

APRIL 22, 1999

The City Council of the City of Idaho Falls met in Regular Council Meeting, Thursday, April 22, 1999, in the Council Chambers at 140 South Capital Avenue in Idaho Falls, Idaho.

There were present:

Mayor Linda Milam
Councilmember Larry Carlson
Councilmember Joe Groberg
Councilmember Ida Hardcastle
Councilmember Brad Eldredge
Councilmember Gary Mills
Councilmember Beverly Branson

Also present:

Dale Storer, City Attorney
Rosemarie Anderson, City Clerk
All available Division Directors

The City Clerk read a summary of the minutes for the April 8, 1999 Regular Meeting. It was moved by Councilmember Branson, seconded by Councilmember Eldredge, that the minutes be approved as read. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Mills
Councilmember Branson
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Carlson

Nay: None

Motion Carried.

CONSENT AGENDA ITEMS

Mayor Milam requested Council confirmation for the Re-Appointment of Karen Leibert to serve on the Library Board of Trustees (Term to expire in April, 2004).

The City Clerk presented several license applications, including a BEER LICENSE to XS Night Club; BARTENDER PERMITS to Erichia A. Brinkerhoff, Ardenna A. Goodwin, Shere Hill, Lisa S. Lensgraf, Robert W. Lyons, Kay A. Wiemer, and Denise M. Wray, all carrying the required approvals, and requested authorization to issue these licenses.

The City Clerk requested Council ratification for the publication of legal notices calling for public hearings on April 22, 1999.

It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to approve the Consent Agenda in accordance with the recommendations presented. Roll call as follows:

Aye: Councilmember Carlson

Councilmember Groberg
Councilmember Hardcastle
Councilmember Eldredge

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Councilmember Mills
Councilmember Branson

Nay: None

Motion Carried.

REGULAR AGENDA ITEMS

Councilmember Groberg wished to call to the Council's attention, the Public Service Award from the Association of Airport Executives presented to Jim Thorsen, former Airport Director for the City of Idaho Falls.

The memo from the Planning and Building Director regarding the public hearing for consideration of a Conditional Use Permit (C.U.P.) for no longer than six (6) months for a communications system on wheels to be placed in the rear parking lot of Teton Village Plaza located generally on the north side of East 17th Street, west of Channing Way, and south of Alan Street, legally described as Lot 10, Block 1, Ashment Addition, Division No. 5 and Lot 8, Block 1, Ashment Addition, Division No. 3, was withdrawn by the Division Director.

Mayor Milam requested Councilmember Mills to conduct a public hearing for consideration of a Planned Unit Development (P.U.D.) for a 17 suite addition to the existing 44 suite assisted living facility (Parkwood Meadows) located generally at 1885 Parkwood Street, legally described as Lot 2, Block 2 of the First Amended Plat of Parkwood Meadows Addition, Division No. 1. At the request of Councilmember Mills, the City Clerk read the following memo from the Planning and Building Director:

City of Idaho Falls
April 19, 1999

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: PLANNED UNIT DEVELOPMENT, PARKWOOD MEADOWS
ADDITION, DIVISION NO. 1

Attached is the application for an addition to the assisted living care center at Lot 2, Block 2 of the First Amended Plat of Parkwood Meadows Addition, Division No. 1. The property is zoned R3-A P.U.D. The Planning Commission considered this request for a seventeenth room addition at its March Meeting and recommended approval with the condition that one of the proposed driveways be closed and the remaining driveway enter Hoopes Avenue at a ninety degree angle. The necessary corrections have been incorporated into the Site Plan, and it is being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Assistant Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this request:

Slide 1	Aerial Photo
Slide 2	Vicinity Map
Slide 3	Site Plan (Revised) Layout of Parking Layout of Addition

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Slide 4	Original Site Plan before revisions
Slide 5	Landscape Plan
Slide 6	Elevation Rendering
Slide 7	Corner of Montcliffe and Hoopes, looking west at site.
Exhibit 1	Planning Commission Minutes
Exhibit 2	Staff Report

Councilmember Carlson questioned whether there was enough parking allowed for this addition. The Assistant Planning and Building Director stated that the planned parking area does comply with elderly parking requirements.

