

RECORD OF PROCEEDINGS

Minutes of *COUNCIL*

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held *June 20**2011*

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, June 20, 2011, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Reverend Dr. Michael Castle of Cross Creek Community Church, with the Pledge of Allegiance and with Mayor C. Mark Kingseed presiding. Councilmembers and City Staff were present as follows:

Deputy Mayor	Douglas Cline
Councilmembers	John Beals
	Brooks Compton
	Paul Gresham
	Belinda Kenley
	James Singer

Clerk of Council Debra James

City Manager Gregory Horn

Finance Director Steven Hinshaw

City Planner Steven Feverston

Public Works Director Robert James

City Engineer Douglas Spitler

Assistant City Engineer John Sliemers

Assistant to the City Manager Jennifer Wilder

Economic Development Director Nathan Cahall

Community Resources Coordinator Maureen Russell-Hodgson

Director of Food Service/Yankee Trace Steve Shaw

Assistant Director of Food Service/Yankee Trace Jason Pajari

Municipal Attorney Scott Liberman

The minutes of the following meetings had been distributed prior to this meeting:

Council Meeting	May 16, 2011.
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Work Session Meetings	May 16, 2011.
	June 06, 2011.

Mrs. Kenley asked for a correction to the last paragraph of the minutes of the May 16 work session. "A marketing consultant" should read "a food and beverage consultant" and change the word "promoting" to "reviewing". The sentence reads "Council concurred to consider the option of hiring an outside food and beverage consultant to help in reviewing the Gallery Restaurant." Mr. Compton moved that the minutes of the foregoing meetings be approved as amended. Dr. Gresham seconded the motion. The motion passed with seven ayes. Mr. Cline abstained from the vote on the minutes of May 16 as he was absent from those meetings.

Mrs. James, Clerk of Council, announced the resignation of Ronald Greive from the Stormwater Drainage Task Force. She also noted the receipt of an appeal of the decision of the Planning Commission by Donald Tarazano for property at 161 Terrace Villa Drive. Mayor Kingseed thanked Mr. Greive for his service since 1989 when the task force was first organized.

Mayor Kingseed stated that a synergy can be generated between the needs of the City and volunteers from area churches. He greeted Pastor Corey Mantz of Bethel Christian Church that participated in Project Dash-E within the City of Centerville. Youth from the church worked on

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projects aimed at helping both people and the environment. The young people worked at Stubbs Park, Benham's Grove and at a private residence. Mayor Kingseed read a certificate of appreciation for the efforts of the group. For four or five years the group has come to Centerville. Pastor Mantz thanked the Council for the recognition.

Mrs. Wilder explained the art contest for posters to promote the Farmers Market and healthy eating. Ms. Ashleigh Coleman, an art teacher from Tower Heights Middle School, has used the contest as part of her junior high curriculum in a cooperative effort between the City, the Farmers Market and the school. Mrs. Wilder welcomed overall winner, Xavior Motley, and the other top winners from the sixth, seventh and eighth grades. Each student received a certificate of recognition and a gift certificate for the Farmers Market. The winners were as follows:

8th Grade – Kaitlin Recker, Katy Wren, Grace Butkus

7th Grade – Xavior Motley, James Pepper, Jonas Hopper

6th Grade – Melissa Burkardt, Sophia Yang, Jodie Feilen

The parents of the winners stood and were recognized. Betty Lou Carney of the Arts Commission thanked Ashleigh Coleman for promoting the contest at Tower Heights Middle School.

Mayor Kingseed acknowledged the winners of the Centerville City Beautiful Summer Landscape Awards. City Beautiful signs are in the yards for the month of June for the following winners:

Mike and Sandy Palmer
1973 Home Path Court

Wayne and Beck Moore
6121 Park Ridge Drive

Beverly Steinbicker
1050 Charter Place

Richard and Mary O'Connor
1425 Seminary View Drive

Paula Willey
255 Bethel Road

Sean and Rita Dohr
9770 Rose Arbor Drive

David and Beth Fischer
874 Deer Run Road

In the Mayor's Report, Mr. Kingseed noted the following:

Golf course operations in general are having economic difficulty, but Yankee Trace is doing well and has historically paid all its operational expenses. The City does supplement the debt service, but when the benefits to the community from the 900 homes at Yankee Trace are factored the golf course is definitely an asset.

