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| Regular Meeting | THE LEAWOOD CITY COUNCIL | August 16, 2021 |
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Minutes

Councilmembers Present: Chuck Sipple, Mary Larson, Jim Rawlings, Deb Filla, Lisa Harrison, and Julie Cain

Councilmembers via Zoom: James Azeltine

Councilmembers Absent: Andrew Osman

Staff Present: Scott Lambers, City Administrator
 Chief Troy Rettig, Police Dept.
 Dawn Long, Finance Director
 Mark Klein, Planning Services Director
 Nic Sanders, HR Director
 Ross Kurz, Info. Services Director
 Kelly Varner, City Clerk
 Captain Kurt Neis, Fire Department
 Firefighter/EMT Brittney Youngquist

Patty Bennett, City Attorney
 Fire Chief Colin Fitzgerald, Fire Dept.
 David Ley, Public Works Director
 Travis Torrez, Bldg/Code Enfrcmnt Dir.
 Chris Claxton, Parks & Rec Director
 Mark Tepesch, Info. Services Specialist
 Stacie Stromberg, Assistant City Clerk
 Firefighter/EMT Julian Rhodes

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF AGENDA**

Mayor Dunn stated that Councilmember Sipple requested to give an update of the Sustainability Advisory Board’s Electronic Recycling Event. The item was added to the agenda under Item 10 – Councilmembers’ Report.

A motion to approve the amended agenda was made by Councilmember Cain, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 7-0.

4. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES. A TOTAL OF 30 MINUTES WILL BE ALLOCATED PER MEETING FOR CITIZEN COMMENTS.**

5. PROCLAMATIONS - None

6. PRESENTATIONS/RECOGNITIONS Introductions: Fire Prevention Captain Kurt Neis, Firefighter/EMT Julian Rhodes, Firefighter/EMT Brittney Youngquist

Fire Chief Colin Fitzgerald introduced Fire Prevention Captain Kurt Neis, who previously worked for the Overland Park Fire Department as a firefighter and fire inspector. Chief Fitzgerald explained that his role in Leawood will be as an inspector and Deputy Fire Marshall. Chief Fitzgerald introduced Firefighter/EMT Julian Rhodes, who recently worked for Lake City Army Ammunition Plant as a firefighter. He stated that he is halfway through the paramedic program in Missouri. Chief Fitzgerald introduced Firefighter/EMT Brittney Youngquist, who came to Leawood from Minnesota as an on-call firefighter. Mayor Dunn acknowledged that the fire department had lost several positions due to retirements, and she thanked him for hiring well-trained applicants.

Firefighter Youngquist stated that she did extensive research on the City of Leawood and looks forward to doing more hands-on work and exploring the City. Firefighter Neis stated that it is a great honor to work for a beautiful city. Firefighter Rhodes stated that he is excited to use his skills from paramedic school and previous training in order to serve the City of Leawood.

Mayor Dunn thanked all the firefighters for joining the City of Leawood and thanked Chief Fitzgerald for the introductions.

7. SPECIAL BUSINESS

- A. Approve City Administrator’s recommendation of appointment of Captain Dale Finger as Police Chief effective September 20, 2021

Scott Lambers, City Administrator, stated that with the imminent retirement of Police Chief Troy Rettig the City conducted an internal recruitment for the position. He stated that there were 3 good applicants, but Captain Finger was the most seasoned of the three. Mr. Lambers requested that the Council approve his recommendation. Councilmember Rawlings added that he and Capt. Finger had worked together on a committee for the new Justice Center building years ago, and noted that Capt. Finger is very knowledgeable and well respected.

Mayor Dunn stated that she would like to applaud Chief Rettig for having internal candidates who are able and capable of stepping into the position of Police Chief. Councilmember Cain agreed that she is happy that the City can hire within whenever possible. She thanked all the Department Heads for their input. Councilmember Larson stated that she echoes the positive comments about Capt. Finger. She stated that she has seen him handle difficult situations with grace and ease and that he is an excellent selection. Mayor Dunn concurred.

A motion to approve Item 7A was made by Councilmember Rawlings, seconded by Councilmember Filla. Motion was approved with a unanimous vote of 7-0.

