

The regular meeting of the Town Council of the Town of Front Royal, Virginia was held on Monday, November 10, 2008, in the Warren County Government Center's Board Meeting Room. Mayor Tewalt led Council and those attending in the Pledge of Allegiance to the flag and a Moment of Silence. The roll was called at 7:00 p.m.

PRESENT: Mayor Eugene R. Tewalt
Vice Mayor Bret W. Hrbek
Councilman Thomas H. Sayre
Councilman Carson C. Lauder, Jr.
Councilman Thomas E. Conkey
Councilman Chris W. Holloway
Councilman N. Shae Parker
Town Manager J. Michael Graham
Town Attorney Thomas R. Robinett
Clerk of Council Jennifer E. Berry

(The above listed members represent the full body of Council as authorized in the Town Charter.)

Vice Mayor Hrbek moved that Council approve the Regular Council Meeting minutes of October 27, 2008.

Vice Mayor Hrbek noted that the second page should be corrected to state Governor Gilmore, rather than Senator; and former Governor Warner, rather than potential Senator. Councilman Lauder noted that Jim Kinney should be changed to Jim Kenney.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre
No – N/A
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(Minutes approved as corrected)

REPORT OF THE MAYOR, COUNCIL & STAFF

Vice Mayor Hrbek pointed out the new trees along John Marshall Highway. He stated that as the trees matured they would be even more aesthetically pleasing.

Vice Mayor Hrbek asked about the trees which were placed along Chester Street. He noted that the fence near E. Wilson Morrison Elementary School had been removed and perhaps trees and potted plants will be put in their place. Vice Mayor Hrbek asked about taking portions of the playground and moving the fence back. Town Manager Graham stated that there would be four tree planter areas similar to the Main Street planters. He noted that the mulch would be left in place so it would be a nice area. Terry Seal, Director of Public Works, stated that the pits would soon be dug and trees had been ordered. Mr. Graham added that the Beautification Committee would be donating the hanging flower baskets and that expense would save the taxpayers money. Mr. Graham noted that the property belonged to the School Board, though they had no issue with allowing the Town to improve and

maintain the area. Vice Mayor Hrbek asked about the playground space becoming even more limited. Mr. Graham noted that the playground had a small driveway-type configuration next to the buildings and that area would be incorporated into the play area as well. Mr. Hrbek thanked the Staff for their work on the project, adding that it would be an asset to the Chester Street area and enjoyed by the whole community.

Councilman Conkey noted that he was unable to attend the Town/County/EDA meeting held on November 6th, due to health concerns of his wife. He asked that his lack of attendance not be misconstrued, as he was very concerned about the plans for the Economic Development Authority.

Councilman Sayre stated that he attended the Town's Beautification Ceremony and many residents and businesses within the community received awards. He noted that the Town won first place in the Business Division. He stated that the Town had received many positive comments regarding the potted plants along the downtown area.

Councilman Sayre commented that recently the Fraternal Order of Police and the Police Department had announced a \$25,000 reward for information leading to the arrest and conviction in the murder of Policeman Dennis M. Smedley.

Councilman Sayre announced that he was wearing green at the meeting, as the Town would soon be investing in a hydro plant. He stated that a public hearing would be held on November 24th. Mr. Sayre noted that some members of the citizenry spoke against the Town buying into the coal plant. He added that the Town would be purchasing 3.9 megawatts of electricity in this "greener" process.

Councilman Sayre noted that it may be Robert King's last day on the job as a news reporter. He wished Mr. King success in his future.

Councilman Sayre noted that the meeting with the County Board of Supervisors and the EDA went very well. He stated that there was an excellent relationship with the Board of Supervisors and the Town Council which should continue.

Councilman Lauder noted that the First Annual Downtown Dash would soon be held. He opined that the Main Street event was very clever and quite unique.

Councilman Lauder noted that two new street lights had been placed in the island at the intersection near Jimbo's Restaurant. He opined that the area was much safer, especially at night.

Mayor Tewalt thanked Vice Mayor Hrbek for his assistance at the last meeting while he was on vacation.

