

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING

TUESDAY ~ MARCH 16, 2021 ~ 6:00 P.M.

FORT SMITH CONVENTION CENTER

The meeting was called to order by Mayor George McGill, presiding. Invocation was given by Director Neal Martin, followed by the Pledge of Allegiance led by Director Kevin Settle.

On roll call the following members of the Board were all physically present: Directors Jarred Rego, Andre' Good, Lavon Morton, George Catsavis, Kevin Settle, Robyn Dawson, and Neal Martin. The Mayor declared a quorum present.

The Mayor inquired if any Board member had any item of business to present that was not already on the agenda. There was none presented.

The minutes of the March 2, 2021 regular meeting was presented for approval. Settle, seconded by Morton, moved approval of the minutes as written. The members all voting aye, the Mayor declared the motion carried.

Mayor McGill announced that this was the time and place set to review a request to close, vacate, and abandon a portion of street rights-of-way along Chad Colley Boulevard. Notice of the public hearing had been duly published as required by law. Following the public hearing, consideration of an ordinance authorizing same would be given (Item No. 1).

Director of Development Services Maggie Rice briefed the Board on the item advising Mickle-Wagner-Coleman, agent for Shire, Inc., filed an application to abandon two (2) areas of right-of-way on the east side of Chad Colley Boulevard and south of

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Stoneshire Drive, which contain approximately 2,100 square feet. The subject areas are associated with the outfall from drainage culvert crossings on Chad Colley Boulevard. The purpose of the proposed closures is to facilitate the development of a single-family residential subdivision. Upon approval, such will accommodate the rerouting of the drainage system as part of the aforementioned development; therefore, the subject areas of right-of-way are no longer needed. All property owners within three-hundred (300) feet of the requested abandonment have been notified of the proposed closure, and no comments or objections have been submitted to the Planning Department. All franchise utilities have also been contacted and no objections to the proposed closures have been conveyed. Additionally, in keeping with the Board's policy, applicants requesting right-of-way abandonments are required to sign a Memorandum of Understanding (MOU), which stipulates that neither the applicant nor their assigns will make any claims for compensation in the event the City exercises the power of eminent domain to reclaim the abandoned right-of-way. The applicant has already executed the required MOU.

There being no individual present to speak on the item, the Mayor closed the public hearing.

Martin, seconded by Settle, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. There being no director commenting and the members all voting affirmatively, the Mayor declared the motion carried. Settle, seconded by Catsavis, moved adoption of Section 3 the emergency clause. The members all voting affirmatively, the

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Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 24-21.

Item No. 2 was an ordinance repealing Ordinance No. 96-20 and reinstating neighborhood meetings required by the Fort Smith Unified Development Ordinance (*Planning*).

Mrs. Rice briefed the Board on the item advising Ordinance No. 96-20, adopted October 20, 2020, authorized a temporary suspension of neighborhood meetings as required by the Unified Development Ordinance (UDO). The UDO requires applicants seeking Planning Commission approval of certain development applications, i.e. zonings, master land use plan amendments, conditional uses, and variances, to hold neighborhood meetings. Due to COVID-19, neighborhood meetings were previously held outdoors; therefore, such were temporarily suspended due to the end of Daylight Savings Time (October 2020). Daylight savings time started on March 14, 2021; therefore, applicants will have the ability to resume outdoor meetings. Upon approval, the ordinance reinstates the requirement for neighborhood meeting and rescinds Ordinance No. 96-20.

Martin, seconded by Good, moved adoption of the ordinance. The motion included suspending the rule to allow the three (3) full readings of the ordinance to be by caption and for the readings to occur on the same date. The City Clerk read the ordinance by caption for its readings. There being no director commenting and the members all voting affirmatively, the Mayor declared the motion carried. Catsavis, seconded by Settle, moved adoption of Section 2 the emergency clause. The members all voting affirmatively, the Mayor declared the motion carried and the ordinance and emergency clause were adopted and given Ordinance No. 25-21.

