corporation (MCEDC) are looking at possible grants to help with the costs of the study.

Councilperson Uden – thanked Councilperson Hollowell and Floodplain Administrator Malenovsky for their hard work on this matter. He noted that it will cost the residents of Miles City less to fund the dike than it will cost to pay flood insurance premiums over the years.

Mayor Grenz stated that if the City of Miles City signs this contract with KLJ, they would lose any chance of receiving a grant. He cautioned everyone to take their time and consider that. He would like to thank the MCEDC staff and Grant Administrator Colton for their work on this matter. He feels it is important to wait on this matter to see if the City receives the grant money. Mike Coryell of MCEDC said that the Community Development Block Grant (CDBG) grant funds may be released July 1st.

Councilperson Hollowell – wanted to thank Floodplain Administrator Malenovsky, Grant Administrator Colton, Public Utilities Director Kelm, KLJ Engineer Carl Jackson, Mike Coryell and Julie Kurkow of MCEDC, Mayor Grenz for their involvement in this matter.

Carol Hardesty Cherry, 1104 S. Merriam, asked the Council for a guarantee that if the grant does not occur, the City will sign the contract. Mayor Grenz promised that he would do everything he can.

Bill Puskas, 1014 N. 2nd St., asked what has happened to make the dike so volatile. Mayor Grenz explained that FEMA did a study and it was determined that the Tongue River was the main threat. The Tongue River dam at Decker would have to break, there would have to be a large spring rain, heavy thaw and run off, and have an ice jam on the river, which would create flooding in Miles City.

Councilperson Hollowell explained that the dike is not certified under FEMA regulations so they do not recognize it.

Dawn Leidholt, 58 Canyon View Trail, asked about the time line for this project. Mike Coryell of MCEDC spoke concerning the time line of the grant and said it should be quick. Floodplain Administrator Malenovsky explained that as soon as the grant is accepted, it should be a short turn around.

Dorothy Armstrong, 1018 S. Stacy, explained that a large amount of money leaves this community through flood insurance premiums. The community would rather spend the money on a feasibility study now rather than wait a year. The community is losing money by not addressing this matter now.

Councilperson Brush - Chamber President John Laney has resigned from the Planning Board due to a conflict of interest.

Councilperson Hollowell – requested an update on the Waste Water improvements. Director Kelm explained that the Waste Water Plant is still on hold, but the North Haynes Lift Station project is progressing.

MAYOR COMMENTS

His comments have already been covered.

PUBLIC HEARINGS

-None

OLD BUSINESS

-None

BID AWARDS

-None

BID OPENING

-None

NEW BUSINESS

Request from M&L Enterprises for City to create a Special Improvement Construction District (SID) for paving, curb and gutter on Arrowhead Lane

Councilperson Brush received a call from Eric Doeden of M&L Enterprises. He was told by City Planner Broadie that because they had not followed proper procedures, this would not be addressed tonight. City Planner Broadie explained she had visited with M&L Enterprises on proper procedures and they had apparently followed up with a letter from their attorney. She will visit with the attorney as see where to go next.

Councilperson Hollowell requested clarification as to why procedure had not been followed. M&L Enterprises are questioning the paving, and it was a condition of the plat. City Planner Broadie explained that they are asking that one condition of plat (the paving) not be met. They want it done by a Subdivision Improvement Agreement, which would change the condition of the plat. The paving is the responsibility of applicant. City Attorney Rice explained the City has an Ordinance that states any change to the conditions of plat has to be run through a process.

Councilperson Ahner noted that the Council had approved, and developers have agreed, to pay for paving, curb and gutter on Arrowhead Lane in order to develop the seven lots separately. One other part of that motion from the previous Council meeting pertained to the Department of Environmental Quality (DEQ) approving the storm water retention ponds from the seven lots. He asked if that has been granted. City Planner Broadie explained that City Sanitarian Mike Rinaldi, who has approval to review storm drainage for DEQ, would need to address that issue.

Bruce Larson, 18 S. Strevell, stated that M&L Enterprises had asked if he would attend the Council meeting on their behalf. He explained that historically new developments have been built through Special Improvement Districts (SID). The developers are asking to meet with the City Attorney Rice to have him explain the laws to them. The developers would like to set up a meeting to discuss this matter. Bruce Larson will have their attorney contact City Attorney Rice to set up the meeting.

RESOLUTION NO. 3580: A Resolution Authorizing The City Of Miles City To Enter Into A Construction Agreement With Western Municipal Construction, Inc., A Montana Corporation, For Construction Of Strevell Area Street And Water Improvements

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** Councilperson Brush moved to approve the Resolution, read by title only, seconded by Councilperson Hollowell. Upon roll call vote, motion passed unanimously, 7-0

RESOLUTION NO. 3577: Star Printing Contract

** Councilperson Brush moved to approve the Resolution, seconded by Councilperson Partridge. Upon roll call vote, motion passed unanimously, 7-0

Recommendation from 3/5/13 Public Service Committee to allow Keith Leininger, 422 Missouri, to construct a fence 4' from the curb on 5th Street and along the sidewalk on Missouri Street on City right of way.

