



City of Tualatin

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Approved By Tualatin City Council

Date 3-9-09

Recording Secretary MSmith

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF FEBRUARY 23, 2009

PRESENT: Mayor Lou Ogden (via phone), Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Kent Barker, Chief of Police; Dan Boss, Operations Director; Don Hudson, Finance Director; Carina Christensen, Assistant to the City Manager; Doug Rux, Community Development Director; Eric Underwood, Development Coordinator; Will Harper, Associate Planner; John Stelzenmueller, Building Official; Ginny Kirby, Recording Secretary

ABSENT: Donna Maddux* [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Council President Barhyte called the work session to order at 5:02 p.m. He stated that the Consent Agenda would be reviewed first this evening, then recess to the Development Commission work session, then reconvene Council work session.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Utility Undergrounding Policy Discussion

Mike McKillip, City Engineer, said after bringing a draft of the Utility Underground Master Plan to Council last April, Council directed staff to research viable options for undergrounding utilities. Staff did as directed and is back with four options:

1. underground utility ordinance similar to the City of Tigard;
2. utility fee;
3. undergrounding subsidy; and
4. a City of Tigard style ordinance non-excise tax.

If the City chooses to do a utility fee, based on the number of accounts, we would realize approximately \$84,000/year (7,000 subscribers - \$1.00/month fee). This would not add up quickly towards accomplishing projects that need to be done. Discussion followed. Mr. McKillip reiterated that staff is looking for feedback from Council on what direction to go.

Mayor Ogden questioned how long the City could legally hold onto monies collected before the money must be used; Ms. Braden said she didn't believe there was a set time limit. Mr. McKillip said we may get a general "push back" from contractors who feel this is not the economic time to be instituting a new fee. Councilor Beikman agreed with Mr. McKillip, that contractors probably wouldn't like a new fee at this time. It just doesn't seem appropriate timing now, but do keep this for the future. At some point it could just be a City-wide fee.

After further discussion, Council directed staff to come back in the future with a proposed City-wide ordinance for undergrounding. Implementation is not of highest priority unless we get new and expanded lands and have in place for the SW Concept Plan or Urban/Rural Reserves. Mr. McKillip said staff will come back to Council in the next 9 to 12 months with a draft ordinance for review.

Code Changes Identified After LUBA Decision on Single-Family Residential Issue

Doug Rux, Community Development Director, and Will Harper, Associate Planner. Mr. Harper noted the origin of the proposed amendments to the TDC is Oxford House discussions in the Fall of 2008, along with questions raised by neighbors and property owners regarding rental housing, garages, definition of family, on-site parking, etc.

The first issue addressed tonight is the definition of "family". Mr. Harper said what is proposed is removal of the current definition of family and replace it with the following: "Family – A person living alone or two or more related or unrelated persons living together in a single dwelling unit." This proposed definition of family has taken out the numbers and the defined relationships, and makes it very simple. It is not intended to work in a financial or property tax method, it is not meant to work in social or religious terms, but to work in a Tualatin zoning setting.

The second issue is parking for single-family residences. Mr. Harper noted current language of the minimum off-street parking requirements for a one family dwelling says "1.00 space per dwelling unit, in addition to the garage." The proposed amendment would remove the "... in addition to the garage." in the parking standards and clarify that attached garages are not a required element for residential uses.

Staff is proposing the City specify the minimum parking be increased from one off-street space to two off-street parking spaces for new single family residential. The proposed amendment also clarifies that an expansion of an existing single family residential use, such as an addition or space conversion, does not subject the residence to meeting the increased parking standard. In addition, it would clarify that a residential garage does not count as a required parking space unless approved in the Architectural Review process. Brief discussion followed and staff stated a draft ordinance will be brought to Council at the March 9 Council meeting.

Signs in Office Commercial (CO) Districts

Will Harper, Associate Planner, gave a PowerPoint presentation. He stated staff had been approached by Cushman Wakefield, representing the South Center development, with a request for a large directory sign at an entrance to the site. The requested directory sign would exceed the maximum 32 square feet currently allowed in the CO Planning District. Mr. Harper noted that due to the layout of the buildings and the land, it can be difficult to give adequate directions to customers on how to navigate through the interior roadway in this development.

