

REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
NOVEMBER 6, 2007

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 7:00 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call: Present: Councilman George Steindorfer
Councilman Bob Pohmann
Councilman Dennis Kennedy
Vice Mayor Mary Martin
Mayor Allen Green

Also Present: Kenneth W. Parker, City Manager
Margaret T. Roberts, City Attorney
Shirley M. Kelly, Deputy City Clerk

A number of students from Atlantic High School who are participating in the Student Government Days Program introduced themselves.

CITIZEN PARTICIPATION (Non-Agenda – 15 Minutes)

Chad Fetty requested the City Council to adopt an ordinance regarding residential lights that shine in homes. Mayor Green said this would be referred to the City's legal department for review.

CONSENT AGENDA

4. Approval of Minutes:
 - a. September 4, 2007 – Regular City Council Meeting
 - b. September 6, 2007 – Special City Council Meeting
 - c. September 18, 2007 – Regular City Council Meeting
 - d. September 25, 2007 – Regular City Council Meeting
 - e. October 2, 2007 – Regular City Council Meeting
5. Update on Construction Projects
6. Update on Recreational Facilities
7. City Attorney's Report
8. Road Construction Report
9. Minor Special Event Request – Lowe's Home Center
10. Special Event Request – Port Orange/South Daytona Rotary Club
11. Addendum No. 69 to Engineering Services Contract with Quentin L. Hampton and Associates, Inc.
12. Reinstatement of Time Request – Tyler M. Parks

Motion made by Councilman Steindorfer, seconded by Vice Mayor Martin to approved Agenda Item Nos. 4-11. Motion carried unanimously by voice vote.

12. Reinstatement of Time Request – Tyler M. Parks

Approval is requested to reinstate Tyler M. Parks' previous years of service with the City of Port Orange in accordance with Civil Service Policy 5.11. Mayor Green thanked Mr. Parker for his years of service to the City since 1975.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to approve the Reinstatement of Time Request for Tyler M. Parks. Motion carried unanimously by voice vote.

TABLED ITEMS

13. First Reading – Ordinance No. 2007-32 – Amending Chapter 16, Section 5(b) and Chapter 2, Section 2 of the Land Development Code Relating to Special Setbacks and Requirements for Sunrooms (tabled 7/17/07) (re-tabled 10/16/07)

Remains on the table.

BOARDS AND COMMISSION

14. Report from Advisory Board

Environmental Advisory Board

No report.

COMMUNITY DEVELOPMENT

15. First Reading – Ordinance No. 2007-55 – Small Scale Land Use Amendment – Russell Property Park Site

Planning Commission recommends approval.

ORDINANCE NO. 2007-55

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, RELATING TO
COMPREHENSIVE PLANNING; AMENDING FUTURE
LAND USE MAP OF COMPREHENSIVE PLAN
CHANGING THE DESIGNATION FROM SUBURBAN

RESIDENTIAL TO CONSERVATION LOCATED BETWEEN THE SANCTUARY SUBDIVISION AND SPRUCE CREEK; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Mike Disher, Planning & Development Manager, gave the staff report. This is a request for approval to change the Future Land Use Map of the City of Port Orange Comprehensive Plan – Update '98. The amendment will change the future land use designation for approximately 10 acres located between the Sanctuary on Spruce Creek PUD and Spruce Creek, west of S. Williamson Boulevard from Suburban Residential (2-4 Units Per Acre) to Conservation. If approved, the City intends to use the property as a park and conservation area. This will place the City in compliance with a grant. The City purchased the property in 1995. Vice Mayor Martin called attention to the fact that if the City does not adopt this, there is an item to be on the ballot next year that can have far ranging affects on properties such as these and cities and counties being allowed to make such changes without voter approval. Councilman Pohlmann commented the citizens are looking for conservation areas. Mr. Disher said this will come back for second reading following confirmation of approval by the Volusia Growth Management Commission.

Motion made by Vice Mayor Martin, seconded by Councilman Steindoefer, to approve Ordinance No. 2007-55 on first reading. Motion carried unanimously upon roll call vote.

PUBLIC WORKS

16. Resolution No. 07-109 – CPI Rate Increase – Veolia Environmental Services

RESOLUTION NO. 07-109

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING A CONSUMER PRICE INDEX RATE ADJUSTMENT AS ALLOWED BY CONTRACT WITH VEOLIA ES SOLID WASTE SOUTHEAST, INC.; SETTING FORTH THE ADJUSTED RATE; PROVIDING FOR

CONFLICTING RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

Mayor Green pointed out again the importance of residents calling in with complaints regarding refuse service. If the City is not aware of a problem they cannot get it corrected. Council Members explained the City is obligated to approve it per their contract. Warren Pike, Public Works Director, said if there is a complaint residents should contact the Public Works Department. Based on the number of complaints Veolia is fined. The City Council and citizens are going to need to make some serious decisions in the future what they wish to give up to keep rates down. He still believes it was a good move that the City made in getting out of the garbage business. Mayor Green questioned the necessity of there being two pickups a week. Councilman Pohlmann wants residents to know that if they do file a complaint it will be handled in a timely manner.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to adopt Resolution No. 07-09. Motion carried unanimously upon roll call vote.