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Item No. 3 was a resolution of the Board of Directors of the city of Fort Smith certifying local government endorsement of business to participate in the Tax Back Program (as authorized by Section 15-4-2706(d) of the Consolidated Incentive Act of 2003); and repealing Resolution No. R-160-19 (*Hytrol Conveyor Company, Inc.*) (*Administration*).

Deputy City Administrator Jeff Dingman briefed the Board on the item advising the City received a request from the Arkansas Economic Development Commission and the Fort Smith Regional Chamber of Commerce for participation in the State of Arkansas Tax Back Program on behalf of Hytrol Conveyor Company, Inc. The program allows for new or expanding businesses to request refunds of sales taxes paid on building materials, new equipment, and other eligible expenses incurred due to construction and/or expansion. Hytrol Conveyor Company, Inc. plans to renovate and update equipment for its conveyor manufacturing operation located in their existing facility at 6500 Jenny Lind Road (part of the former Whirlpool facility). The company will invest \$2.5 million for facility renovations and \$20 million for business and manufacturing equipment upgrades, which equates to a total investment of \$22.5 million. Said investment will add 250 jobs with an average hourly wage of \$19.75 per hour.

Martin, seconded by Good, moved adoption of the resolution. Prior to the vote, Directors Rego, Settle, and Martin extended much appreciation to the company for investing in Fort Smith, as well as to Tim Allen, Executive Director of the Chamber of Commerce, and City staff for all efforts to facilitate the company's investment.

City Administrator Carl Geffken also extended much gratitude to Hytrol Conveyor

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Company, Inc. for their investment, and to the Chamber of Commerce for actively marketing the former Whirlpool facility. He further noted the City's recent improvements to Jenny Lind Road also proved to be a marketing asset as such greatly improved the ingress and egress to the facility.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-37-21.

Item No. 4 was an ordinance authorizing the appropriation of funds from the unrestricted General Fund balance for payment of expenses associated with the November 3, 2020 general election (*Finance / City Clerk*).

City Clerk Sherri Gard briefed the Board on the item advising the City Clerk's Office originally included \$75,000 (*\$40,000 - primary election / \$35,000 - general election*) in the 2020 Budget for election expenses associated with Ward Director Positions 1, 2, 3, and 4. In May 2020, only one (1) candidate filed for each of the aforementioned positions whereby all candidates were declared elected. Due to such, there was no necessity for a primary election; however, the \$40,000 for the primary election was utilized for the required ten-percent (10%) budget reduction due to anticipated loss in revenue associated with COVID-19. The remaining budgeted amount of \$35,000 for general election expenses was returned at the end of 2020; therefore, said amount plus \$7,087.68 is required to pay the City's portion of the 2020 general election expense. Upon approval, the proposed ordinance will authorize the appropriation of \$42,090 for payment of the City's portion of the 2020 general election expense.

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Settle, seconded by Morton, moved adoption of the ordinance. Prior to the vote, Director Settle noted the significant increase from previous general election expenses and inquired of the reason for said increase.

Mrs. Gard advised a detailed analysis was conducted to compare the current billing with past general election expenses. The difference has been determined to be solely related to staffing costs.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 26-21.

Item No.5 was an ordinance authorizing the appropriation of insurance proceeds for the Utility Department (*Finance / Utility*).

Director of Utility Lance McAvoy briefed the Board on the item advising that on January 28, 2021, a Utility Department truck, i.e. 2020 Ford Super Duty F-350 XL, was involved in an accident. The Arkansas Municipal League insurance adjuster determined the damage to be \$3,438.99 and a check was disbursed to the City for \$2,438.99. The funds are needed for repair of the truck; therefore, upon approval, such will accommodate the transfer of funds to the Utility Department operating budget.

Martin, seconded by Good, moved adoption of the ordinance. Prior to the vote, Director Morton requested confirmation that the only expense from the Utility Department budget is for the \$1,000 deductible whereby Mr. McAvoy responded affirmatively.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 27-21.

