

RESCHEDULED REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CITY OF TEXARKANA, ARKANSAS FEBRUARY 21, 2017

MEMBERS PRESENT:

The Board of Directors of the City of Texarkana, Arkansas, convened in regular session at 6:30 PM on Tuesday, February 21, 2017.

ROLL CALL:

Mayor Ruth Penney Bell asked the Clerk to call the roll and the following Board Members were present: Mayor Bell, Assistant Mayor Barbara S. Miner, and Directors Laney J. Harris, Tim Johnson, Travis Odom, Terri Peavy and Linda Teeters. Also present were City Manager Kenny Haskin, City Attorney George M. Matteson and City Clerk Heather Soyars.

Mayor Bell asked it be duly noted there was a quorum present for tonight's meeting.

[Director Laney J. Harris arrived at 6:32 PM.]

INVOCATION:

The invocation was given by Director Terri Peavy.

PLEDGE OF ALLEGIANCE:

Director Terri Peavy led everyone in the Pledge of Allegiance.

COMMENTS FROM THE MAYOR:

Welcome:

Mayor Bell welcomed everyone to tonight's meeting.

Board Meeting Procedure:

Mayor Bell briefly reviewed the board meeting procedures and pointed out the Agenda Item Cards, Citizens' Communication Cards, and agendas along the rail for tonight's Board meeting. The Mayor asked any audience member interested in speaking at tonight's Board meeting to complete one of the cards and turn the card in to the City

Clerk. She said this would help run an organized meeting and allowed the Clerk to have the necessary information for the meeting minutes. She stated any citizen may comment on any item on the agenda and express their desires, but would be limited to five minutes.

Little Rock, Arkansas:

Mayor Bell said she and Director Peavy would be attending the Texarkana, USA Chamber of Commerce Seminar in Little Rock, Arkansas. There they would tour capital offices, meet the Governor and have different speakers on various topics.

QUESTIONS FROM DIRECTORS AND OTHER BUSINESS:

Mayor Bell asked if the Directors had any questions or comments.

No one came forward.

CONSENT AGENDA:

Director Johnson moved to approve the consent agenda. The motion was seconded by Director Odom and carried unanimously. The items approved by consent were:

MINUTES:

The minutes approved were of the regular meeting February 6, 2016.

RESOLUTION NO. 2017-11

Resolution No. 2017-11 approved the purchase of a new Fire Department Command Vehicle from Landers Dodge.

REGULAR AGENDA:

ORDINANCE NO. 7-17:

An ordinance was introduced to be entitled, "An Ordinance Providing For The Payment Of Franchise Fees By Southwest Arkansas Telephone Cooperative, Inc., and/or Red River Cellular Telecommunications Company, Inc., To The City Of Texarkana, Arkansas: Prescribing Other Matters Related Thereto; And Declaring An Emergency." Said ordinance approved the new data transmission services franchise agreement with Southwest Arkansas Telephone Cooperative, Inc.

Public Works Director Jeff Whitten said this ordinance proposed a new ten-year franchise agreement with Southwest Arkansas Telephone Cooperative, Inc. (SWATCO). The agreement provided for a 4.25% franchise fee payment to the City, the maximum allowed by federal law. The agreement also spelled out requirements for the Company in terms of service and use of City rights-of-way.

Director Johnson asked if SWATCO would be interested in providing service to the citizens within the City limits.

City Attorney George Matteson said he had foreseen the possibility and covered the issue in the franchise agreement so SWATCO could expand and offer the services and in turn generate more revenue for the City.

Director Johnson said he would be a great supporter of SWATCO providing service to the citizens.

Director Harris asked if SWATCO would be putting fiber optic in the ground.

Mr. Whitten said yes.

Director Harris asked what did this entail.

Mr. Whitten said he did not have all the specifics, but he knew it would be used for the college web-based classes.

Mayor Bell asked Mr. Bullock to come forward to answer a few questions.

SWATCO General Counsel Bill Bullock said this contract was with the State of Arkansas, and their technological branch was state-of-the-art fiber. It would have the capability to do anything being done right now. He said as the need and demand arise, the telephone cooperative would have the accessibility and availability to move inside the City limits.