He encouraged the community to participate in all the local offerings of the summer—concerts at Stubbs Park, the Farmers Market, and activities at Yankee Trace.

In the City Manager's Report, Mr. Horn shared the following:

Dick Bishop, former Public Works Director, recently passed away in Florida. Mr. Horn noted the growth that occurred during his tenure and extended condolences to Mr. Bishop's family.

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The water main project by Montgomery County Water Services on SR 48 south of Franklin Street is progressing well although it is somewhat behind schedule. The street will be open for the Fourth of July weekend and the entire project should be finished by the end of July. Commuters should expect detours in the coming weeks.

Statistics from the Community Garage Sale are now available and show 262 participants in this highly successful event and over 7,000 hits on the website. Mr. Horn thanked Maureen Russell-Hodgson, Dan Sammon and the Public Works Department for efforts related to the garage sale and Operation Clean Sweep.

The brick plaza has been completed at Benham's Grove. A rock commemorating the funding provided by the Friends of Benham's Grove was put in place earlier today. He thanked the group for the contributions made over the years for projects at Benham's Grove.

A major hailstorm hit many areas of the City of Centerville in May causing clumps of leaves and sticks to be lost from trees. Mr. Horn thanked residents for their cooperation in bagging the debris, since the equipment used for fall leaf pickup would not accommodate the type of leaves left after the storm.

The budget for 2012 is very challenging and work is beginning much earlier than normal, since it is expected that money from the State of Ohio could be reduced by as much as \$2 million per year. Mr. Horn asked Dr. Hinshaw, Finance Director, to report on the effects of the decline in funding from State sources. Dr. Hinshaw gave examples of cuts or changes that could be required in the next few years in order to balance the budget. In sharing background for funding sources, he stated that the City has not raised its tax rate in thirty years and many residents pay income taxes only in the jurisdiction where they are employed. Our residents pay the vast majority of their property taxes to other entities (parks, fire, libraries, Washington Township, schools and Montgomery County). If the library levy passes, the City of Centerville will get the smallest percentage of any of the entities receiving funds from property tax collections. Dr. Hinshaw enumerated ways that the City has saved money in the past. Mr. Horn noted that the City's income tax rate is among the lowest in Montgomery County and that the City currently does street improvements in neighborhoods without assessments. He explained that the City of Centerville with its charter form of government will get very little relief or benefit from measures that are aimed at counterbalancing the State funding cuts. Senate Bill 5 is aimed at communities with collective bargaining; employees in Centerville are not unionized. He noted the positive things happening in the community as well as the challenges of the future.

Mr. Cline asked about the impact of higher interest rates for our investments, and Mr. Compton noted that, while the State is required to balance its budget; stimulus money delayed the need to cut the budget. Dr. Hinshaw noted that the estate tax does not cost the State any money.

Mr. Cahall outlined code violations and resolutions for the month of May, 2011, as well as the community calendar for the coming weeks. Activities mentioned included a Garden Tour by Friends of Benham's Grove, the Farmers Market, Americana Festival events, Yankee Trace events, free summer concerts at Stubbs Park, and art displays at the Police Department. He shared information on recycling, prescription discount cards and openings on boards and commissions.

Mr. Cahall also gave the legislative update. HB153 is the budget bill which includes cuts in Local Government Funds and the estate tax. HB50 from Mr. Blair's committee amends

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annexation requirements increasing the number of jurisdictions that would be required as signatories on annexation petitions. SB17 that is pending the governor's signature would permit a licensee to carry a weapon into a liquor establishment. SB125, part of the new tool box for local governments, allows statutory governments such as townships to work together for joint purchasing and governmental services. SB178, defining an aggrieved party, relates to public records and aims to stop frivolous lawsuits over burdensome records requests.