- B. Consider possible amendment to LDO section pertaining to Sport Courts; specifically, whether to amend the requirements as they apply to putting greens (PL)

Mark Klein, Director of Planning Services, addressed the Governing Body. He stated that staff is asking if there would be support from the Governing Body to seek an amendment on this ordinance and explained that currently the most common courts are basketball, tennis courts and putting greens, but mentioned there is some disparity in terms of their impacts. He pointed out that basketball and tennis

courts are large, include fences, striping, and create noise from the balls, whereas putting greens tend to have no fencing, have green AstroTurf, and do not create much noise. He stated that since the greens do not have the same kind of impact as basketball or tennis courts, staff is requesting an adjustment to the Leawood Development Ordinance (LDO.) He recommended that the LDO still include a setback and landscaping screening for putting greens.

Mayor Dunn asked about a timeline of when an amendment would come back to the Council. Mr. Klein replied that he could add it to the agenda for the Planning Commission meeting on October 5th so that it would be back to the Council for possible adoption in November. She mentioned that she was aware that this issue has come before the Board of Zoning Appeals previously. Councilmember Sipple asked if the City has turned down any application, for a putting green. Mr. Klein stated that he is only aware of existing greens or those that were in the process of installation that did not meet some of the requirements of the sports courts. Councilmember Larson expressed gratitude for staff being proactive to separate putting greens from other sport courts because they are more aesthetically pleasing and not as disruptive to neighbors. Councilmember Rawlings asked about the size of the green in relationship to the size of the yard. Mr. Klein stated that they could be considered accessory structures and be limited to a certain percentage of the lot.

A motion to recommend referral of Item 7A to staff for possible LDO amendment was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 7-0.

8. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2021-31 and 2021-32
- B. Accept minutes of the August 2, 2021 Governing Body meeting
- C. Accept minutes of the July 15, 2021 Parks & Recreation Advisory Board Meeting
- D. Resolution approving and authorizing the Mayor to execute a Construction Agreement between the City and Miles Excavating, Inc. in the amount of \$1,692,148.02 pertaining to the 2020 CMP Replacement Project [Project #80256] (PW)
- E. Resolution approving and authorizing the Mayor to execute an Independent Contractor Agreement between the City and Habitat Architects, LLC in the amount of \$26,217.00 pertaining to the Dykes Branch Creek clean-up (PW)
- F. Resolution approving and authorizing the Mayor to execute Amendment No. 2 to the Agreement between the City and SFS Architecture in the amount of \$12,782.00 pertaining to the design of the Parks' Aquatic Center [Project #71029] (PW)
- G. Approve payment in the amount of \$31,312.24 for the purchase of (8) Harris police mobile in car radios from KA-Comm (PD)
- H. Police Department Monthly Report
- I. Fire Department Monthly Report
- J. Municipal Court Monthly Report

Item 8H was pulled by Mayor Dunn.

Item 8E was pulled by Councilmembers Cain and Filla.

A motion to approve the remainder of the consent agenda was made by Councilmember Rawlings, seconded by Councilmember Sipple. Motion was approved with a unanimous vote of 7-0.

Item 8E discussion:

Councilmember Cain acknowledged that the clean-up is for maintenance to be done every 2-3 years, but asked how long the project would take. David Ley, Public Works Director, replied that it takes approximately 3-4 weeks to complete. He stated that it is done about every 2 years, but staff has struggled in the past year finding a contractor who will do the work.

Councilmember Filla thanked Mr. Ley for finding a contractor. She expressed concern with the use of glyphosate, a chemical most commonly found in Roundup. Councilmember Filla gave a short presentation on where and how glyphosate is used worldwide and how it affects humans. She stated that she would like the Council to approve this item on the condition that the contractor does not use Roundup. Councilmember Filla opined that it is not easy to find an alternative but noted that she weeds her yard by hand.

Councilmember Sipple asked that if the contractor did not use the herbicide what the cost difference would be. Mr. Ley replied that he is not able to figure that amount on a short notice, but said that staff would work with the contractors. He stated that the herbicide is only used on tree stumps. Mr. Ley indicated that he is not aware of another product to use and that the maintenance would likely need to be done annually if the herbicide is not used. Councilmember Sipple confirmed that Roundup would be used on individual spots and not broadcasted over a larger area.