Director Johnson said he would be interested in having a public hearing to hear from the citizens. He said from having complaints in the past about available services or lack of, he felt SWATCO would be greatly received.

Mr. Bullock said he had heard this before and SWATCO was anxious to provide services.

Mayor Bell asked what would be the possibility of broadband.

Mr. Bullock said broadband was the driving force behind the contract with the University system. He said broadband was something SWATCO hoped to offer in

different areas, as well as different communication packages. Mr. Bullock said as the need arose, SWATCO would be able to provide services to the citizens.

Mayor Bell asked if the City could guarantee exclusivity would this be inducement. She asked would the cables being put down be able to handle this type of service.

Mr. Bullock said yes. He would be very interested in talking to the City.

Mayor Bell said both sides of the City might want to speak with him later.

Mayor Bell asked if any Board or audience member had any questions or comments concerning this item. No one came forward.

Director Johnson moved the ordinance be read in abbreviated form and the ordinance be placed on its first reading. The motion was seconded by Director Odom. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the motion carried, as there were seven ayes and no nays.

The ordinance was read the first time in abbreviated form.

Director Odom moved the ordinance be read in abbreviated form and the ordinance be placed on its second reading. The motion was seconded by Director Johnson. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the motion carried, as there were seven ayes and no nays.

The ordinance was read the second time in abbreviated form.

Director Odom moved the ordinance be read in abbreviated form and the ordinance be placed on its third and final reading. The motion was seconded by Director Teeters. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the motion carried, as there were seven ayes and no nays.

The ordinance was read the third and final time in abbreviated form.

Assistant Mayor Miner made the motion to adopt the ordinance. The motion was seconded by Director Odom. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the motion carried, as there were seven ayes and no nays.

The Mayor declared the ordinance adopted, as there were seven ayes and no nays.

EMERGENCY CLAUSE:

Director Odom, seconded by Director Johnson, moved to approve the emergency clause. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the emergency clause adopted, as there were seven ayes and no nays.

ORDINANCE NO. 8-17:

An ordinance was introduced to be entitled, "An Ordinance Granting a Limited Franchise To 1894, LLC, For The Non-Exclusive Right And Privilege To Occupy Public Right-Of-Way (ROW) At 105 Olive Street; And For Other Purposes". Said ordinance granted a limited franchise for the 1894, LLC, for the non-exclusive right and privilege to use and occupy the public right-of-way for the operation of a commercial and residential building located at 215 E. Front Street, Texarkana, Arkansas.

Director Peavy recused herself.

Mr. Whitten said this was a request for an ordinance authorizing the City Manager to enter into a Franchise Agreement with David Peavy (1894, LLC), for the purpose of operating its commercial and residential building. The Grantee had a non-exclusive right and privilege to use and occupy the public ROW for the operation of a commercial and residential building. The Grantee shall construct, erect, build, maintain and operate in, the above ground surface of a tract of land adjacent to 215 E. Front Street, Texarkana, Arkansas, consisting of Lots 18 thru 24 in Block 75 of the Original City Subdivision. The said tract of land shall not exceed 28' in width adjacent to the east property line of Lot 24 (along Olive Street), or 30' in width adjacent to the south property line of Lots 18 thru 24 (along Front Street). All improvements and the placement of other amenities made by Grantee shall require approval by the City of Texarkana, Public Works Department, Fire Department, Water Department, Historic District Commission, and any other Committees depending on the request.

Director Johnson asked if the City maintained ownership of the property, and if the franchise agreement would give an exclusive right of usage.

Mr. Whitten said the City would maintain ownership of the property. We were allowing 1894, LLC, the right to use the property. He said if the agreement would become null in void, all of the permanent improvements stay and all of the items non-fixed, 1894, LLC, was allowed to take with them.

Assistant Mayor Miner asked what the extension was.

Mr. Whitten said the sidewalk would stay at the elevated state, and the proposal for the stage would be to keep the same dock height. He said there were many uses for the platform; it could not only serve as a stage but a place to watch parades.

Assistant Mayor Miner asked if it were redundant to the existing stage.