Mayor Tewalt noted that two outstanding members of the community had recently passed away; Joe McDaniel, who owned a Main Street jewelry shop for many years and Dr. Ray Collins, a local dentist.

Mayor Tewalt announced that the 2007 Annual Report was available, adding that it would be mailed to the citizenry. He noted that there were some reports available on hand, should any member of the public like to receive one at the end of the meeting.

Town Manager Graham stated that the Town would most likely return to Mandatory Water Conservation in the morning.

Town Manager Graham announced that the Town's 220th Birthday Celebration would take place on Saturday, November 15, 2008. He noted that there would be a roadside cleanup and artists down by the river that morning, with the dedication to occur at the boat landing.

Mr. Graham provided a Cherrydale area update, assuring the citizens that the Town would be filling in the sidewalks in the coming days. He noted that some water lines had deteriorated along River Drive, and possibly Duncan.

Mr. Graham noted that the Town's Christmas decorations would soon be placed.

Mr. Graham announced that the Town's Energy Depot audits available on the website were the most accessed link on the site. He encouraged the citizens to sign on to audit their home energy use.

Mr. Graham stated that on the morning of November 18th at the Blue Ridge Arts Council building, Mayor Tewalt would give a State of the Town address.

Vice Mayor Hrbek asked if the Cherrydale repaving would occur before winter commenced, or in the spring. Director of Public Works, Terry Seal, noted that depending on the weather the paving may begin within one week, though it may not be finalized until the spring time.

Vice Mayor Hrbek asked about the residents of Front Royal who wished to submit their emails to the Town to be advised of Public Notices and other announcements. Mr. Graham stated that the Town hoped to move forward with the project within the coming week.

Mayor Tewalt announced that there was a shortage of liquid asphalt. He expressed hope that it would not hamper the Town's work efforts in the Cherrydale area.

Councilman Sayre asked about the Water Treatment Plant upgrade. Mr. Graham stated that the plant should be fully online in February. He stated that there were some slight chemical feed and SCADA system issues which delayed the project to some degree.

Mayor Tewalt asked if there were any proposals for additions or deletion to the agenda.

CONSENT AGENDA:

- A) COUNCIL APPROVAL – Budget Amendment
- B) COUNCIL APPROVAL – Bond Release for Village Court Subdivision
- C) COUNCIL APPROVAL – Not to Proceed with Carolina Transformer Suit
- D) COUNCIL APPROVAL – Participation in Solid Waste Study
- E) COUNCIL APPROVAL – Bid – Pick-up Truck – Electric Department
- F) COUNCIL APPROVAL – Bid – Pick-up Truck – Vehicle Maintenance Department

G) COUNCIL APPROVAL – nTelos Tower Site Lease Agreement – First Renewal – Fairground Road

Vice Mayor Hrbek moved that Council approve the consent agenda as presented.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre
No – N/A
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)

COUNCIL APPROVAL – An Ordinance to Amend, Correct and Reduce the Assessments of Certain Specific Owners of Abutting Property on Commerce Avenue for the Installation of Sidewalk and Curb and Gutter (2nd Reading)

Vice Mayor Hrbek moved that Council adopt on its second and final reading an Ordinance to amend, correct and reduce the assessments of certain specific owners of abutting property on Commerce Avenue for the installation of sidewalk and curb and gutter.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre
No – N/A
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(By Roll Call)

⌘ ORDINANCE – Commerce Ave Assessment Corrections ⌘

AN ORDINANCE TO AMEND, CORRECT AND REDUCE THE ASSESSMENTS OF CERTAIN SPECIFIC OWNERS OF ABUTTING PROPERTY ON COMMERCE AVENUE FOR THE INSTALLATION OF SIDEWALK AND CURB AND GUTTER