The proposed directory sign for South Center is along SW Mohawk on the south side of the roadway. The roadway is wider and allows for a vehicle to stop and read a directory sign without impeding traffic. Councilor Davis asked if a sign directing motorists to the directory sign would be installed; Mr. Harper said that would be allowed.

Council President Barhyte expressed some reservations about the language in the proposed ordinance; he wanted to ensure that a directory sign did not impede traffic. Staff will add some language and bring back to Council March 9.

I-5 to 99W Connector Project Discussion

Mayor Ogden reiterated some of the discussions that have already taken place between Tualatin, Sherwood, and Wilsonville. After much discussion it seems most are favoring Alternative 7, except for Wilsonville. The last Steering Committee meeting will be this week; possibly the only dissenting votes would come from Clackamas County and Wilsonville.

Wilsonville suggested not voting in favor of Alternative 7, but are in favor of revising language in the Regional Transportation Plan (RTP) to address some issues. If some other suggested projects are put in the RTP, then can possibly go and ask for "bits" of money to try to do portions of projects.

This may open the door to get some funds for 124th Avenue to connect to I-5, as basically the project is dead due to funding problems. This would at least allow for conversation to continue with 124th Avenue and allow monies to come available for smaller projects to chip away at the "wish list" of projects.

Discussion followed regarding Metro and how likely would it be for them to approve over great opposition from Clackamas County and Wilsonville. If this project goes away, then money is freed up for other projects such as I-5 bridge, etc. Mr. McKillip voiced concerns if the City says they don't want Alternative 7 and want to change language in the RTP. Mayor Ogden suggested moving forward with Alternative 7 to JPACT, make some amendments to it, and make some modifications to RTP language. If nothing substantive comes from a study, we won't get any funds.

Linda Moholt, Tualatin Chamber of Commerce, noted she had attended a meeting where members stated a couple more Councilors may be in favor, which could help in getting the vote for Alternative 7. The Chamber has been working with businesses to educate people about Alternative 7. Ms. Lombos said she attended a Wilsonville work session last Wednesday. Mayor Ogden commented that possibly we could put off for 60 to 90 days to give time to potentially sway some of the thinking of Wilsonville.

Councilor Beikman suggested going ahead and advancing Alternative 7 on Wednesday and then work diligently with Sherwood and Wilsonville to amend language. Further discussion followed. Mr. McKillip stated that he is meeting with Sherwood and Wilsonville people on Tuesday; Mayor Ogden said he would be interested in going to the PSC with a concept plan and asking for another 60 to 90 days to work on it. Possibly Sherwood would accept an RTP amendment that does not have a southern corridor; and Wilsonville might accept one that does have a southern corridor.

After further brief discussion, Councilor Truax stated he would support the "plan on the table"; Councilors Harris and Barhyte said they would support either route.

Council Communications & Roundtable

Councilor Harris noted that he had attended WCCCA meeting. There will be 9% to 12% increases coming from them. Ms. Lombos said that Tualatin can't operate a fulltime call center for what the City is paying WCCCA. The 9-1-1 revenue is flat, it is not going up as costs are going up. Also, legislature is looking at taking away some of the 9-1-1 money and using it elsewhere.

Ms. Lombos said the City was notified today that Davis Wright Tremaine has submitted a tort claim regarding Stars Cabaret; they have not yet filed a lawsuit. They missed the February OLCC hearing; next hearing date will be in April. Brief discussion followed.

Ms. Lombos spoke to the issue of train noise. TriMet has done a couple of short-term things: 1) a quieter horn is currently being tested, and 2) the decibel level on ALL horns has been ratcheted down to 97.5 decibels (originally was over 100). The City has submitted a Federal appropriations application and the prospectus for transportation stimulus money (in the \$700,000 range), which would be for two crossings (Teton Avenue and 95th Avenue). Approximate costs would be \$615,000 for 4-quadrant arms on Teton Avenue; \$60,000 for 95th Avenue.