Mr. Whitten said it would be another venue for the City. He said if you had a band playing on one stage, the other band could be setting up on the other stage so there would not be such a lag time between performances. Mr. Whitten said he did not think people would be competing with each other; it would be more complimenting each other.

Mayor Bell said the Quadrangle Festival had numerous stages set up for bands, and people would come from all around. She said the Quadrangle Festival was a well-run event and she was not sure what happened to it.

Director Odom said there was a lot of work going on down there and the building had wonderful characteristics about it and the building could end up being a beautiful addition to our downtown. He said he appreciated what the Peavys were doing, and the building could be a benefit for all the different activities going on downtown.

Mayor Bell said the City's support was essential for people who were willing to put the money where their mouth was. She said if someone were willing to invest, she hoped others would follow suit and do the same. Mayor Bell said there was a Music Museum going in downtown and he was investing his money. She said there were people who invested in downtown, and the City needed to be supportive of them.

Director Teeters said Mardi Gras was this weekend on Front Street and please try to come and support our local venues and special events going on downtown.

Mayor Bell asked if any Board or audience member had any questions or comments concerning this item. No one came forward.

Director Odom moved the ordinance be read in abbreviated form and the ordinance be placed on its first reading. The motion was seconded by Director Teeters.

The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Teeters and Bell voted aye. Director Peavy abstained. The Mayor declared the motion carried, as there were six ayes and one abstention.

The ordinance was read the first time in abbreviated form.

Director Harris moved the ordinance be read in abbreviated form and the ordinance be placed on its second reading. The motion was seconded by Director Teeters. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Teeters and Bell voted aye. Director Peavy abstained. The Mayor declared the motion carried, as there were six ayes and one abstention.

The ordinance was read the second time in abbreviated form.

Director Harris moved the ordinance be read in abbreviated form and the ordinance be placed on its third and final reading. The motion was seconded by Director Odom. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Teeters and Bell voted aye. Director Peavy abstained. The Mayor declared the motion carried, as there were six ayes and one abstention.

The ordinance was read the third and final time in abbreviated form.

Assistant Mayor Miner made the motion to adopt the ordinance. The motion was seconded by Director Odom. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Teeters and Bell voted aye. Director Peavy abstained. The Mayor declared the ordinance adopted, as there were six ayes and one abstention.

**ORDINANCE AMENDING, UPDATING, & REVISING
PORTIONS OF CHAPTER 5 OF THE CODE OF
ORDINANCES IN REFERENCE TO DOGS ON CHAINS
(FIRST READING).**

An ordinance was introduced to be entitled, “An Ordinance Amending, Updating And Revising Portions Of Chapter 5 Of The Code Of Ordinances Of The City Of *Texarkana, Arkansas*; And For Other Purposes.” Said ordinance would amend, update, and revise portions of Chapter 5 of the *City of Texarkana, Arkansas Code of Ordinances* in reference to dogs on chains.

City Manager Kenny Haskin said Animal Care and Adoption Center Director Charles Lokey was sick and could not be at tonight's meeting. He introduced Animal Control Officer Richard Hinton.

Officer Richard Hinton said there were many citizens chaining their dogs correctly, but there were some citizens where the chain was entirely too big for the animal. He said by law the chain was to be one-tenth of the dog size and when a dog pulled a heavy log chain, it was cruel to the animal. Officer Hinton said most of the dogs with log chains had injury to their neck, due to a pad lock attached to the chain. He said most dogs with chains like this had been put outside with no socialization with humans and the dog would get mean. He said we all knew what would happen when a mean dog got loose. He would bite someone. He said last week on Draughn Street, they responded to a vicious dog call at a home they had visited before. The home owner had been issued citations before; the dog had broken loose from a one inch log chain. He said at the house next door they found four Pitbulls also tied up with log chains, and another house had three more Pitbulls tied up with the same size log chain. Those were not responsible pet owners. Why should a pet be tied to a chain that size. He said the more the dog moved the more the chain would kink up, become too short, so that there would be no room at all for the dog to move. The dog could choke itself or have other injuries. Officer Hinton said usually the fight dogs would be chained on these short heavy log chains. The dog would have to fight to defend itself once the bait dog would be thrown at it. He said they had two felony cases and two misdemeanor cases in the courts right now. Mr. Hinton said if you were not able to contain the dog properly, you should not own a dog. He said he wanted this ordinance to help protect the safety of the people. Hopefully it would help Animal Control identify the people who were fighting the dogs as well. He apologized for Mr. Lokey being sick.