WHEREAS, the Council of the Town of Front Royal, Virginia having PREVIOUSLY ENACTED AND ADOPTED, pursuant to Title 15.2, Subtitle II, Chapter 24, Article 2 (15.2-2404, et seq.) of the Code of Virginia, and the Charter and Chapter 48 of the Code of the Town of Front Royal, Virginia, an Ordinance assessing abutting property owners for the installation and construction of sidewalk and curb and gutter along portions of Commerce Avenue, on March 10, 2008, on its second reading (passed on first reading February 25, 2008), and;

WHEREAS, at the time of assessment, the total cost to install the sidewalk and curb and gutter was anticipated to be approximately \$80,016.00, based on a construction cost of \$30.75 per lineal foot for sidewalk and \$42.20 per lineal foot for curb and gutter; and,

WHEREAS, the total number of lineal feet estimated in the total project at the time said Ordinance was adopted was 2,197.17 as to sidewalk, and 156.47 as to curb and gutter, however, now that construction of the project has been

completed, the actual total amount of sidewalk is 1,902.75 lineal feet and the actual amount of curb and gutter is 130.11 lineal feet, because the number of lineal feet used in calculating the total assessment of certain hereinafter identified property owners was over-estimated; and,

WHEREAS, the Town desires to amend the assessments to reflect the actual total of linear feet for sidewalk and for curb and gutter for those abutting property owners who were over estimated, and, thereby, to reduce the assessed costs to such owners **only**, leaving costs assessed against the other owners identified in the aforesaid Ordinance exactly as stated therein, in that those estimates of lineal feet and cost were, in fact, accurate.

NOW THEREFORE, the Town's above Ordinance adopted March 10, 2008, assessing only the following named owners of abutting property on Commerce Avenue for the installation of sidewalk and curb and gutter is **AMENDED AND CORRECTED**, nunc pro tunc, as follows:

CLIFTON GOOD REALTY, INC. P.O. Box 1445 Front Royal, VA 22630	Tax Map 20A8 1 2 8, 9A, 10 44.5 feet C & G @\$42.20 + 44.5 feet Swalk @\$30.75 X.50 = \$1,623.14
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JOHN ROLES, JR. and MAXINE H. ROLES 190 N. Commerce Avenue Front Royal, VA 22630	Tax Map 20A8 1 2 11 14.75 feet C & G @\$42.20 + 116 feet Swalk @\$30.75 X.50= \$2,094.73
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CRIM'S TRAILER SALES, INC. 214 Commerce Avenue Front Royal, VA 22630	Tax Map 20A8 20 12 109 feet Swalk @\$30.75 X.50 = \$1,675.88
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BORDEN LIMITED PARTNERSHIP 71 Ruth Court Strasburg, VA 22657	Tax Map 20A10 1 8 247.6 feet Swalk @\$30.75 X.50 = \$3,806.85
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DELEK SERVICES, INC. 830 Crescent Center Dr., Ste 300 Franklin, TN 37067	Tax Map 20A10 1 4 C2 85.5 feet Swalk @30.75 X .50= \$1,314.56
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SHENANDOAH PROPERTIES II 6001 N. 5 th Road Arlington, VA 22203	Tax Map 20A10 1 4 D4 97 feet Swalk @\$30.75 X.50 = \$1,491.38
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AND BE IT, FURTHER, ORDAINED Pursuant to Town Code Section 48-18, the assessment may be paid in eight (8) equal annual installments, with interest on the unpaid balance at an annual interest rate now set at 3.06%, which is a rate the index of average yield of United States Treasury securities adjusted to a constant maturity of one (1) year as made available by the Federal Reserve Bank at the time this assessment Ordinance is adopted. Such rate shall be determined by the Director of Finance to which she shall certify

in writing.

AND BE IT, FURTHER, ORDAINED That the procedures for recording of assessments, payment of assessments, liens upon assessed property, payment of costs of recording, and appeals shall be in accordance with the Front Royal Town Code Chapter 48, and, if any assessments have been previously recorded pursuant to the Ordinance of March 10, 2008, they shall remain undisturbed **unless changed by this Ordinance**, and, if so changed, the Town Manager and the Clerk shall cause such previous erroneous assessment to be released at the expense of the Town, and shall record a New Assessment in the name of the owner or owners identified hereinabove and in the corrected amount herein stated.