Brian Anderson, Superintendent of Parks, addressed the Governing Body. He stated that one alternative chemical that has been used is called Tordon and that he would do more research on it. He pointed out that doing the work manually without chemicals would cause re-seeding of 10-12 sprouts around each stump and would need to be done annually, depending on the level of maintenance desired. Councilmember Rawlings asked if the City has considered using goats for weed control. Mr. Anderson replied not on a creek, although he stated that the City of Lenexa uses goats and he would like to research that further as a long term option.

Mr. Lambers explained that the chemical application for this project would only be used on tree trunks. He stated that he does not disagree with the information provided by Councilmember Filla but remarked that the problems come from the agricultural community at large where the chemical is sprayed continuously and voraciously. He stated that it is not applied in the same manner as what the City's project would need.

Councilmember Cain asked if this is used in other stream ways. Mr. Ley stated that the Dyke's channel is the only one that Public Works maintains. Mr. Anderson stated that the Parks Department uses the herbicide on gravel landscape areas and along curbs. He stated that it kills plants without having any residuals so it does not prevent seeds from growing later. He stated that Parks staff has used Tordon in the past to treat the evasive honeysuckle plants. Councilmember Cain inquired about the difference between the brand names Roundup and Rodeo. Mr. Anderson explained that both have glyphosate but Rodeo has been formulated to be used in flood plains.

Councilmember Harrison expressed concern that the minimal amount will actually be used in the application. Mr. Anderson replied that any overspray would be evident but they have not had a problem with that in the past. He noted that if the City does not use chemicals for weed control, it will be very difficult to maintain manually.

Councilmember Sipple asked if the Council were to defer this item for further review, would it cause a missed opportunity for treatment in the growing season. Mr. Anderson confirmed that the chemical would need to be used while the plant is leafed and vigorously growing so waiting until the fall when plants are dormant will not be productive.

Councilmember Larson stated that she supports and trusts the expertise of the City staff to use the minimal amount of chemicals to complete the work. Mr. Anderson stated that the cost of not using the chemical would likely be higher, as it would be a more labor-intensive project.

Mayor Dunn suggested the Council approves this item, with the condition that staff discusses other options with the contractor so that the cost does not go higher, otherwise the Council would need to discuss it again. Councilmember Azeltine stated that as a practical matter that the Council should not hold up the contract. Councilmember Filla suggested using vinegar salt on weeds and requests that staff review other options.

A motion to approve Item 8E was made by Councilmember Filla, seconded by Councilmember Rawlings. Motion was approved with a unanimous vote of 7-0.

Item 8H discussion:

Mayor Dunn stated that she was particularly impressed by the arrest of the car burglar on July 17th. She congratulated and thanked all parties involved with the capture. Councilmember Cain asked if any of the stolen items were returned to the victims. Chief Rettig thought it was likely, but that Captain Robbins would have the information.

A motion to accept Item 8H was made by Councilmember Larson, seconded by Councilmember Cain. Motion was approved with a unanimous vote of 7-0.

9. MAYOR'S REPORT

- A. Councilmember Chuck Sipple joined me at the recent Leawood Chamber breakfast. The guest speakers included Shawnee Mission School District Superintendent Dr. Michelle Hubbard, Blue Valley School District Superintendent Dr. Tonya Merrigan, and Barstow School President Shane Foster. All are looking forward to welcoming students back and focusing on keeping everyone healthy during the coming school year.
- B. A huge thanks to Parks and Recreation Director Chris Claxton and Parks Superintendent Brian Anderson for trail, parks and golf course cleanup after the recent storms. Excellent job by all of our crews.