Mayor Bell said half the town would need to apologize, and thanked him for speaking on Mr. Lokey's behalf.

Director Peavy asked if the ordinance would take care of situations that Officer Hinton was explaining.

Mayor Bell said yes.

Shelby Dunphy Day, 2123 Forest Street, spoke on behalf of Shelby's Paws, her non-profit organization dedicated in part to animal welfare. She said the organization supported the ordinance allowing animals more freedom to move around on either a trolley or some other form of tether system, not for the animal to be chained to a stationary object.

Reginald Hicks, 1310 Rose Street, spoke on behalf of his mother; she had two Jack Russel Terriers. He said before there was an Animal Shelter and the ordinances came into place, the citizens had gone from the need to have the standard collar with the identification tag/rabies tag, then made sure the dog did not get out of the yard, to having to tether the dog, to now wanting us to build some kind of roller coaster contraption holding the dog in the yard. He said dogs get out, all dogs were not going to be pet dogs, and some dogs were for protection. Mr. Hicks said his mom had lived in Texarkana, Arkansas since the Rat Pack was in Texarkana, and homes were broken into every month. He said she was still in the neighborhood, and the dogs were guard dogs. He was sorry if this did not fit into what someone thought a pet should be, but pets were different things to different people. His mother was going to build a trolley system and tether two dogs in her back yard to keep the people from Division Street from hopping her fence and kicking in the back door. He said this was why the dogs were there, to be guard dogs. Mr. Hicks asked if the City did pass an ordinance like this, to grandfather some of the citizens in, his mother was 69 years old, and would probably not own another dog. He said when he was not in town he liked to know there was something there to deter people from looking over her fence and deciding they wanted her lawn mower. He asked that before the City passed the ordinance on animal rights they think about the right of the citizens who had complied with everything asked of them. Mr. Hicks said most dogs dig by nature and wanted to be free. He wanted the City to really think about the ordinance because he felt like the citizens who were complying with the rules were about to be punished. He said he came from North Carolina to speak on behalf of his mother.

Assistant Mayor Miner asked Mr. Hicks if his mother had a fence.

Mr. Hicks said yes she had a fence, but the dogs could dig under the fence in a matter of 5 minutes. He said the dogs did not go over the fence; they go under the fence.

He said they had put everything you could think of around the bottom of the fence and they even thought about getting an electronic collar, but it seemed cruel to him.

Assistant Mayor Miner said it was not cruel and she had one from Pet Safe Systems.

Mr. Hicks said he went online and saw two companies made the collar. He also saw where the collar had malfunctioned and kept zapping the dog and burned its neck. He did not want to purchase it.

Director Peavy asked Mr. Hicks what the difference was between a tether and a chain.

Mr. Hicks said his mother had a cable attached at a certain point and it was attached to the dog's collar.

Director Teeters asked if the dogs had more than eight feet to move around.

Mr. Hicks said most definitely.

Director Teeters said then his mother was probably in compliance with the new ordinance.

Mr. Hicks said his mother thought she had to put the dogs on this big trolley system.

Director Teeters said no, what she was doing was holding the dogs, and the proper weight for the dogs, and if the dogs had more than eight feet to move around on the tether system, it looked as if she was in compliance.

Mr. Hicks said the cable was around a quarter inch and the dog would chew through them every six months or so and we had to get a new one.

Mayor Bell said it sounded like his mother might have a worry with no basis.

Mr. Hicks said Mayor Bell was probably correct, but if he did not speak on the issue and made his point clear he would never know.

Mayor Bell said the City was speaking on something far more egregious. She had phone calls on the issue and everyone had supported the ordinance.

Director Odom said he had phone calls also and callers encouraged the passing of the ordinance.