COUNCIL APPROVAL – An Ordinance to Amend and Re-enact Section 158-13 of the Town Code by Adding a New Subsection (C) Pertaining to Royal Avenue in said Town (2nd Reading)

Councilman Holloway moved that Council adopt on its second and final reading an Ordinance to amend and re-enact Section 158-13 of the Town Code by adding a new subsection (C) pertaining to Royal Avenue in said Town expiring November 1, 2010.

Vice Mayor Hrbek explained that the Town had re-striped the lines at the intersection of South Street and Commerce Avenue. Mr. Graham stated that other efforts could be looked into to alert motorists of the change.

Councilman Sayre stated that he heard from one area resident who was against the change, as it was difficult to make the right hand turn. Mr. Sayre noted that the line in place was not too far back.

Councilman Lauder noted that he was comfortable with the efforts of the Town thus far. He stated that intersection would now be functional in his opinion.

Councilman Conkey commended Mr. Graham and Captain Furr for speaking with the truck driver training school on the matter. He expressed the appreciation of the citizenry.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre
No – N/A
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(By Roll Call)

⌘ ORDINANCE – Royal Avenue Through Truck Traffic ⌘

AN ORDINANCE TO AMEND AND REENACT SECTION 158-13 OF THE TOWN CODE OF THE TOWN OF FRONT ROYAL, VIRGINIA, BY ADDING A NEW SUBSECTION (C) PERTAINING TO ROYAL AVENUE IN SAID TOWN

WHEREAS, the Town Council of the Town of Front Royal, Virginia, has learned that the flow of trucks, especially heavy trucks, through the said Town on Royal Avenue, also known as U.S. Route 340, is creating maintenance and traffic difficulties for the Town's Police Department and Public Works Department; and,

WHEREAS, the said Council believes that these problems can be solved easily by banning such vehicles from the effected area and by providing the operators of such vehicles with an alternative route, properly marked by appropriate signage, through the Town; and,

WHEREAS, the said Council believes that it is in the best interests of the tax-paying citizens of the community to operate the Town's network of roads and streets with maximum efficiency, and finds that a ban on such vehicles in the previously described area would greatly contribute to such efficiency and is, therefore, in the public interest.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Town Council of the Town of Front Royal, Virginia, that Section 158-13 of the Front Royal Town Code is hereby amended and reenacted as follows:

158-13 THROUGH TRUCKS PROHIBITED.

C. Royal Avenue, between its intersection with Commerce Avenue and South Street, is hereby designated as being closed to through truck traffic within the meaning of subsection (A) hereof, and this area shall be marked as described in subsection (B) hereof, together with appropriate signage designating both Commerce avenue and South Street as a through truck route for U.S. Route 340. The provisions of this subsection shall be void and of no further effect on and after November 1, 2010.

COUNCIL APPROVAL – An Ordinance to Amend and Re-enact Section 4-19 of the Town Code pertaining to Order of Business and Submission of Agenda Items for Town Council Meeting

Councilman Holloway moved that Council adopt on its first and final reading an Ordinance to amend and re-enact Section 4-19 of the Town Code pertaining to Order of Business and Submission of agenda items for Town Council meetings.

Vice Mayor Hrbek expressed his appreciation to the Council and Staff for their hard work on the ordinance. He noted that the matter seemed to be resolved to allow Council members to place items on the agenda and not have them denied by future Mayors. Mr. Hrbek expressed his appreciation to the Town Manager and Town Attorney for their efforts in assisting with the ordinance.

Councilman Sayre noted that the agenda item requests were presently given to the office of the Town Manager. He voiced support of leaving the process in place as is. Mr. Graham explained the current practice of how matters were placed on the agenda. He expressed

concern with a Council member forcing an issue onto an agenda using the old method. Councilman Sayre reiterated his desire to have the policy remain the same.

Councilman Sayre moved to amend to include the agenda approval by the Town Manager.