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Item No. 6 was an ordinance amending the 2021 Budget and authorizing the appropriation of funds from the fund balances of the Solid Waste Fund and Water and Sewer Fund to fund additional full time staff for Customer Service Program 5520-0101 ~ *Morton/Dawson placed on agenda at the March 9, 2021 study session ~ (Finance / Utility).*

Mr. McAvoy briefed the Board on the item as discussed at the March 9, 2021 study session. Upon approval, such will provide the necessary funding and authorize the addition of six (6) Customer Service Representative staff and one (1) Customer Service Representative Supervisor to operate the City's Call Center, which has been operated by temporary personnel since 2019. The proposed allocation of \$265,000 will be allocated to the 2021 Operating Budget to accommodate the aforementioned positions through 2021. Funding will be shared between the Solid Waste Services and Utility Departments, i.e. 20% - Solid Waste Services Department and 80% Utility Department.

Catsavis, seconded by Rego, moved adoption of the ordinance. Prior to the vote, Director Rego simply extended much appreciation for the "*realistic plan*" for continuing the Call Center.

Director Settle questioned if pay-by-phone calls go to the Call Center or a third party. If such initially goes to the Call Center, he further inquired if said call is counted in the analytics as a "Call Center" call. Although he indicated his intent to vote in favor of the item, he noted the City should "*continuously get better*" and urged staff to consider innovative ways to reduce the number of calls to "*work ourselves out of*" the necessity for a Call Center.

Mr. McAvoy confirmed that pay-by-phone calls go to a third party. With regard to

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“work ourselves out of the necessity for a Call Center”, he noted the Utility Department originally requested eight (8) Customer Service Representative staff; however, after review, such is the reason the request was reduced to only six (6) Customer Service Representatives.

Director Martin concurred with Director Settle’s aforementioned sentiments. With the anticipated enhancement of the City’s website, he conveyed much assurance that such is a proactive measure that should reduce the number of calls to the Call Center.

Director Morton conveyed his intent to vote in favor of the item; however, he too concurred with Directors Settle and Martin citing the Call Center was created due to issues that arose during implementation of the Enterprise Resource Planning (ERP) system. Although many of the initial issues have been addressed, he conveyed understanding of the Call Center’s continuance due to the multiple instances of delay and reinstatement of water shut-offs associated with the impact associated with COVID-19 pandemic. Regardless, he noted the City needs to focus on the exorbitant number of water leaks that remain in need of repair, and inquired when all meters will be updated with automatic read capability citing such should be a priority. Additionally, he urged staff to speak with other municipalities to determine any best practices utilized that will ensure a smooth transition of the aforementioned.

Mr. McAvoy noted that although many meters within the city have been upgraded with automatic read capability, completion is not anticipated for approximately three (3) to four (4) years. The City must complete meter replacement and ensure the necessary infrastructure is in place to adequately accommodate same. Due to past issues regarding

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the already installed automatic read meters, staff will take a different approach citing new installations will run parallel (manual and automatic read) for at least six (6) months to ensure accuracy.

Mayor McGill simply extended much appreciation to the Utility Department for the oversight of multiple areas under its purview.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 28-21.

Item No. 7 was an ordinance authorizing the appropriation of funds from the restricted General Fund balance for Parrot Island Waterpark expansion (*Finance / Parks*).