Mr. Feverston reported on three items from the Planning Commission requiring Council action. The first was a record plan for the Highlands at Yankee Trace, Section 2A, where Charles Simms requested a replat of the lot line between Lot 29 and Lot 30 in order to accommodate a ranch duplex with a dual front-entry garage. Mr. Feverston located the lots on a map and gave background on the matter. Planning Commission unanimously recommended the replat at its meeting on May 31, 2011. Mr. Compton moved for approval of the updated record plan. Dr. Gresham seconded the motion. The motion passed with seven ayes.

The second replat referred from the Planning Commission was a record plan for Yankee Trace, The Highlands, Section 3, requested by Jim Kiefer of Great Traditions/ Yankee Trace Development, Inc. Section 3, a new subdivision with twenty lots, is located east of Paragon Road and extends Legendary Way north of Sand Wedge Court. Mr. Feverston enumerated the 15 conditions of the Planning Commission in unanimously recommending the record plan to Council on May 31, 2011. He noted the concern for emergency access and pointed out the crossover with gates from Shawnee Trail. He also stressed the concern of the Planning Commission for the completion of the public infrastructure in the earlier sections of Yankee Trace as the final areas are developed. Planning Commission added the last condition specifically to deal with the issue. Mr. Feverston fielded a question about Reserve areas maintained by the homeowners association, before Mr. Compton moved for approval of the record plan for Section 3 of the Highlands at Yankee Trace, subject to the 15 conditions of the Planning Commission. Mr. Cline seconded the motion. The motion passed with 7 ayes. The 15 conditions are as follows:

1. Execution of a Subdivider's Agreement is required with the City of Centerville.
2. In lieu of construction of the required improvements prior to the recording of the plat, a performance bond is required. The bond amount is based upon the engineer's estimate, which shall be submitted by the developer for approval by the City Engineer. The estimate is for the construction of the required public improvements including earthwork, storm sewer, pavement, sidewalk, traffic control, and erosion control.
3. A one year maintenance bond in the amount of 4% of the original performance bond will be required when the public improvements are complete and the performance bond is released.
4. The applicant must provide for review and inspection fees per Section 1214 of the Centerville Municipal Code.

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5. Lots 45, 46, 49 and 50 shall be modified to properly align driveways subject to approval by the City Planner.
6. Lots 41 and 42 shall be modified to allow for an appropriate rear yard for lot 41 subject to approval by the City Planner.
7. The offsite sanitary sewer project for Section 3 is substantially completed subject to approval by the City Engineer.
8. A final grading and stormwater drainage plan shall be subject to approval by the City Engineering Department showing drainage calculations and incorporating retention and/or detention and erosion control during construction in accordance with the City Stormwater Drainage Control Ordinance.
9. The proposed storm easement shall be extended to southeast from catch basin 18 subject to approval by the City Engineer.
10. A paved turnaround shall be constructed at the end of Legendary Way in a design acceptable to the City Engineer per UDO Article 9.13, B, d.
11. The emergency access connecting Legendary Way and Shawnee Trail, including the cul-de-sac for Shawnee Trail and emergency gates shall be constructed with this plat in a design acceptable to the City Engineer.
12. The proposed sidewalk along Legendary Way shall terminate into the curb of Legendary Way across from Gallery Court and have handicap accessibility subject to approval by the City Engineer.
13. Fire hydrants shall be installed at a maximum spacing of 400 feet subject to approval by the Washington Township Fire Department.
14. The construction drive shall be maintained and kept in good condition at all times by Yankee Trace Development, Inc. This drive shall be reconditioned by Yankee Trace Development, Inc., at the completion of all construction, including homebuilder construction that is associated with this subdivision subject to approval by the City Engineering Department.
15. All unfinished public infrastructure improvements in all sections of the Yankee Trace development shall be completed to the satisfaction of the City Engineer.

The third item from Planning Commission was an amendment to the record plan of the property at 1 Loop Road as requested by the Van Atta Engineering on behalf of Mercedes-Benz and Ross Buick. The property, zoned B-PD, is located at the corner of SR 48 and Loop Road. The applicant asked for reconfiguration of the lot lines, making two lots rather than 3 on the parcel to reduce non-conformities and the need for setback variances. At its meeting on June 14, 2011, the Planning Commission unanimously recommended the replat of the lots, without conditions. Mr. Beals verified that the property was under one ownership before moving for

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approval of the record plan for 1 Loop Road. Dr. Gresham seconded the motion. The motion passed unanimously.