It was reiterated that the FRA calculator shows doing the Nyberg crossing; four crossings would have to be upgraded to qualify for quiet zones (at a cost of approximately \$2.5 million). Councilor Harris questioned whether establishing quiet zones enhanced safety; he would like staff to research and follow-up on this. Mayor Ogden questioned how the stimulus money was being divided; Mr. McKillip stated it was split by population and he briefly explained the process. Mayor Ogden asked that Ms. Lombos write a letter to Fred Hanson, General Manager, TriMet.

C. CITIZEN COMMENTS

Not applicable.

D. CONSENT AGENDA

The Consent Agenda was reviewed by Council.

Ms. Lombos stated that Item D.3. was being removed from the agenda in its entirety; it will be rescheduled for a meeting in March.

The Work Session recessed at 5:05 p.m. and reconvened at 5:07 p.m.

E. PUBLIC HEARINGS - Legislative or Other

Not applicable.

F. PUBLIC HEARINGS - Quasi-Judicial

Not applicable.

G. GENERAL BUSINESS

1. Ordinance No. 1275-09 Relating to the Library Rules of Conduct; and Amending TMC 5-1-010, 5-1-030, 5-1-050, 5-1-070, 5-1-080, 5-1-090, and 5-1-100

MOTION by Councilor Harris, SECONDED by Councilor Davis for a first reading by title only. MOTION by Council Harris, SECONDED by Councilor Davis for a second reading by title only. MOTION CARRIED. The poll was unanimous [*Maddux absent.*] MOTION by Councilor Harris, SECONDED by Mayor Ogden to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

H. ITEMS REMOVED FROM CONSENT AGENDA

Not applicable.

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

None.

K. ADJOURNMENT

The meeting adjourned at 6:53 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in cursive script, reading "Ginny Kirby", is written over a horizontal line.



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Recording Secretary M. Smith

TUALATIN CITY COUNCIL MEETING MINUTES OF FEBRUARY 23, 2009

PRESENT: Mayor Pro tem Chris Barhyte, Councilors Monique Beikman, Joelle Davis, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Don Hudson, Finance Director; Kent Barker; Chief of Police; Doug Rux, Community Development Director; Dan Boss, Operations Director; Carina Christensen, Assistant to the City Manager; Paul Hennon, Community Services Director; Nancy McDonald, Human Resources Director; Ginny Kirby, Recording Secretary

ABSENT: Lou Ogden*, Donna Maddux* [** denotes excused*]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Pro tem Barhyte called the meeting to order at 7: 02 p.m.
Councilor Harris led the pledge of allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Tualatin Tomorrow – Arts, Culture, and Education (ACE) – *Larry McClure*
Mr. McClure reminded everyone this is a long range planning process. The topic tonight is “ACE” (Arts, Culture, and Education) which has seven domains of activities: education, community facilities, cultural opportunities, youth, volunteerism, sense of community, and recreation. Tonight we will focus on just two of the seven:
1. performing arts and visual arts, and 2. higher education and workforce development.

Arts and Culture. Mr. McClure introduced Nancy Wellman, President, Lumiere Players (Tualatin’s own community theater). Currently the Lumiere Players are doing the play “Dearly Beloved”. Ms. Wellman noted that the Sunday performance was standing room only. Performing arts brings money into the community, people who come to attend performances may also go shopping, dine in Tualatin, purchase gasoline, etc. Ms. Wellman invited everyone to attend performances of the Lumiere Players.

Mr. McClure introduced Rebecca Pratt, Willowbrook Summer Arts Day Camp. Willowbrook started in 1982 by Althea Pratt-Broome, at the John Sweek House. A few years ago the site was changed to Browns Ferry Park. Ms. Pratt took over as Program Director in 2008. Approximately 1900 students were served last summer, 562 students was the top daily attendance, and there were 182 staff members in 2008, which includes some high school students as staff. Willowbrook has 37 learning centers, divided into three age groups; the bulk are in the 8 to 18 age group

(youngest are 3 to 4 year olds). Ms. Pratt urged interested people to check out their website: willowbrookartscamp.org for further information.