Doug Brown, 1885 Parkwood Street, appeared as the Manager and Applicant for Parkwood Meadows Assisted Living Facility. He stated that this is a special unit that will be used as an Alzheimer's and Dementia Unit.

Councilmember Mills questioned whether Mr. Brown would like to see a drive-through driveway, instead of just one entrance/exit from the building. Mr. Brown explained that his preference would be to have a drive-through and understood the need for the driveways to not line up with Montcliffe or Hoopes. Councilmember Mills stated that a drive-through would also be beneficial for any emergency vehicle that might have to use the area.

Councilmember Carlson requested the Fire Chief to come forward to address whether a drive-through would be adequate for emergency vehicles. The Fire Chief stated that a drive-through would be better, but what has been presented is adequate.

Doug Muir, 624 Montcliffe Drive, appeared to state that he approves of the proposed addition to Parkwood Meadows. He stated that he is a truck driver by trade and that he does not see any problem with backing vehicles in the area provided in the Site Plan as designed. He stated that there is a lot of traffic in this area and was concerned with a drive-through at this location. Mr. Muir stated that the apartment complex that is located in the area has only one access, and that one access should be sufficient for this addition to the assisted living facility.

There being no further discussion either in favor of or in opposition to this conditional use permit request, it was moved by Councilmember Mills, seconded by Councilmember Groberg, to approve the Conditional Use Permit Application for a 17 suite addition to the assisted living facility at 1885 Parkwood Street as submitted, with the exception that the owner may locate a second driveway which intersects at 90° and enters into Hoopes Avenue northwest of the proposed parking area. Roll call as follows:

Aye: Councilmember Mills
Councilmember Groberg
Councilmember Carlson
Councilmember Branson
Councilmember Hardcastle
Councilmember Eldredge

Nay: None

Motion Carried.

Mayor Milam requested Councilmember Mills to conduct a public hearing for consideration of an appeal from a decision of the Board of Adjustment for a variance to reduce the required side yard setback of 2'5" from 11'4" to 8'11" located generally at 754 Saturn Avenue, legally described as the west 88.20 feet of Lot 6, Block 1, Kugler Addition. At

the request of Councilmember Mills, the City Clerk read the following memo from the Planning and Building Director:

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City of Idaho Falls
April 19, 1999

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: APPEAL, VARIANCE REQUEST, WEST 88.2', LOT 6, BLOCK 1,
KUGLER ADDITION

Attached is the appeal of Tim Metcalf from the Board of Adjustment on the above-described property. Mr. Metcalf wishes to reduce the required side yard from 11'4" to 8'11" to add a second floor to the existing one-story attached garage. His property is zoned R-2. The Board moved to approve the variance since the second story will be consistent with other construction in the area and the property abuts a different zone in which the side yard requirement is six feet. The vote was four in favor and one opposed. Five concurring votes are required to approve a variance request. This appeal is now being submitted to the Mayor and Council for consideration.

s/ Renée R. Magee

The Assistant Planning and Building Director located the subject area on a map and further explained the request. Following is a list of exhibits used in connection with this appeal:

Slide 1	Aerial Photo
Slide 2	Vicinity map
Slide 3	Site Plan
Slide 4	Elevation Plan after addition is constructed
Slide 5	Site Picture of side of garages extending wall up one more story
Exhibit 1	Minutes from the Board of Adjustment
Exhibit 2	Findings of Fact and Conclusions of Law
Exhibit 3	Letter from Tim Metcalf regarding the need for a variance to construct the second story over the garages

Councilmember Eldredge questioned whether there was an easement located adjacent to this property, as he noticed a power pole in close proximity to the construction site. The Assistant Planning and Building Director stated that there is an 8-foot easement through this location. The request for a variance does not encroach into the easement. He also stated that the applicant has paid for a new, taller power pole to be installed at this location to accommodate the raising of the second story.