Deputy Administrator Dingman briefed the Board on the item advising the City of Fort Smith Board of Directors and Sebastian County Quorum Court each voted in favor of contributing an additional \$250,000 towards the expansion of Parrot Island Water Park, which consisted of a new slide following the completion of the FlowRider amenity. The aforementioned amount was included in the City's 2021 Budget. The original plan for the new slide was to replace the current yellow "body slide" with new fiberglass for a "tube slide" coming off the existing slide tower, which can only serve four (4) slides. The yellow slide has been modified and now functions properly; therefore, it's preferred to keep such operational and add a new, fifth slide. Such necessitates the construction of an additional, separate slide tower and pump house support structure, and will be constructed with future expansion in mind to allow up to three (3) additional slides to be added relatively easily. The reconfiguration necessitates the appropriation of additional funds from both the City

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and the County. The City's total share of the slide expansion project is projected to be \$470,833. Upon approval of the proposed, such will allocate an additional \$220,833 to the existing \$250,000 amount already included in 2021 Budget. Revenues were expected to take a significant decline in 2020 due to the COVID-19 pandemic, which subsequently led to departments tightening their budgets in order to absorb the projected economic shock; however, Fort Smith did not realize the anticipated economic impact of the pandemic. Sales tax revenues have been coming in above revenue estimates; therefore, an appropriation from the additional (above budgeted) Parks Sales Tax revenues realized in both 2020 and 2021 are needed to fund the additional amount needed from the City for the expansion of Parrot Island Waterpark.

Settle, seconded by Good, moved adoption of the ordinance. Prior to the vote, Director Morton requested confirmation that 2020 allocation for improvements was not utilized whereby Mr. Dingman responded affirmatively. In addition, he further expressed concern with the budget numbers provided by Parrot Island Water Park management and requested such be conveyed to the manager. He also urged staff to monitor expenditures and progress of the subject expansion, and requested the Board be kept informed of same.

Director Good expressed concern that the proposed allocation will impact projects for neighborhood parks, and requested a brief explanation. He further questioned if the City has been in contact with the County. Upon approval, he further requested confirmation that the appropriated funds must be dedicated for Parrot Island.

Mr. Dingman advised that 2020 revenues were higher than anticipated citing expectation of same for 2021. Regardless, he extended confirmation that the proposed allocation will not result in any redirection of funding for existing parks projects.

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Administrator Geffken advised the City has been in contact with Sebastian County regarding the proposed allocations citing the County's portion is being presented for approval by the Quorum Court this evening as well. Regarding dedicated funds, he merely responded affirmatively that said funds must be utilized for the subject expansion.

Director Settle noted that, except due to COVID-19 capacity requirements, revenues at Parrot Island Water Park have been positive. Regardless, he spoke in favor of the item citing the proposed expansion creates a *"great opportunity... to make the city better."*

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the ordinance was adopted and given Ordinance No. 29-21.

Items No. 8 and 9 were both related to Basin 12 Capacity Improvements; therefore, such were presented collectively as follows:

8. Resolution authorizing the Mayor to execute Change Order No. 2 with PM Construction & Rehab, LLC for Basin 12 Capacity Improvements (*Adding 174 days / Utility Department*) ♦ *Future Fort Smith Item* • *Consent Decree Item*
9. Resolution accepting the project as complete and authorizing final payment to PM Construction & Rehab, LLC for construction of Basin 12 Capacity Improvements (*\$21,532.90 / Utility Department / Budgeted - 2018 Revenue Bonds*) ♦ *Future Fort Smith Item* • *Consent Decree Item*

Mr. McAvoy briefed the Board on the item advising that on July 16, 2019, the Board of Directors approved the bid of PM Construction & Rehab, LLC in the amount of \$399,150.00 for Basin 12 Capacity Improvements. The project consisted of Cured-in-Place lining of approximately 3,507 linear feet of 20-inch sewer main and associated manholes, and other appurtenances. The project was designed to reduce sanitary sewer overflows

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by reducing groundwater infiltration. On April 7, 2020, the Board approved Change Order No. 1 that added \$43,176.00 and 150 days to the project. Item No. 8 authorizes the Mayor to execute Change Order No. 2, which adds 174 additional days to the contract time. Item No. 9 declares the project as complete and authorizes final payment in the amount of \$21,532.90. The total project cost of \$434,002.00 is two-percent (2%) below the \$442,326.00 total of the originally approved contract amount of \$399,150.00 and Change Order No. 1 (\$43,176.00). Funding for the subject project is available from the 2018 Revenue Funds.