Education Workforce Development is aimed primarily at adults. Mr. McClure introduced Jill Culyer, who is here tonight representing Washington County for Oregon Department of Employment. Ms. Culyer gave a brief overview of the economy at this point in time. Oregon's economy is in negative growth; December 2008 down by 3.6% over previous year; statewide there is 9% unemployment rate. Tualatin's unemployment was 6.2% as of December 2008, up from 3.6% in 2007. Ms. Culyer said the State economist predicts Oregon's economy won't show much increase until the year 2010. Mr. McClure said that Portland Community College is an important partner with the Mohawk Street office of the State Employment Office.

Councilor Beikman thanked Mr. McClure for all his time on Tualatin Tomorrow and time spent on programs at the Heritage Center. It was noted that the Tualatin Tomorrow Annual Event is set for April 30th; more information will be available soon on the website, www.tualatintomorrow.org.

C. CITIZEN COMMENTS

City Manager Lombos gave a brief update on WES as there have been many concerns regarding short-term and long-term actions regarding train horn noise mitigation. She reported that TriMet has adjusted train horns to the lowest allowable decibel level, 97.5, from the previous level that was over 100. TriMet is experimenting with a "kinder gentler" horn; testing is currently in progress.

City Manager Lombos said the City has submitted an application to the Federal government regarding establishment of Quiet Zones. The packets include the problem statement, maps, and letters of support. The Council will be kept updated on this issue.

City Manager Lombos noted that Tualatin's share of the Stimulus funds will be approximately \$700,000. In addition, TriMet has tentatively offered \$500,000 to go towards train horn noise mitigation. They suggested wayside horns as they weren't certain the necessary upgrades could be done in a short time line. Also, there may be some unused MSTIP funds available, as well as some Urban Renewal funds. The City must upgrade four crossings (Tonquin, Teton, 95th, and Nyberg) to be eligible for a Quiet Zone designation; costs will be in the range of \$2 million.

Linda Moholt, Tualatin Chamber of Commerce, SW Martinazzi Avenue. Ms. Moholt was here to speak about transportation and the importance to the entire region; the Chamber has taken a great interest. They support Alternative 7. Being part of the Tualatin Tomorrow process has made clear the important transportation issues in the region. Alternative 7 could help alleviate congestion; overall it could improve connectivity, and also aids in safety response time for fire and police. Ms. Moholt said that last Monday night Wilsonville voted against Alternative 7; she is here tonight to say the Chamber supports pushing forward this alternative and going forth to amend the RTP. Ms. Moholt stated the Chamber wants the community to realize just how important this is; this decision needs to move forward. She urged Wilsonville residents to call their representatives and voice their concerns and ask that they move it forward.

Mayor Pro tem Barhyte noted that Councilor Beikman is the Council's representative on the committee, in Mayor Ogden's absence, and Councilor Beikman will be attending the PSC meeting on Wednesday. City Manager Lombos stated that, on a staff level, she wants the Chamber to know how much all their work with the business community is appreciated.

Erin Stadick, Cowlitz Drive, Tualatin. Mr. Stadick feels the quality of life is now completely different, much more negative with the train horn noise that starts so early in the morning. He thanked the City Manager for her comments tonight on what is being done to help alleviate the issue and greatly appreciates what is being done. Mr. Stadick asked if the City feels helpless if the stimulus money is not received. Mayor Pro tem Barhyte said things sound much more positive at this point, but it depends on if money is received. Councilor Beikman expressed her concerns regarding safety, as the commuter trains are very quiet; she feels if the City can have quiet zones and pedestrian safety measures in place, then she would be more comfortable. Mayor Pro tem Barhyte encouraged citizens to write Council expressing their concerns. Councilor Harris reiterated that with a quiet zone, trains can still sound their horns if they see a safety issue that warrants the horn. When funds come through, Council will have further policy discussions to decide what additional safety measures might be needed. Mayor Pro tem Barhyte reiterated that when stimulus funding is received, there is a strict timeline in which the improvements would need to be done.