Mayor Milam reviewed for Council the following reasons why the variance is needed:

1. The need for a variance results from physical limitations on development that are unique to the lot upon which the variance is requested.
2. Failure to obtain a variance will result in an undue hardship because no reasonable conforming use of the lot is possible without a variance.
3. The hardship has not been created by an action of the lot's owner or occupant.

4. Approval of the variance will not result in the creation of a nuisance or other potential harm to the neighborhood in which the lot is located.

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5. The granting of the variance will not adversely affect the comprehensive plan.

Tim Metcalf, 542 Gladstone, appeared to state that he is the owner of 754 Saturn Avenue. Mr. Metcalf submitted the following exhibits in connection with this variance request:

- | | |
|---------|---|
| Slide 1 | Utility Plan |
| Slide 2 | Existing garages, surrounding sites, variance site, and site pictures |

Mr. Metcalf requested to appeal the decision from the Board of Adjustment based upon the following facts:

The need for a variance results from physical limitations on development that are unique to the lot upon which the variance is requested. Such circumstances generally include physical size, shape, topography, location or surroundings of the property and do not apply to other properties in the same zone. When the area was developed, the City did not continue the sewer line on Mountain View to include the entire block. The builder (Neahl Johnson) was forced to place a private sewer line extending from 1491 Mountain View Lane to Saturn which services the buildings owned by Brad Bloxham, Richard Rice, and myself. If the City had developed the sewer system fully, it would have made it unnecessary to run a private sewer line from Mountain View to Saturn Avenue. The sewer line created a problem in that my building had to be located more towards the south end of the lot rather than the centerline, thus a variance would not have been necessary. Mr. Neahl Johnson was contacted as to verification of these facts and he was able to state that it was unorthodox for him to have placed the building on the lot as he did.

Five thousand dollars (\$5,000.00) has been spent on a new power pole. The property is in full compliance for the addition to take place, less the variance.

Under the conclusions of law,

1. A second story add-on will be consistent with other usage in the area in the same zone.
2. This property abuts a different zone where a lesser setback is allowed.
3. A reasonable conforming use of the lot is possible without a variance.

All neighbors have approved of the plan to construct the second story.

In closing, Mr. Metcalf gave the following reasons why the variance is justified:

1. It improves the property.
2. Does not detract from the other properties.
3. It is consistent with other properties in the area.
4. Because of the circumstances of only five members of the Board of Adjustment being present, a super majority is required to pass the variance.

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Councilmember Mills requested the Engineering Administrator to come forward to address who is responsible for the installation of sewer lines. The Engineering Administrator stated that the sewer line is the responsibility of the developer.

Councilmember Mills quoted from the Zoning Ordinance regarding the purpose of the R-2 Zone:

To encourage the creation and maintenance of residential areas within the City which are characterized by smaller dwellings, somewhat more compact and denser residential development, and somewhat higher volumes of vehicular and pedestrian traffic than are characteristic of the RP, RPA, and R-1 Zones. The principle uses permitted in the R-2 Residence Zone shall be one-family dwellings, duplexes, triplexes, 4-plexes, and certain other public facilities which are necessary to promote and maintain stable residential areas.

There being no further discussion either in favor of or in opposition to this request, it was moved by Councilmember Mills, seconded by Councilmember Groberg, to approve the variance request to reduce the side yard from 11'4" to 8'11" on the property located at 754 Saturn Avenue for the following reasons: 1) that there would be no harm to the neighborhood; 2) the placement of private sewer line years ago foreclosed option on the placement of the building further to the north and created a unique physical limitation; and, 3) it is adjacent to a zone to the south of which the required side yard is 6 feet. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Branson
Councilmember Eldredge
Councilmember Carlson
Councilmember Groberg
Councilmember Mills

Nay: None

Motion Carried.