10. COUNCILMEMBERS' REPORT

Councilmember Sipple - Update on Sustainability Advisory Board's (SAB) Electronic Recycling Event

Councilmember Sipple reported that the SAB and co-sponsor Town Center Plaza hosted a successful electronic recycling event on July 24th. Councilmember Harrison thanked Patty Bennett, Chris Claxton, Marica Putnam, several volunteers from the SAB committee, Leawood Rotarians, and Boy Scout Group #10. She mentioned it was very hot that day, but there was little to no waiting in line for people to drop off their items. She also thanked Chief Rettig and the police officers who assisted with traffic. Councilmember Harrison reported that nearly 40,000 lbs. of electronics were collected to be recycled.

Councilmember Sipple gave a brief explanation of how items were processed and expressed delight in doing it again. Mayor Dunn thanked Councilmember Sipple for his leadership with the SAB.

11. CITY ADMINISTRATOR REPORT – None

12. STAFF REPORT

[From the August 3, 2021 Public Work Committee Meeting]

No Parking sign request on 93rd St, Mission Rd to Mohawk Lane

Mr. Ley presented a map of the area near Curé of Ars School and surrounding streets and stated that a request came to the City requesting that No Parking signs be installed on both sides of 93rd St. from Mission Rd. east to Mohawk, due to parents who pick up and drop off their children for school. He pointed out that the request went in front of the Public Works Committee on August 4th but they did not have enough members in attendance for a quorum. Mr. Ley stated that since school begins on August 24th, the staff wished to move forward with the Council.

Mr. Ley showed two videos of the street showing several vehicles of parents dropping off and picking up students from school. He explained that parents use the north side of 93rd St. when heading westbound, sometimes parking and walking with their children. He stated that this action causes the cars behind them to go around and can create an issue at the intersection of 93rd and Mission. Councilmember Sipple asked if there had been any accidents at this intersection. Mr. Ley replied that he is not aware of any.

Councilmember Cain expressed concern that if the signs were installed on 93rd, it would simply move the issue to another street instead of eliminating the problem. Mr. Ley stated that another issue is parents using private driveways to order to make U-turns. Councilmember Cain pointed out a parent parked in a private driveway in the video.

Mr. Ley stated that staff recommends installing No Parking signs on the westbound side of 93rd St. to allow students to walk on the south side of the street and to enter their cars on the passenger side, and no parking on both sides of the first 100 ft. on 93rd St. He stated that by restricting parking on both sides within 100 ft. of Mission Rd., it also keeps the intersection clear since there are no sidewalks. Councilmember Filla commented that the lanes going into the school are backed up in both directions.

Mr. Ley indicated which property owners on the map had signed a petition to propose No Parking signs and where Public Works proposed parking restrictions. He stated the signs would state no standing or stopping during specific times. Councilmember Cain asked about the process of notifying the homeowners in the area, especially those who signed the petition. Mr. Ley explained that the City would send out a letter tomorrow to the residents on 93rd St. and have the signs installed by Wednesday, before school starts the next week. Councilmember Filla asked that if there were No Parking signs on both sides of the streets, would neighbors' guests be required to park down the street. Mr. Ley stated yes. Councilmember Rawlings and Mayor Dunn mentioned that would only be the case during specific times and days.

Councilmember Sipple asked if a horse-shoe shaped queue on Curé of Ars property has been discussed. Mr. Ley stated that this issue has been discussed with the principal of the school, who stated that through the school's weekly newsletter they will remind parents to pick up their students on campus and not on side streets. Mayor Dunn confirmed that she has spoken to both the school principal and pastor of the church to try and resolve this issue.

Councilmember Harrison asked if Ranchmart has any access from their parking lot to the school. Mr. Ley explained that the drive behind Ranchmart is for heavy truck access and he would not recommend mixing children with that kind of traffic.

Councilmember Rawlings commented that there are 150 parking spaces in the school's lot and 2 lanes for drop off. He stated that the City can only do so much and the problem is the behavior of the parents. He stressed that the church needs to speak with the parents and parishioners about the issue.

Mr. Lambers stated that if No Parking signs are installed on both sides of 93rd Street, traffic will likely move to the cul-de-sac (Mohawk Lane.) He suggested that there be an access point on the east side of the school to go between two houses where students can walk to Mohawk Lane for pick up.