Mayor Bell asked if anyone had phone calls against the ordinance.

Director Harris said since a lady came and gave her emotion, he thought there should be one hearing prior to adopting the ordinance, so the citizens could be notified and received six months of education. He also did not think a fine should be given within the six month education period. He said the ordinance did not state if the owner would be charged for the feeding or housing of the animal if it were taken from the home prior to the court date. Director Harris felt as if there should be non-discrimination on the breed of dog, and asked how you would tether a cat. He asked since there was no mention of court, would the Animal Control Officer be the judge and jury. Director Harris asked would a warrant be issued if the animal was taken. He said he was not against the ordinance; he was against the concept on how the ordinance was written. He said the citizens did not have any rights with the ordinance. Director Harris said state code 5-62-106, stated the control officer needed a warrant to come and seize the animal unless the animal had been declared injured to a person. He said he did not see any involvement of the court in the way the ordinance was written.

Director Teeters said considering all the cities our size had this type of ordinance in place for a number of years, Director Harris had obviously done quite a bit of research and was commendable. She asked Director Harris if he had done research on the number of lawsuits against all these cities and could he find proof this was an ongoing issue and would be a concern for us because of litigation of other cities our size. Director Teeters asked if Director Harris could give evidence to back up the fact that none of this was enforceable or Animal Control could not go on the property without a warrant.

Director Harris said there was one case on Supreme Court ruling, but he could not remember what the case log was. He said what he read stated the court found it was unconstitutional if the ordinance did not give a minimum and maximum fine. He said it should not be based upon if someone was not complying, you could take the animal. Director Harris asked if the City Attorney wrote the ordinance or had anything to do with the ordinance; from what he gathered the ordinance did not have the criteria in it.

Mayor Bell asked Director Harris if what he was citing came from Arkansas.

Director Harris said yes, he was not sure what city. He was not sure why Animal Control would not need a court order to seize the animal, and the ordinance did not tell a person how they could go back and get the animal.

Director Teeters asked if you needed a warrant to go onto property now if the dog was loose.

Animal Control Officer Jackie Mullins said they only needed a warrant if the dog got behind a locked gate.

Director Teeters said you did not need a warrant on this day to get an animal so why would we need to add it to an ordinance if it was already not necessary.

Officer Mullins said the City ordinance, in accordance with the state law, stated Animal Control could enter any property they suspected or had been reported, the animal had been neglected or cruelly treated. He said if they found within their investigation the animal had been neglected or cruelly treated, they did not need a warrant to remove the animal. Animal Control would hold the animal for 15 days and after the 15 days if the owner did not come forward and file a petition or an attorney file a petition, then the attorney may file a petition with the court to relinquish ownership of the animal.

Director Harris said you would need to move the case to circuit court, and you would need to file to determine custody. He was trying to protect the rights of the citizens when we pass an ordinance; he did not want an ordinance to be open ended. Director Harris said the Board would probably try and pass the ordinance tonight, and he was not sure if other citizens were aware of what was going on. You had to read the paper since not everyone had cable so they might not be able to see the meeting.

Dr. Haskin asked Officer Hinton what city in Arkansas had an almost identical ordinance.

Officer Hinton said Conway, Arkansas.

Director Teeters said multiple cities had an ordinance, but Conway, Arkansas', was almost identical to this ordinance.

Mayor Bell asked if the Texas-side ordinance were similar to the one proposed.

Officer Mullins said he had not reviewed the ordinance from the Texas-side. He made mention to seeing the ordinances from Conway and Hot Springs, Arkansas, and these ordinances were becoming more common.

Dr. Haskin said one of the main reasons the City decided to stick with the state of Arkansas, and the state law in crafting the ordinance, was due to Director Harris'

concerns about potentially having extreme measures put in place. He said this ordinance was one of the most liberal ordinances they had in place right now.

Director Johnson said with concern about the citizens not being notified, the Board did not need to fast track this ordinance tonight, but could have one reading tonight and still have two more readings before adoption. He said he thought for sure even if you did not listen to the radio, watch TV, or read the paper, you would have some opportunity to hear about it.