The Electric Division Director submitted the following memo:

City of Idaho Falls
April 19, 1999

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Mark Gendron, Electric Division Director
SUBJECT: POWER SALES AGREEMENT

Attached for your consideration is the Power Sales Agreement between Arizona Public Service Company (APS) and the City of Idaho Falls. The City Attorney has reviewed this Agreement.

The Electric Division requests approval and authorization for the Mayor to sign this Agreement.

s/ Mark Gendron

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It was moved by Councilmember Eldredge, seconded by Councilmember Hardcastle, to approve the Power Sales Agreement with Arizona Public Service Company and, further, give authorization for the Mayor to sign the necessary documents. Roll call as follows:

Aye: Councilmember Groberg
Councilmember Branson
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Carlson

Nay: None

Abstain: Councilmember Mills (owns stock in Arizona Public Service Company)

Motion Carried.

The memo regarding the Power Sales Confirmation Agreement with Arizona Public Service Company was withdrawn by the Division Director.
The Fire Chief submitted the following memo:

City of Idaho Falls
April 16, 1999

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: Bob Drake, Fire Chief
SUBJECT: MUTUAL AID AGREEMENT WITH THE BUREAU OF LAND MANAGEMENT (B.L.M.)

Attached for City Council consideration is a copy of a Cooperative Fire Control Agreement for Mutual Aid between the City of Idaho Falls Fire Department and the Bureau of Land Management, Upper Snake River District. This document is the annual renewal of an Agreement passed by City Council on August 13, 1998.

Continuation of this Agreement will benefit the Fire Department and the citizens we protect by making it easier for mutual aid to be provided, as well as providing increased training and public education opportunities.

The Fire Department respectfully requests Council approval at the April 22, 1999 City Council Meeting to continue this Agreement, and authorization for the Mayor and Fire Chief to sign.

s/ Bob Drake

It was moved by Councilmember Hardcastle, seconded by Councilmember Branson, to approve the Cooperative Fire Control Agreement for Mutual Aid between the City of Idaho Falls Fire Department and the Bureau of Land Management, Upper Snake River District and,

further, give authorization for the Mayor and Fire Chief to sign the necessary documents.
Roll call as follows:

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Aye: Councilmember Mills
Councilmember Groberg
Councilmember Carlson
Councilmember Branson
Councilmember Hardcastle
Councilmember Eldredge

Nay: None

Motion Carried.

The Municipal Services Director submitted the following memos:

City of Idaho Falls
February 25, 1999

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: ORDINANCE FOR CABLE FRANCHISE

Attached for your consideration is a Cable Franchise Ordinance.

s/ S. Craig Lords

Councilmember Branson explained that the City Council held a Work Session regarding this Ordinance, and some changes are necessary. It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to recess consideration of this Cable Franchise Ordinance on the second reading until the May 27, 1999 Regular Council Meeting. Roll call as follows:

Aye: Councilmember Carlson
Councilmember Groberg
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Mills
Councilmember Branson

Nay: None

Motion Carried.

City of Idaho Falls
April 16, 1999

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director

SUBJECT: IF-99-18, TRAFFIC SIGNAL EQUIPMENT

APRIL 22, 1999

Attached for your consideration is the tabulation for Bid IF-99-18, Traffic Signal Equipment.

It is the recommendation of Municipal Services Division to accept the low bid of Northwest Signal Supply, Inc. for Bid Items No. 1 through No. 12, for a total amount of \$78,278.40 and Bid Item No. 13 to Advanced Traffic Products, Inc. for an amount of \$1,850.00. Please see Attachment "A" for the complete breakdown of award.

s/ S. Craig Lords

It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to award Items No. 1 through 12 to the low bidder, Northwest Signal Supply, Inc. and Item No. 13 to Advanced Traffic Products, Inc. as requested. Roll call as follows:

Aye: Councilmember Hardcastle
Councilmember Branson
Councilmember Eldredge
Councilmember Carlson
Councilmember Groberg
Councilmember Mills

Nay: None

Motion Carried.