Mayor Dunn recognized Jennifer Burroughs, who signed in to speak. Ms. Burroughs, 3512 W 93rd St., addressed the Governing Body. She stated that they have lived in this location for 2 years and her children attend Curé. She stated that as a member of several groups there are oftentimes children and visitors are at their home after school, so to install No Parking signs on their side of the street could be an issue. She agreed that there should be signs stating no loading or unloading at the intersection of 93rd St. and Mission Rd. Ms. Burroughs stated that having cars parked along the street is the lesser of two evils because there are more parents out watching for pedestrians.

Mayor Dunn asked about the times of day that would be posted on the signs. Mr. Ley stated that it would be an hour long for each morning and afternoon, and showed an example of a sign.

Mayor Dunn recognized Gwenn Venable, who signed in to speak. Ms. Venable, 3519 W. 93rd St., addressed the Governing Body. She explained an incident of a close call with her car and small children walking across her driveway. She stated that she spoke to the principal of the school, the office secretary, emailed the pastor of Curé of Ars Church, and Leawood Public Works in 2018. Ms. Venable stated that she has lived in her home for over 30 years but the last few years have been difficult. She stated that this is a safety issue for not only the children but for the homeowners, too. She noted that cars are parked bumper to bumper along their street and parents have parked in her neighbor's driveway waiting for their children. Ms. Venable stated that she has not had a problem with the children walking to/from school who live on their street, but for the parents who drive there who chose not to use the school's parking lot.

Mayor Dunn thanked the residents for their passion on this topic and concern for the children. She recommended that if the Council approves the staff's recommendation that after the first semester of school there be an update reviewed by the Public Works Committee.

Councilmember Harrison reiterated that an hour of time for drop off and pick up is too long and suggested making it a 30 or 40-minute time span instead. Mr. Ley responded that staff will contact the school on their dismissal time.

Councilmember Filla thanked the residents for speaking. She agreed that a review after the first semester is a good idea and that staff should also review the option of access to Mohawk Lane that was suggested by Mr. Lambers.

Councilmember Rawlings commented that the problem is parents' behavior and not a City problem to solve with a few signs. He stated that the church should be involved. Councilmember Sipple agreed that this is a church discipline issue and that the City should offer a strong recommendation that they try to

contain the pick-up and drop off to the dual lanes on their property. He felt that the signs would make it cumbersome to the neighbors' visitors during those times. Councilmember Larson suggested that the church can help by incentivizing the inconvenience of waiting in line, rather than getting the City involved. She stated that this is a neighborhood problem and she would like to see the church be a good neighbor and get more involved. Councilmember Cain and Mayor Dunn pointed out that the principal did attend the recent Public Works Committee meeting.

Ms. Burroughs stated that when the church's new building was constructed, 2 lanes and some parking spots were removed. She explained that the younger children are dismissed from the back of the school but that the school discourages parents from parking in the lot, so that the line of cars keeps moving.

Mayor Dunn asked that a letter be sent to the principal notifying parents on the first day of school what the dismissal procedure is. Councilmember Filla suggested crossing guards be stationed at 93rd St. or use cones to create the missing lane in the school's parking lot.

Councilmember Sipple asked what the Council will be reviewing after the first semester. Mr. Ley stated that staff will review if the parking issue continued further down 93rd St. or moved to an adjacent street and what actions the school has taken.

Councilmember Azeltine agreed that this is a church problem and that when the review comes back to the Council he will be interested in what the church has done to help mitigate the situation. Councilmember Rawlings agreed that an hour is too long for the no parking time periods.

A motion to approve the installation of signs recommended by staff and referral to the Public Works Committee for review at their first meeting in November was made by Councilmember Filla, seconded by Councilmember Larson. Motion was approved with a unanimous vote of 7-0.