Settle, seconded by Rego, moved adoption of Item No. 8. Prior to the vote, Director Morton questioned if the City is currently in compliance with the Consent Decree. He further noted that a report was due on February 28, 2021, and requested a brief update regarding same.

Mr. McAvoy advised the City of Fort Smith is in compliance with the Consent Decree with regard to the subject project.

With regard to compliance, Administrator Geffken added and conceded that some “*slippage*” in Consent Decree requirements has occurred; however, such is only due to lack of funding availability. Regarding the requested update, the City continues and is actively working with its legal representation and the Environmental Protection Agency (EPA) relative to multiple issues associated with the Consent Decree.

The motion remaining on the floor and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-38-21.

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Morton, seconded by Martin, moved adoption of Item No. 9. There being no director commenting and the members all voting affirmatively, the Mayor declared the motion carried and the resolution was adopted and given Resolution No. R-39-21.

The consent agenda (Item No. 10) was presented for consideration, the items being as follows:

- A. Resolution granting a temporary revocable license for the placement of fencing, masonry columns and a portion of a wood building in a public right-of-way and authorizing the Mayor to execute agreement (*Planning*)
- B. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Van Horn Construction, Inc. for "P" Street and Massard Peracetic Acid Disinfection Improvements (\$1,506,366.00 / *Utility Department / Budgeted - 2018 Revenue Bonds*) ♦ *Future Fort Smith Item*
- C. Resolution authorizing the Mayor to execute an agreement to provide engineering services with Hawkins-Weir Engineers, Inc. for "P" Street and Massard Peracetic Acid Disinfection Improvements (\$158,820.00 / *Utility Department / Budgeted - 2018 Revenue Bonds*) ♦ *Future Fort Smith Item*
- D. Resolution authorizing the Mayor to approve the project reconciliation for Amendment No. 1 to the agreement with Van Horn Construction, Inc. for providing construction management services for the Wastewater Pump Station Flood Damage Remediation Project and declaring the Amendment closed and authorizing final payment (\$24,649.35 / *Utility Department / Budgeted - 2018 Revenue Bonds*) ♦ *Future Fort Smith Item*
- E. Resolution accepting the bid of and authorizing the Mayor to execute a contract with Cove Creek Construction Company for the J. Pense Stream Bank Stabilization, ANRC Grant #20-600 (\$53,800.00 / *Utility Department / Budgeted - 6505 Capital Improvement Fund*)

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- F. Resolution accepting the bid and authorizing the Mayor to execute a contract with Steve Beam Construction, Inc. for the construction of an awning and other improvements at the transfer station located at 200 Wheeler Avenue, Project No. 20-042 (\$432,110.00 / Transit Department / Budgeted - Capital Outlay-Improvements Other)

- G. Resolution accepting the bid and authorizing the Mayor to execute a contract with Thomas Electric, Inc. for the installation of a generator at the transit office facility located at 6821 Jenny Lind Road, Project No. 20-078 (\$269,600.00 / Transit Department / Budgeted - Capital Outlay-Improvements Other)

Mayor McGill announced that Item No. 10D had been revised to replace "engineering services" with "construction management"; therefore, the motion to adopt the consent agenda must include "as revised" for Item No. 10D.

Catsavis, seconded by Morton, moved adoption of all consent agenda items including adoption of Item No. 10D "as revised." Prior to the vote and regarding Item No. 10B, Director Morton requested confirmation that the proposed involves removal of chlorine equipment and replaces such with equipment to accommodate the use of peracetic acid. He further inquired if the City will no longer use chlorine.

Mr. McAvoy confirmed the equipment replacement inquiry citing such includes replacement at the "P" Street and Massard treatment plants. With regard to continued use of chlorine, the City will still utilize some chlorine for water treatment, but will no longer utilize such for disinfection purposes.