City of Idaho Falls
April 20, 1999

MEMORANDUM

TO: Honorable Mayor and City Council
FROM: S. Craig Lords, Municipal Services Director
SUBJECT: CHARGE OFFS

Municipal Services respectfully requests authorization to charge off the following accounts as uncollectable: Ambulance \$218,163.05, Accounts Receivable \$52,531.09, and Returned Checks \$931.12.

s/ S. Craig Lords

It was moved by Councilmember Branson, seconded by Councilmember Eldredge, to authorize the charge off of the Ambulance, Accounts Receivable, and Returned Checks Accounts as listed. Roll call as follows:

Aye: Councilmember Branson
Councilmember Hardcastle
Councilmember Mills
Councilmember Eldredge
Councilmember Carlson

Councilmember Groberg

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Nay: None

Motion Carried.

The Planning and Building Director submitted the following memo:

City of Idaho Falls
April 19, 1999

MEMORANDUM

TO: Mayor and City Council
FROM: Renée R. Magee, Planning and Building Director
SUBJECT: ADOPTION OF THE 1999 NATIONAL ELECTRICAL CODE

Attached is the Ordinance adopting the 1999 Edition of the National Electrical Code. As with earlier codes, the 1999 Edition is updating our construction codes with the newest edition. It is our understanding that the State of Idaho will be implementing the 1999 Edition on June 1, 1999. The Division respectfully requests adoption of the 1999 Edition.

s/ Renée R. Magee

The Planning and Building Director explained to the Mayor and Council that there are no major changes between the last Edition and the 1999 Edition of the National Electrical Code. At the request of Councilmember Mills, the City Attorney read the following Ordinance by title:

ORDINANCE NO. 2322

AN ORDINANCE REPEALING AND RE-ENACTING SECTIONS 7-8-1 AND 7-8-2 OF THE CITY CODE OF IDAHO FALLS, IDAHO; ADOPTING THE 1999 EDITION OF THE NATIONAL ELECTRICAL CODE; PROVIDING FOR PROSECUTION UNDER PRIOR ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE SECTIONS AND SUBSECTIONS OF THE ORDINANCE; PROVIDING FOR THE EFFECTIVE DATE OF THE ORDINANCE.

The foregoing Ordinance was presented by title only. Councilmember Mills moved, and Councilmember Groberg seconded, that the provisions of Idaho Code Section 50-902 requiring all Ordinances to be read by title, and once in full, on three separate dates be dispensed with and the Ordinance be passed on all three readings. Roll call as follows:

Aye: Councilmember Eldredge
 Councilmember Carlson
 Councilmember Mills
 Councilmember Groberg
 Councilmember Branson

Councilmember Hardcastle

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Nay: None

Motion Carried.

The Police Chief submitted the following memos:

City of Idaho Falls
April 16, 1999

MEMORANDUM

TO: Mayor and Council
FROM: J. K. Livsey, Chief of Police
SUBJECT: DENIAL OF NON-COMMERCIAL KENNEL LICENSE

Attached please find an application for a non-commercial kennel license submitted by Larry Zuck, 1440 Halsey, Idaho Falls, Idaho.

The Animal Control Division conducted the required survey of the neighbors of Mr. Zuck that live within one hundred feet of his property. The survey reveals that the required 75 percent approval was not attained. Therefore, it is my recommendation that the license be denied.

s/ J. K. Livsey

Councilmember Hardcastle stated that 61% of Mr. Zuck's neighbors approved of his having the Non-Commercial Kennel License, which falls short of the 75% approval required.

Larry Zuck, 1440 Halsey Street, appeared to state that he has three dogs, one of which is 13 years old. The other two dogs are 2 years old and 5 years old, respectively. He stated that they have two small children that are attached to the dogs. He explained that the older dog is the one that would have to be put down if this license application is denied. He requested the Mayor and Council to approve his having the 3 dogs, as he was not ready to have the older dog put down yet. Mr. Zuck explained that the younger dogs tend to bark, so he has tried to keep them in the house after 8:30 p.m.