Mr. Stadick asked about the two Tonquin Road crossings (one private, one public) and whether both crossings would need to be protected by a quiet zone. City Engineer McKillip said the private crossing would be treated same as a public crossing. However, the private crossing would be "included" with the public and may not need to have a separate treatment. Mr. Stadick asked for some clarification on the process. Councilor Truax explained how the Federal Rail Administration (FRA) sets out the numbers and how to see what upgrades need to be done to make crossings meet "warrants" to be a quiet zone. Depending upon upgrades and at which crossings can affect how the FRA calculator works to determine what would be needed. Mayor Pro tem Barhyte reiterated a big issue is the money, if the City has the money, the improvements could be done.

Mr. Stadick does not feel that wayside horns would be a viable solution. He asked where else could money come from to accomplish upgrades to qualify for quiet zones. It was noted that TriMet is having a Board Meeting on Wednesday morning and they will be talking about stimulus money, etc. City Manager Lombos noted the City will have a representative present at that meeting thanking TriMet for their partnership and "lobbying" for funds. Councilor Harris said that Council is having a special meeting regarding Urban Renewal funds and what may be available; a notice will be posted and also be on the City's website.

Derek Colby, SW Aspen Place, Tualatin. Mr. Colby thanked the Council for their work on train horn noise mitigation. He asked the City Engineer when the City became aware that commuter rail was coming. Mayor Pro tem Barhyte noted that when commuter rail was first talked about, there was somewhat of a disconnect regarding exactly what it would be. Some felt it would be similar to light rail and be very quiet. Also, the report that TriMet produced didn't reflect a serious noise issue. Mr. Colby said he appreciated Councilor Beikman's concerns for safety. Mayor Pro tem Barhyte noted that TriMet now realizes the train horn noise is an issue they need to address or commuter rail will not be welcome in other areas. Councilor Beikman stated that staff has been working diligently

on this issue and TriMet has installed some fencing and will be installing more in a few areas along the tracks. City Manager Lombos noted the timing of the stimulus money is opportune now with the train horn noise issues that need solving.

Councilor Harris noted he wishes TriMet and other agencies would step up and provide funds that can be used for the train horn noise and the stimulus money could be used for a project that would create jobs and help alleviate transportation issues in the area. Mr. Colby said he agrees with Councilor Harris, the pressure needs to be kept on TriMet for funding to solve this issue of the noise. Discussion followed regarding funding. Mayor Pro tem Barhyte thanked Mr. Colby for voicing his concerns. Councilor Davis said unfortunately Tualatin is somewhat of a guinea pig with this commuter rail and any other community faced with this will be able to learn from Tualatin.

Kathy Newcomb, Cheyenne Way, Tualatin. Ms. Newcomb stated she was here about the 99W Connector. She has been looking at the Transportation Plan and the consultant information and is very concerned about what has been said about the northern Tualatin arterial... 5-lanes starting at Tualatin/Herman heading east, to Community Park, then a bridge crossing over the river and then to Boones Ferry Road and continuing to Bridgeport Road. Ms. Newcomb did not find dollar figures reflecting costs as high as what is being mentioned now. The phasing seems to be unclear in the plan. She felt there were mixed signals between the information available; she thought open houses that would dispense accurate information would be helpful. Ms. Newcomb complimented Mayor Pro tem Barhyte for his earlier statement that even though he does not live where he is directly affected by the train horn noise, what happens in the City DOES affect him. We want people happy that they are residents of Tualatin.

Mayor Pro tem Barhyte thanked Ms. Newcomb for her input. He noted that before anything else is built (such as a bridge over the river, etc.), that it will be taken to the public.

D. CONSENT AGENDA

MOTION by Councilor Harris, SECONDED by Councilor Beikman to adopt the Consent Agenda as read and amended:

1. Approval of Minutes for the Meeting of January 26, 2009 and the Special Work Session of January 27, 2009
2. Approval of 2009 Liquor License Renewals
3. Resolution No. - - - Affirming the December 19, 2008 Historic Landmark Demolition Decision of the Gerald Avery Building Located at 19945 SW Boones Ferry Road (2S123DD 500) (HIST 08-01)

[removed from the agenda in its entirety during work session]

4. Resolution No. 4865-09 Adopting an Intergovernmental Agreement Between the Tigard-Tualatin School District and the City of Tualatin For Safe Schools and Health Students
5. Resolution No. 4866-09 Approving Settlement Agreement with Qwest, as part of the Oregon Municipal Audit and Review Committee (OMARC) Audit
- G1. Ordinance No. 1275-09 Relating to the Library Rules of Conduct; and Amending TMC 5-1-010, 5-1-030, 5-1-050, 5-1-070, 5-1-080, 5-1-090, and 5-1-100

MOTION CARRIED.