Mr. Beals wanted to bring attention to the Third Friday celebrations being held downtown by the Heart of Centerville merchants' association. These enjoyable events are planned for the whole community on the third Friday of each month. Mayor Kingseed echoed Mr. Beals comments and said there is free public parking and encouraged residents to visit the Third Friday events.

Mayor Kingseed explained that the Consent Agenda contains procedural and administrative matters. Approval of these issues will be as a group with one motion being made. Items may be removed from the Consent Agenda by request of any Councilmember. Councilmembers took turns reading the Consent Agenda into the record as follows:

- A. Cornerstone Developers, Ltd., Preliminary Development Plan, Cornerstone North, 5300 Wilmington Pike, north of I-675, be set for Public Hearing on August 15, 2011.
- B. Cornerstone Developers, Ltd., Preliminary Development Plan, Cornerstone South, Wilmington Pike and Clio Road, south of I-675, be set for Public Hearing on August 15, 2011.
- C. Resolution Number 20-11, A Resolution Ratifying The Action Taken By The City Manager To Submit An Application To The Montgomery County Board Of Commissioners For A Community Development Block Grant.
- D. Resolution Number 21-11, A Resolution By The Centerville City Council Extending For A Period Of Six Months (180 Days) The Moratorium On The Granting Of Any Permits Allowing The Operation Of Sweepstake/Internet Cafes Within The City Of Centerville.
- E. Appointment of David Blum to the Board of Tax Appeals for a term of three years.

Mr. Cline sponsored the items and moved for their approval. Mr. Singer seconded the motion. The motion passed unanimously with seven ayes.

ORDINANCE NUMBER 05-11, REZONING ALONG CENTERVILLE BUSINESS PARKWAY, FROM I-PD TO O-PD

Mayor Kingseed read Ordinance Number 05-11 that was tabled at the Council Meeting on May 16, 2011. Dr. Gresham moved to remove the ordinance from the table. Mr. Cline seconded the motion. The motion passed with seven ayes.

Dr. Gresham moved to return Ordinance Number 05-11, An Ordinance Amending Ordinance Number 14-08, Chapter 1216, The Unified Development Ordinance, To Rezone 29.83 Acres Of Land, More Or Less, Located Along Centerville Business Parkway And North Of Clio

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Road And Being Multiple Tracts Of Land, From I-PD, Industrial-Planned Development, to O-PD, Office-Planned Development, to the table. Mrs. Kenley seconded the motion. The motion passed with seven ayes, so Ordinance No. 05-11 was returned to the table until the July 18 Council Meeting.

ORDINANCE NUMBER 11-11, ANNEXATION
2.58 ACRES ALONG YANKEE STREET, GW REAL PROPERTY LLC

The Public Hearing was held concerning Ordinance Number 11-11. Mr. Horn stated that this was a 100 percent owner petitioned annexation for 2.58 acres. The parcel of land is located east of Yankee Street, south of Spring Valley Road and immediately north of The Commons at Yankee Trace. The small brick ranch house that has been on the property for a number of years was recently vacated. The owners of the property have petitioned for annexation, and Mr. Horn would like for Council to move forward with accepting the annexation. In answer to Dr. Gresham's question concerning the house, Mr. Horn replied that the house should be demolished within the next couple of months. Although there are no immediate plans for development, the site will be cleaned and mowed regularly. Mr. Beals questioned whether the driveways to access that property would come from Yankee Trace Drive or Yankee Street. Mr. Horn indicated that there was potential for one of the driveways to come in from the south through the adjoining property at Bethany Commons. Whether there would be access from Yankee Street would be determined in the future.