13. COMMITTEE RECOMMENDATIONS

[From the July 27, 2021 Planning Commission Meeting]

- A. Ordinance amending Section 16-4-7 of the Leawood Development Ordinance entitled, "Landscaping and Screening Requirements", and repealing existing Section 16-4-7 and other sections in conflict herewith (PC 90-21) [ROLL CALL VOTE]

Mr. Klein stated that this is a proposed amendment for the landscaping and tree replacement and preservation plan requirements. He stated that currently if there are many trees on an existing site, that for any tree over 12" caliper, alive or dead, and it is located where a private or public street is planned, it would have to be replaced. He stated in the amendment there are three exceptions of the replacement of trees: 1.) a dead tree or in poor condition, 2.) if it is within either a private or public right-of-way or is located in a detention or utility area, or 3.) included on the list of trees that are not desirable, such as a locust or Osage orange tree. He stated that in addition to those exceptions, there would be an industry standard as far as how the trees are measured and it would introduce an international standard of a tree's condition. Mr. Klein explained the changes to the requirement for using existing trees as "credit" for trees that need to be planted within a landscape, such as street trees, ornamental trees, or parking lot shade trees.

Councilmember Sipple asked if these amendments were brought on by resident concerns regarding the removal of street trees in north Leawood. Mr. Klein responded that these changes are not related because single family residential is exempted from most of the requirements of this ordinance. Councilmember

Sipple asked if the Parks Department was agreeable to the amendments. Mr. Klein replied that they worked closely with their staff, who helped draft the ordinance.

Councilmember Cain suggested clarifying that this ordinance does not supersede subdivisions that do have landscape plans. Mr. Klein acknowledged her comment and mentioned that it is outlined in Section 16-4-7.2 that “single family and double family dwelling units shall be exempt from the requirements of this ordinance...”. Patty Bennett, City Attorney, pointed out that in the Scope of Section 4-7.1(b) the ordinance explains that this only applies to new construction. Councilmember Cain stated that although it is listed, she suggested additional language be added to clarify it further.

Mr. Klein noted that staff requests that the amendments do not take effect until January 2022.

A motion to approve Item 13A with additional clarification was made by Councilmember Cain, seconded by Councilmember Filla. Motion was approved with a unanimous roll call vote of 7-0.

- B. Ordinance amending Section 16-4-9.4 of the Leawood Development Ordinance entitled “Height and Location Requirements” pertaining to fences and walls, and repealing existing Section 16-4-9.4 and other sections in conflict herewith (PC 97-21) [ROLL CALL VOTE]

Mr. Klein stated this proposed amendment is in regards to retaining walls located at a property line. He stated that the current ordinance states that if a retaining wall is 6’ in height it must be setback one foot for each additional foot or portion thereof. He stated that the difference between this and other fence and wall sections of the ordinance is that it has a requirement that applications have to go before the Planning Commission for recommendation and then to the City Council for approval. He explained that typically for fences and walls, the application comes before the Board of Zoning Appeals if the requirement is not met. Mr. Klein stated that this amendment is intended to make the process more consistent with how other fences and walls are done. He stated that there is a requirement in the current ordinance that an applicant has to notify the neighbors within 200’ by certified mail if there is a request for a variance. Mr. Klein stated that the Planning Commission made additional recommendations to make the language clear and consistent.

Councilmember Sipple asked about grandfathering applicants up to a certain point in time. Mr. Klein replied that he has only seen one application come to the City recently and they would have to go through the Board of Zoning Appeals and meet the five factors. Councilmember Cain asked for clarification of the fence height around water (pool or hot tub) or a sports courts. Mr. Klein stated that exceptions can still go before the Board of Zoning Appeals for a variance, but pointed out that this is more for retaining walls over 6’ in height and on the property line.

Mayor Dunn thanked Mr. Klein and his staff for being proactive on the changes.

A motion to approve Item 13B was made by Councilmember Cain, seconded by Councilmember Filla. Motion was approved with a unanimous roll call vote of 7-0.

14. OLD BUSINESS – None

15. NEW BUSINESS

- A. Schedule Governing Body Executive Session for Tuesday, September 7, 2021 at 6:00 P.M., for a Non-Elected Personnel Matter

A motion to approve Item 15A was made by Councilmember Rawlings, seconded by Councilmember Filla. Motion was approved with a unanimous vote of 7-0.

B. Schedule Governing Body meeting for Tuesday, September 7, 2021 at 7:30 P.M.

A motion to approve Item 15B was made by Councilmember Rawlings, seconded by Councilmember Harrison. Motion was approved with a unanimous vote of 7-0.

ADJOURN

Meeting was adjourned at 9:14 p.m.