Councilmember Hardcastle stated that barking dogs do not go over well with neighbors.

Councilmember Eldredge questioned what health the oldest dog was in. Mr. Zuck explained the dog's health.

Mr. Zuck explained, again, that the oldest dog would be the one to be put down, and she was probably the most innocent of the three in barking.

Councilmember Carlson questioned Mr. Zuck as to whether he would replace the older dog when she is deceased. Mr. Zuck stated that he would not.

Councilmember Hardcastle stated that this was a difficult decision for the Council to make, especially when the children's feelings are considered. She suggested that maybe they could board out or give away one of the younger dogs.

The Police Chief explained that Non-Commercial Kennel licenses are granted or not granted based upon the survey of the neighbors. If a license is denied, it is usually surrounding the noise that the dogs make. He also suggested that the dogs might be debarked.

There being no further discussion, it was moved by Councilmember Hardcastle, seconded by Councilmember Branson, to deny the Non-Commercial Kennel License to Larry Zuck at 1440 Halsey. Roll call as follows:

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Aye: Councilmember Branson
Councilmember Hardcastle
Councilmember Mills
Councilmember Eldredge
Councilmember Groberg

Nay: Councilmember Carlson

Motion Carried.

City of Idaho Falls
April 19, 1999

MEMORANDUM

TO: Mayor and Council
FROM: J. K. Livsey, Chief of Police
SUBJECT: SCHOOL RESOURCE OFFICER AGREEMENT

Attached, please find the Agreement between the City of Idaho Falls and Idaho Falls School District 91 in regards to the School Resource Officers (SRO). The Agreement is specific to the duties, schedules, and compensation of the SRO's.

I respectfully submit this Agreement for your approval.

s/ J. K. Livsey

It was moved by Councilmember Hardcastle, seconded by Councilmember Branson, to approve the School Resource Officer Agreement with Idaho Falls School District No. 91 and, further, give authorization for the Mayor to sign said documents. Roll call as follows:

Aye: Councilmember Carlson
Councilmember Groberg
Councilmember Hardcastle
Councilmember Eldredge
Councilmember Mills
Councilmember Branson

Nay: None

Motion Carried.

The Public Works Director submitted the following memo:

City of Idaho Falls
April 19, 1999

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Chad Stanger, Public Works Director
SUBJECT: ASSIGNMENT AND ASSUMPTION OF REIMBURSEMENT RIGHTS
J M & S FARMS AND K E D FARMS, L.L.C.

APRIL 22, 1999

Attached is a proposed Assignment and Assumption of Reimbursement Rights between J M & S Farms and K E D Farms, L.L.C. The purpose of the Assignment is to allow J M & S to transfer their rights to recover future water and sewer connection fees which the City may be obligated to pay to J M & S at such times as other properties connect to lines constructed at the expense of J M & S. Both parties are requesting the City's consent.

Public Works recommends approval of this Assignment and Assumption of Reimbursement Rights; and, authorization for the Mayor to sign the documents.

s/ Chad Stanger

It was moved by Councilmember Carlson, seconded by Councilmember Hardcastle, to approve the Assignment and Assumption of Reimbursement Rights between J M & S Farms and K E D Farms, L.L.C. and, further, give authorization for the Mayor and City Clerk to execute the necessary documents. Roll call as follows:

Aye: Councilmember Hardcastle
 Councilmember Branson
 Councilmember Eldredge
 Councilmember Carlson
 Councilmember Groberg
 Councilmember Mills

Nay: None

Motion Carried.

There being no further business, it was moved by Councilmember Carlson, seconded by Councilmember Eldredge, that the meeting adjourn at 8:35 p.m.

CITY CLERK

MAYOR