Mr. Compton sponsored Ordinance Number 11-11, An Ordinance Accepting The Annexation Petition Filed With The Board Of County Commissioners Of Montgomery County, Ohio By GW Real Property, LLC, ("Petitioner") For Annexation To The City Of Centerville, Ohio Of Certain Territory, As Provided By Ohio Revised Code Section 709.022, et seq., and moved that it be passed. Mrs. Kenley seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 12-11 AMENDING UDO SECTIONS ON RESIDENCE FAMILY HOMES AND RESIDENCE GROUP HOMES

The Public Hearing was held concerning Ordinance Number 12-11. Mr. Feverston, City Planner, gave the staff report explaining that this Ordinance amends the Unified Development Ordinance as it applies to Residence Family Homes as well as Residential Group Homes. This Ordinance brings the City's Code more into compliance with new State regulations. The Planning Commission has reviewed the proposed changes and has unanimously recommended approval of Ordinance Number 12-11. The substantive change in the code is the modification of the spacing radius that was established under the previous code. The spacing rate is modified from one half mile to one thousand feet for both Residence Family Homes and Residential Group Homes. Mr. Liberman stated that the City wanted to have definitions similar to those in the State statute, but felt more comfortable with a spacing radius of one thousand feet rather than five hundred feet. He noted that there are current court cases dealing with these Fair Housing spacing regulations for Residence Family Homes and Residential Group Homes.

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Mr. Compton sponsored Ordinance Number 12-11, An Ordinance Amending Ordinance 14-08, The Unified Development Ordinance For The City Of Centerville, Ohio, as modified, and moved for its approval. Dr. Gresham seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 10-11, POSTING PLACE TO REPLACE THE CENTERVILLE POST OFFICE

The public hearing was held concerning Ordinance Number 10-11. Mr. Horn explained, with the closing of the Centerville Post Office, it is recommended that the Centerville Police Department be listed as one of the five public locations within the City for posting all newly passed Ordinances and Resolutions. The Police Department is open 24 hours per day/365 days a year. The Clerk of Council worked with staff at the Police Department to make arrangements to establish a posting area in the lobby that is accessible at all times.

Mr. Beals sponsored Ordinance Number 10-11, An Ordinance Amending Section 224-01 Of The Centerville Municipal Code For The Listing Of The Posting Places For Ordinances And Resolutions Within The City Per The City Charter, and moved for its approval. Mr. Singer seconded the motion. The motion passed unanimously.

APPEAL BY DONALD TARAZANO OF PLANNING COMMISSION DECISION ON AN ACCESSORY STRUCTURE (SOLAR PANELS)

Mr. Feverston gave background on the Appeal filed by property owner Donald Tarazano against a decision that was rendered by the Planning Commission for property located at 161 Terrace Villa Drive denying his application for 53-56 solar panels 5' x 3' to be installed as an Accessory Structure under Section 9.39 Accessory Buildings and Use Standards of The Unified Development Ordinance. The City treats solar panels as an accessory use and an accessory structure since augmenting the power supply to the house requires a physical structure on the property. The City has approved applications in the past when the solar panels were smaller in number and were usually on the back roof of a property. Mr. Feverston showed slides of the house, situated it in the neighborhood and designated where solar panels would be installed about six inches from the surface of the roof. The solar panels have the potential to produce glare for neighbors. Staff questions at what scale the use and the structure are still accessories, still secondary to the main residential use and structure. Planning Commission denied the application with a 4-1 vote. Planning Commission was concerned about the impact on the neighborhood. The applicable criterion of the UDO says the accessory structure located on a residential premise and greater than 100 square feet in gross area must be architecturally consistent with the character of the house. The dissenting vote was cast by a member who did not want to deny the application solely on aesthetics.

Mr. Donald Tarazano, 161 Terrace Villa Drive, stated that the main objection is that the solar panels would not be very pretty. He is concerned about the energy situation in our nation; there are national and statewide policies favoring solar energy. Upon his explanation, none of his neighbors objected to him installing the panels. He noted the jobs and economic benefit from solar energy. He asked for reconsideration of his application.