E. PUBLIC HEARINGS - Legislative or Other

1. Public Hearing on Proposed Supplemental Budget and Changes to the Adopted 2008-2009 Budget

Resolution No. 4867-09 Approving Changes to the Adopted 2008-2009 Budget

Mayor Pro tem Barhyte opened the public hearing.

Don Hudson, Finance Director, stated that after the public hearing, there is a resolution for Council acceptance approving the changes to the adopted 2008-2009. The reason the public hearing is necessary is because there are increased expenditures in the Library Improvement Fund and the transfer of reserves from the Infrastructure Reserve Fund to cover unanticipated sewer projects.

The budget changes that are not required to be part of the public hearing, but are included in the resolution are transfers out of Contingency in the General Fund (for Stars Cabaret outside legal counsel, impacts of PERS legislation, and city Core Area parking fees). There are project related contingency transfers needed for a traffic signal in the Road Development Fund, a water line project in Water Development Fund, and two repair projects in the Storm Drain Fund. The last budget change recommended is to transfer printing budget from the Council and Legal budgets into the Administration budget. This transfer is necessary to accommodate changes which occurred when Administration moved into the Seneca building.

PROPOSERS - none

OPPOSERS - none

COUNCIL QUESTIONS - none

Mayor Pro tem Barhyte closed the public hearing.

COUNCIL DISCUSSION - none

MOTION by Councilor Truax, SECONDED by Councilor Beikman to approve the resolution approving the changes to the adopted 2008-2009 budget. MOTION CARRIED.

F. PUBLIC HEARINGS - Quasi-Judicial
None.

G. GENERAL BUSINESS

Item G.1. was placed on the Consent Agenda during work session.

2. Resolution No. 4868-09 Authorizing a Revocable Permit to Allow a Fence in Tract Q in the Victoria Woods No. 3 Subdivision

Mike McKillip, City Engineer, noted that in Fall 2008 Mr. Hulsman came before Council with his issue of public coming onto his property as there was no barrier to keep them off his property. Mr. McKillip stated that Mr. Hulsman agreed to and signed a Revocable Permit with the City allowing him to keep the fence up, but will, in the future, remove it if the City so desires.

MOTION by Councilor Harris to approve the Revocable Permit, SECONDED by Councilor Davis.

Discussion on Motion. Councilor Truax stated that Council has been faced with similar situations in the past and found solutions that did not cut off access, and were amenable to all parties. He said he is not in favor of approving this fence as it cuts off an accessway. Mayor Pro tem Barhyte said he agrees up to a point, as in this case, the accessway leads to private property. Councilor Harris said his understanding was that there was a fence that kept falling down, so this fence replaces that. Councilor Beikman stated that she is not in favor of installing a fence on public property due to liability issues. Councilor Harris pointed out that there is a hold harmless clause included, so the liability should not be an issue.

MOTION CARRIED. [Vote: 3-2-2, Yes-Davis, Barhyte, Harris; No-Beikman, Truax; Absent-Ogden, Maddux]

H. ITEMS REMOVED FROM CONSENT AGENDA
None.

I. COMMUNICATIONS FROM COUNCILORS

J. EXECUTIVE SESSION

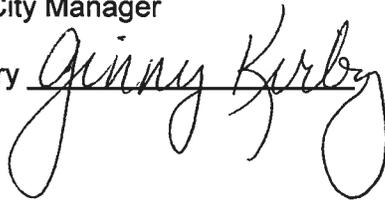
None.

K. ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in cursive script that reads "Ginny Kirby". The signature is written over a horizontal line that is part of the "Recording Secretary" label.