Vice Mayor Hrbek stated that the meeting was the Council's and the agenda should be left to the elected officials to make ultimate decisions. He encouraged the other members of Council to vote against Councilman Sayre's amendment.

Vote: Yes – Sayre
No – Conkey, Holloway, Hrbek, Lauder and Parker
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(On the Amendment regarding the Town Manager)

Councilman Sayre moved to amend that items be placed on an agenda within 15 days of the request, rather than 30 days.

Councilman Conkey noted that he was uncomfortable with 15 days, as it was a short period of time. He stated that Staff needed a reasonable amount of time to prepare for the agenda item. Mr. Conkey added that the intent was to place an item promptly; however, 15 days was entirely too close.

Councilman Holloway voiced his agreement with Councilman Conkey, as 15 days would not be sufficient time.

Councilman Sayre noted that the current policy followed had been in place for some time. He stated that changing the matter with a deadline pertaining to time concerned him. Mr. Sayre voiced support of keeping the policy as it was in the 1700's.

Vote: Yes – Sayre
No – Conkey, Holloway, Hrbek, Lauder and Parker
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(On the Amendment to change the timeline to 15 days)

Vote: Yes – Conkey, Holloway, Hrbek, Lauder and Parker
No – Sayre
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)
(By Roll Call)
(On the Original Motion)

**⌘ ORDINANCE – Order of Business & Submission of
Agenda Items for Front Royal Town Council Meetings ⌘**

AN ORDINANCE TO AMEND AND REENACT SECTION 4-19 OF THE TOWN CODE OF THE TOWN OF FRONT ROYAL, VIRGINIA, PERTAINING TO ORDER OF BUSINESS AND SUBMISSION OF AGENDA ITEMS FOR TOWN COUNCIL MEETINGS

WHEREAS, the Town Council of the Town of Front Royal, Virginia, has reviewed its existing Town Code Section on Order of Business for regular meetings and found it to be inconsistent with existing practice on that subject; and,

WHEREAS, the said Council, further, believes, that its Policy for placing items on the Town Council Agenda for both regular meetings and work sessions should become a part of the Town Code so that such portion of its rules of procedure would be easily located and readily available to Council members as well as members of the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FRONT ROYAL, VIRGINIA, that Section 4-19 of the Town Code is hereby amended and re-enacted, as follows:

4-19 ORDER OF BUSINESS; PLACEMENT OF ITEMS ON THE AGENDA

A. At every regular meeting of the Council, the order of business shall be as follows:

1. ~~Call of roll~~ Pledge of Allegiance.
2. ~~Reading of minutes~~ Moment of Silence.
3. ~~Petitions and communications, to be referred without debate to the appropriate Committees, after their purport has been briefly state by the member offering same~~ Roll Call.
4. ~~Reports and communications from town officers~~ Approval of the Minutes of previous meetings.
5. ~~Reports of standing Committees~~ Reports
 - a. ~~Streets~~ Report of special committees or Town officials.
 - b. ~~Water~~ Requests and inquiries of Council members.
 - c. ~~Electric~~ Report of the Mayor.
 - d. ~~Sewers~~ Report of the Town Manager.
 - e. Proposals for addition/deletion of items to the Agenda.
6. ~~Reports of Special Committees~~ Consent Agenda items.
7. ~~Unfinished business~~ Items for Approval.
8. ~~New business~~ Receipt of Petitions and/or correspondence from the public.
9. Closed meeting items (if applicable)

B. The order of business shall not be departed from except by the consent of two-thirds (2/3 rds) of the members of the Council present and voting.

C. Items which appear under the heading "Consent Agenda items" are intended to be routine business items which are not subject to individual debate or discussion, but are, instead, voted on as a group. However, at the time the presiding officer announces that the Consent Agenda portion of the order of business has been reached, any member of Council may request that any individual items or items may be removed from the Consent Agenda, and such item or items shall, thereafter, become the first item or items considered under the "Items for Approval" portion of the order of business.