Mayor Bell asked Burns Barr if KLF1 were open and if it could be received on rabbit ears.

KLF1 Videographer Burns Barr said you could receive the meetings on channel 35, and it was put online.

Mayor Bell said if people did not have a computer and only had a TV with an antenna or rabbit ears, they could get KLF1 channel 35. She said by the time the ordinance had been read three times, it would be the end of March, and if someone had not been apprised of what was going on, they were either in a cave or under a rock.

Director Peavy asked what the grace period was after the violation had taken place. She read the ordinance and it stated you had ten days to comply with the ordinance and this did not give anyone permission to go and remove the animal from the property. She thought this was more than adequate for someone who wanted to do right by their animal to be given ten days.

Mayor Bell said yes ten days was adequate.

Officer Mullins said they try to be as fair as possible with the citizens and try to put themselves in their shoes. If there was room for education we always tried before they took action. He said ten days was generally an ample amount of time we give on a lot of different issues, however if the owner was not compliant, then we had to take action.

Mayor Bell said it had been years ago, but she traveled over Ida Street and over the Texas Viaduct, where there was an animal, and she was not sure why she did not complain to someone. The animal was in the front yard chained to a tree. She said the animal would go around the tree until he could not move and it was heart breaking. She

said she did not see a house or anything for the dog, and we see far more of those types of abuse than what Mr. Hicks was talking about on Rose Street.

Officer Hinton said most people were complying with what they were supposed to, but there were those extremes they had to deal with like the large log chains. He said the largest chain he took off a Pitbull was 64 pounds, which would be hard for him to drag much less a dog.

Director Harris asked City Attorney George M. Matteson if he wrote the ordinance.

City Attorney George M. Matteson said the ordinance was mirrored almost exactly to the ordinance just adopted in Conway, Arkansas. He did look at the ordinance, and it provided a notice period and went through the concerns of taking, seizing and warrants. He said the City adopted an ordinance allowing emergency responders to break windows to get dogs out of cars. He said it came back to what the officer said “when you see an animal being cruelly treated, this ordinance would prevent this type of action.”

Director Harris asked if there was already a state law in place this ordinance should be based upon, were there not certain rights stating when animal control could or could not go on the property.

Mr. Matteson said he was not aware of a state law specifically dealing with the tethering and chaining of animals; it was more of a general concept of cruelty.

Director Harris said it was under 5-62-106, and it talked about when a warrant was needed or not needed, and we should not have more power than what the state gave us.

Mayor Bell asked Mr. Matteson to research this issue by the next meeting and see if there were conflicts.

Mayor Bell asked if any Board or audience member had any questions or comments concerning this item. No one came forward.

Director Odom moved the ordinance be read in its entirety and the ordinance be placed on its first reading. The motion was seconded by Director Johnson. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the motion carried, as there were seven ayes and no nays.

The ordinance was read in its entirety the first time.

Mayor Bell announced the 2017 City calendar of events.

CITIZEN COMMUNICATION:

Mayor Bell asked if anyone in the audience would like to speak, on any subject up to a total of five minutes.

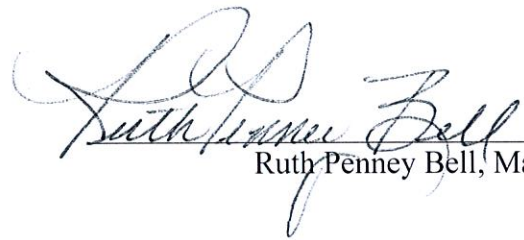
Dr. Haskin wanted to remind the Board about the scheduled workshop Thursday, February 23, 2017, at 1:00 P.M.

No one came forward.

ADJOURNMENT:

Director Johnson, seconded by Director Odom, moved to adjourn the meeting. The Clerk called the roll and the following vote resulted: Directors Harris, Johnson, Miner, Odom, Peavy, Teeters and Bell voted aye. The Mayor declared the meeting adjourned, as there were seven ayes and no nays.

The meeting adjourned at 7:34 PM.


Ruth Penney Bell, Mayor

ATTEST:



Heather Soyars, City Clerk