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Mrs. Debbie Hobstedder, attorney for Astrum Solar from Washington, D.C., came to support Mr. Tarazano. She stated that she would be happy to help Centerville form guidelines for solar panel installation in the City. She says the current UDO does not mention solar installations specifically. She disagreed with the definition of solar as an accessory use. Defining solar panels as an accessory use limits the potential for any future solar installations in the City. The strong environmental concerns should outweigh aesthetics.

Mr. Paul Clark, Chair of the Planning Commission, noted that no representative of the applicant came to the Planning Commission Meeting. He said that the main concerns were aesthetics, because that is the guideline in the UDO and, in spite of research, little legislation is available for guidance on the matter. Mr. Tarazano asked for a 9.1 kilowatt project in spite of the average use in Ohio being 5 kilowatts per day. It looked like excess energy would be produced. The Planning Commission also mentioned concern for fire access to the attic.

Mr. Donald Tarazano said that he was not notified or asked to participate in the Planning Commission meeting. Mr. Feverston stated that issue did not require a public hearing with noticing requirements; it was a standard meeting where agendas are sent out to the applicant on the Friday before the meeting. Noticing requirements were in effect for this appeal.

Discussion on how to proceed followed; a decision was made to table the matter until the July meeting to allow time for further consideration of pertinent information. Mr. Liberman stated that the appeal had to be decided by the Council; the matter could not go back to the Planning Commission unless changes were submitted as a new application. Council suggested that the applicant and Staff get together for discussions and report back.

When both Mr. Cline and Mr. Beals voiced concerned about the size of the installation, Mr. Tarazano stated that Astrum had studied his electric invoices and that he only hoped to break even with DP&L. Mr. Beals pointed out that, in spite of the agreement of Mr. Tarazano's neighbors with the project, what Council decides in this case will set a precedent for the entire City into the future.

Mr. Compton moved to table Mr. Tarazano's appeal of the decision of the Planning Commission until the July meeting. Mr. Singer seconded the motion. The motion passed with seven ayes. Mayor Kingseed thanked Mr. Clark and the Planning Commission for their work researching this issue. Mayor Kingseed asked Mr. Horn to have Staff recommend an ordinance specifically for solar panels.

Kim Birdseye, 915 Vintage Woods Court, stated his disagreement with the decision to "refacilitate" The Gallery at Yankee Trace because finances require a change in the schedule and services offered. Public records show that the income covers the operations, but not the improvements to the plant and the debt service. He stated that those who bought into the Yankee Trace Residential Community bought a lifestyle. He said that the changes at the Gallery adversely impact homeowners and will impact golfers in the long run. The Yankee Trace Homeowners Association wants to help and has offered to be part of a solution.

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Gunther Herenza, 1000 Wedgestone Court, asked for the restaurant to be open for dinner daily May through December. He suggested using interns from the culinary schools at local community colleges and renegotiating the interest rate on the debt.

Mayor Kingseed stated that because everyone has the same goal and wants what is best for the golf course, the City is listening to the comments that have been shared in the past weeks. Mr. Horn responded that Staff is planning to refinance the interest rate on part of the debt in November when that option is available. He gave some background on the situation at the golf course, noting that the number of rounds played continues to increase while golf charge per round has dropped in recent years. With the current budget cuts in funding from the State of Ohio, The Gallery cannot continue to operate as it has in the past. The reality is that the City cannot go back to full service seven days a week.

Dr. Hinshaw reported the best five months for The Gallery in nine years. If the trend continues the total would be over \$100,000 better than last year, but the income on the golf side has been hit hard because of the wet weather this spring.

Mayor Kingseed expressed the willingness of the City to meet with the group of homeowners to share ideas, but management cannot be by committee. The Gallery would welcome the homeowners to schedule more events and input ideas.

Discussion followed on how to get people back. Nancy Henson stressed that the Yankee Trace group has talented people with great ideas. Steve Hall of 1022 Villa Vista, an accountant, threw some numbers together that show four nights for the wait staff and a cook would be only about \$20,000 for the rest of the year. Problems stated included notification of changes of schedule, quality of food and lack of consistent coverage of the golf window.

There being no further business, the meeting was adjourned.

Approved: C. Mark Kingseed
Mayor

ATTEST: Debra A. James
Clerk of Council