D. The following items shall be placed on a Council Agenda for a regular meeting provided they are delivered to the office of the Town Manager and approved by the Mayor, or, in his absence, the Vice-Mayor, no later than 12:00 Noon on the Tuesday before the meeting is scheduled:

1. Items which come from members of Town Boards or Commissions whose membership is appointed by the Council.
2. Items which result from the application of a specific Town Code Section.
3. Items required for decision by the Town Manager, to include citizen requests placed in writing by the citizen or by the Manager.
4. Items such as proclamations which are handled on a routine basis.
5. Items which are requested for placement on the Agenda by the Mayor or a Member of Council, to include citizen requests placed in writing by the Mayor or Council Member.
6. Requests from citizens who have appeared at a previous meeting of Council, and who have placed their requests in writing and asked for the matter to be considered at the next regular meeting.

The Mayor shall cause items which do not meet the deadline and approval criteria specified in D, above, to be placed on an Agenda for a regular meeting within thirty (30) days from the date of submission. In addition, the Council may override the Mayor's disapproval of any item which has been submitted within the specified time limit by adopting a motion to place the item on its Agenda by a unanimous vote from all members of Council present and voting.

E. The following items may be placed on the Agenda for a Work Session of Council provided they are delivered to the office of the Town Manager and approved by the Mayor, or, in his absence, the Vice-Mayor, no later than 12:00 Noon on the Tuesday before the meeting is scheduled:

1. Items D(3), (5), and (6), above, as well as items specially requested for a joint Work Session with another body, such as the Warren County Board of Supervisors, the Economic Development Authority, or any Town board or commission.

2. The Mayor shall cause items which do not meet the deadline and approval criteria specified in E, above, to be added to the Agenda for a Work Session within thirty (30) days of submission. In addition, the Council may override the Mayor’s disapproval of an item which was submitted within the specified time limit by adopting a motion to do so on a majority vote from all members of Council present and voting.

This Ordinance shall be deemed “routine” for purposes of Section 4-4 (E) of the Town Code, and is effective upon passage.

RECEIPT OF PETITIONS OR CORRESPONDENCE FROM THE PUBLIC

There were no receipts or correspondence from the public.

CLOSED MEETING – 1) Board of Architectural Review Interviews; 2) Acquisition of Real Property; 2) Consultation with Town Attorney; and 4) Discussion of Unofficial Opinion of the Attorney General of Virginia

Vice Mayor Hrbek moved that Council convene in a Closed Meeting to 1) Conduct interviews for the Board of Architectural Review (BAR) pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, 1950; 2) Discuss the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position of the Town, pursuant to Section 2.2-3711 (A)(3) of the Code of Virginia, 1950, as amended; 3) Consult with the Town Attorney regarding probable litigation by the owners of Blue Ridge Shadows, where such consultation in an open meeting would adversely affect the negotiating posture of the Town, pursuant to Section 2.2-3711 (A)(7) of the said Code; and 4) To discuss an unofficial Opinion of the Attorney General of Virginia regarding the application of Virginia Code Section 24.2-228 to the appointment of Councilmember N. Shae Parker, and the effect of the word “elected” in various Sections of the said Code, both being specific legal matters requiring the provision of legal advice by counsel, pursuant to Section 2.2-3711 (A)(7) of the said Code.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker and Sayre
No – N/A
Abstain – N/A
Absent – N/A
(Mayor Tewalt did not vote as there was no tie to require his vote)

Vice Mayor Hrbek moved that Council certify that, to the best of each Council member’s knowledge as recognized by each Council member’s affirmative vote, that only public business matters as were identified in the motion by which the preceding closed session was convened; were heard, discussed or considered during the closed session of the Council; and, that the vote of each member be taken by roll call and recorded in the minutes of this meeting.

Vote: Yes – Conkey, Holloway, Hrbek, Lauder, Parker, Sayre and Tewalt

No – N/A
Abstain – N/A
Absent – N/A

(By Roll Call)

There being no further business, the Mayor declared the meeting adjourned at 9:27 p.m.

APPROVED:

Jennifer E. Berry
Clerk of Council