Director Settle questioned if a cost analysis was conducted to determine anticipated cost savings.

Mr. McAvoy confirmed such was reviewed and determined that transitioning from

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chlorine to peracetic acid will result in a cost savings of approximately \$14,462. At the request of Administrator Geffken, he further provided a brief explanation of the benefits and differences in utilizing peracetic acid rather than chlorine.

With regard to Items No. 10F and 10G, the following individual was present to address the Board:

- Melissa Woodall
Fort Smith, Arkansas

- Re:
1. Regarding Item No. 10F, she conveyed excitement regarding the forthcoming installation of an awning at the transfer station citing such *“will be beautiful.”*
 2. With regard to Item No. 10G, she noted the recent storms and inclement weather events highlighted the need for backup power; therefore, she spoke in favor of the item and noted such is a good use for the subject CARES Act funding.

Regarding Item No. 10G, Director Good extended much appreciation to Transit Department staff and requested a brief explanation why the generator is needed.

Director of Public Transit Ken Savage advised such improves and ensures the *“state of readiness”* for the department. Staff feels the generator will further ensure continuity of operations to the general public, and concurred with Ms. Woodall that such is a good use of the available CARES Act funding.

Director Morton expressed disappointment that the low bidder did not provide the required documents, which is unfortunate; however, he spoke in favor of the item citing such will allow the Transit Department to be better prepared during emergency power outages.

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The motion remaining on the floor to adopt all consent agenda items and the members all voting affirmatively, the Mayor declared the motion carried and the resolutions were adopted and given Resolutions No. R-40-21 through R-46-21 respectively.

Mayor McGill opened the Officials Forum with the following comments offered:

- Mayor McGill

- Re:
1. Announced the City of Fort Smith has scheduled another COVID-19 vaccination event for May 5, 2021. Such will be held in the Convention Center whereby he extended much appreciation to the OVG Group for use of the facility. He further reminded all that hospitals and pharmacies are also still offering vaccinations.
 2. Announced a delegation from Singapore recently visited and toured the city of Fort Smith and the Air National Guard base to determine the best locale as a multi-national training site for F-16s and F-35 fighter jets. Fort Smith is one (1) of three (3) potential airbases for said training. The city of Fort Smith representatives made a great presentation this week; therefore, he expressed much appreciation for all efforts made to welcome and host the delegation.

- Director Rego

- Re:
1. Reiterated the aforementioned gratitude to all city representatives involved in hosting the Singaporean delegation.
 2. Conveyed appreciation to all those associated with the forthcoming second vaccination clinic scheduled for March 17, 2021.

- Director Dawson

- Re: Noted that Elm Grove Community Center has been closed due to damage associated with the recent storm events; therefore, she questioned if such will hinder the forthcoming opening of the new splash pad at Martin Luther King Jr. Park, and the anticipated opening date.

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Director of Parks and Recreation Doug Reinert confirmed that repairs will not hinder the subject opening, which will occur before school is out.

■ Director Catsavis

Re: Acknowledged recent reports that indicate COVID-19 cases are decreasing. Regardless, due to the recent stimulus, he inquired if sales tax revenues are anticipated to increase.

Administrator Geffken advised that sales tax revenues in 2020 were approximately \$1 million more than estimated, and for the first month of 2021, such were approximately ten-percent (10%) more than estimated. Regardless, the unemployment rate remains at a decent level, and he conveyed much hope that the City will benefit from the most recent stimulus.

■ Administrator Geffken

Re: Advised he will be out of the office on vacation beginning Wednesday, March 17 and will return to the office on Thursday, March 25.

There being no further business to come before the Board, Catsavis moved that the meeting adjourn. The motion was seconded by Martin, and the members all voting aye, the Mayor declared the motion carried and the meeting stood adjourned at 7:04 p.m.

APPROVED:


MAYOR

ATTEST:


CITY CLERK