** Councilperson Partridge moved to approve the above recommendation, seconded by Councilperson Melnik.

Director Kelm asked if the recommendation could be changed to have Mr. Leininger build a fence 6 feet from the curb, since the City requires by Ordinance 6 foot sidewalks.

- ** Councilperson Partridge moved to amend the recommendation to allow Mr. Leininger to build a fence 6 feet from the curb, seconded by Councilperson Melnik. Upon roll call vote, motion passed 6-1, with Councilperson Andrews voting nay.
- ** Upon roll call vote, the original motion passed 6-1, with Councilperson Andrews voting nay.

Recommendation from 3/5/13 Public Service Committee to bring forward to the March 12th Council Meeting a request from Kiwanis' for donations for Wibaux Park Shelter project.

** Councilperson Andrews moved to approve the above recommendation, seconded by Councilperson Partridge.

John Menyhart, 1820 Main, and Brandon Janshen, 604 S Center, were representing the Kiwanis Club and explained their proposal to repair the Wibaux Park shelter. They wish to update the shelter and associated needs at the park. The Kiwanis Club is paying for Phase 1, which includes power washing the deck, repainting the shelter, signage and new soap dispensers. Phase II consists of replacing exterior outlet covers, replacing hand dryers and one exhaust fan. They would like the City to contribute Phase II, which is estimated at \$700. Director Kelm noted that the outlet covers have already been replaced.

Mr. Menyhart said the Kiwanis Club is asking for donations from the public since it is the most heavily used City park. They will run a newspaper ad explaining the project and asking for donations. They will have a barbeque in the park after the Bucking Horse Sale and will be taking donations then, also.

** Upon roll call vote, Councilperson Andrews' motion passed unanimously, 7-0.

Recommendation from 3/6/13 Human Resource Committee to adopt the Employee Performance Evaluation form and the Employee

Performance Self Evaluation form for use for this current year, excluding the Police Department

** Councilperson Uden moved to approve the above recommendation, seconded by Councilperson Brush.

Councilperson Uden explained that the City does not have a standard employee evaluation form and he has provided the Council a generic form that he wants adopted. He feels it can be utilized by of all departments.

Fire Chief Berg explained that the Self-Evaluation form is used by the employee to set goals and determine where they want to be in five years. Councilperson Andrews explained that he did not see the form as an evaluation form but as a Program Plan that aids in determining where the employee wants to be in five years. An evaluation typically is an employee's performance for a year.

Councilperson Partridge stated that he was evaluated once and sometimes twice a year. He said that sometimes people doing the evaluations spend a great deal of non-productive time preparing for and performing them. Employees will find them a waste of time. Many times the evaluator does not understand the job being evaluated. If you are looking for employee improvement, a private conference works better. If you are looking for a way to fire an employee, having a complete anecdotal record will work best.

** Upon roll call vote, Councilperson Uden's motion passed 6-1, with Councilperson Partridge voting nay.

Recommendation from 3/6/13 Human Resource Committee that all City employees have a completed Performance Evaluation within 2 months.

** Councilperson Brush moved to approve the above recommendation, seconded by Councilperson Uden.

Councilperson Uden noted that most City employees, excluding the police department, have not had performance evaluations. Mayor Grenz completed department head employee evaluations last Friday. Councilperson Uden is requesting employee evaluations be completed in the next two months.

Councilperson Andrews is concerned about the two month time limit. He noted that the Public Works Director position has not yet been filled, therefore, the bulk of the reviews will fall to Director Kelm.

Director Kelm asked if anyone has checked with the City's unions to determine if the unions have a problem with the evaluations and how they will be conducted.

Councilperson Uden stated that if the union employees have a problem doing them, then it falls back on Director Kelm. Director Kelm noted that he has a full schedule with the Wastewater Plant project, the North Haynes Lift Station project, the Strevell Street project, the swimming pool project and the water/sewer capacity study. He will give it his best, but his plate is full. No one has checked with the unions to determine if a union foreman can evaluate union employees.

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Councilperson Ahner noted that he does not recall that the union contract prohibits the above. City Attorney Rice will research this matter. Human Resource/Payroll Officer Burkhalter stated that City policy states that the department heads will do the evaluation.

Fire Chief Berg stated that the Local 600 union has their shift supervisor or captains evaluate their employees due to the fact that the foremen go on calls with their employees and not the Fire Chief. Therefore, they are more knowledgeable about their performance. Fire Chief Berg then reviews the evaluations.

** Councilperson Brush's motion passed, 6-1, with Councilperson Partridge voting nay.

Recommendation from Finance Committee – Approve purchase of plotter & software

Councilperson Ahner explained that at the last Council meeting the Council had approved by motion to purchase the plotter and software for a total of \$21,250. Director Kelm was going to check with the vendor about the cost to place the software on the server. The City will be able to purchase the plotter, software and an additional three licenses that will be placed on computers instead of the server.

** No action was necessary, since the costs will be under the \$21,250 approved at the last council meeting.

Approval of February Claims

** Councilperson Melnik moved to approve the February claims, seconded by Councilperson Brush. The motion passed unanimously, 7-0.

ADJOURNMENT

** Mayor Grenz adjourned the meeting.

The meeting was adjourned at 8:40 p.m.

C.A. GRENZ, Mayor

Becky Stanton, City Clerk

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