PARKS AND RECREATION

17. Approval of the Port Orange Soccer Club's Request to Pay for Maintenance and Repairs of the Southwinds Soccer Fields in Lieu of Rental Fee

Mr. Parker, City Manager, said this relates to repairs to the soccer fields at Southwinds. Susan Lovallo, Parks & Recreation Director, said their accountant is out of town but they will get proof of payment.

Motion made by Vice Mayor Martin, seconded by Councilman Steindorfer, to approve the request for payment to the Port Orange Soccer Clubs payment for maintenance and repairs of the Southwinds soccer fields in the amount of \$4,781.35 in lieu of rental fees for the fields in the amount of \$3,000, subject to presentation of proof of payment. Motion carried unanimously upon roll call vote.

18. Request for City to Co-Sponsor and Waive the Fees for the Annual Wood Carving Show of the Friends Carving Club of Port Orange

Consensus of Council that they need to be consistent in all requests of this type.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to accept staff's recommendation and deny the request to co-sponsor and waive rental fees of \$451.63 for the use of the Port Orange Gymnasium for the Annual Wood Carving Show of the Friends Carving Club of Port Orange on January 26, 2008. Motion carried unanimously upon roll call vote.

19. Request from the Port Orange YMCA for the City to Co-Sponsor the Annual Healthy Heart Run Event

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to accept staff's recommendation and not waive associated fees for the Port Orange YMCA's Annual Healthy Heart Run Event on Saturday, February 23, 2008. Motion carried unanimously upon roll call vote.

ADMINISTRATION

20. Resolution No. 07-110 – Volusia ECHO Grant (All Children's Park Playground)

RESOLUTION NO. 07-110

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY MANAGER TO SUBMIT AN APPLICATION FOR FINANCIAL ASSISTANCE TO VOLUSIA COUNTY, VOLUSIA ECHO GRANT PROGRAM FOR INSTALLATION OF PLAYGROUND EQUIPMENT AT ALL CHILDREN'S PARK;

**AUTHORIZING THE MAYOR AND CITY
MANAGER TO EXECUTE AGREEMENTS OR
CONTRACTS; PROVIDING FOR MATCHING
FUND CONTRIBUTION; AND PROVIDING AN
EFFECTIVE DATE.**

Mayor Green said a special sealer was recommended on the equipment when originally installed but not done. The equipment has to be maintained properly. Councilman Kennedy asked if the City will ask for volunteers again. Mr. Parker, City Manager, said yes that adults and children should be encouraged to be involved. Councilman Pohlmann commented there are new products on the market that should help the equipment to last longer. Mr. Parker will ask for input from the original contractor.

Motion made by Vice Mayor Martin,
seconded by Councilman Kennedy, to
adopt Resolution No. 07-110. Motion
carried unanimously upon roll call vote.

21. Resolution No. 07-111 – Volusia ECHO Grant (Acquisition of Land for Spruce Creek Road Park

Mayor Green said there is no resolution. Mr. Parker, City Manager, said staff is asking Council authorization to apply for funding through the ECHO program. The City will ask for assistance in the amount of \$400,000 to help acquire homes in the Dawnview area. The properties are located immediately adjacent to the Spruce Creek Road Park. This is a way for Volusia County to participate in the Cambridge area to help with flooding problems. The canal itself belongs to Volusia County. Consensus of Council was for staff to move forward with the grant application and bring back a resolution for approval.

The next two items were discussed simultaneously, however, the resolutions not adopted.

22. Resolution No. 07-112 – ICI – 441 Acres

23. Resolution No. 07-113 – ICI – 40 Acres

Mr. Parker, City Manager, said that Kent Donahue, Grants Coordinator, reported the City did not receive the required number of points to be funded. The City is continuing to have discussions with Volusia County and others as it relates to this item. There is not a financing plan in place at this time. The City had requested about \$6 million from the State of Florida to assist in the financing of this project. That funding is no longer available. The City needs to be looking at the entire financing structure. The date that is firm in the document is December 15th. If we are to close on the property it will only be available through December 15th.

COUNCIL COMMENTS

24. Comments/Concerns from Council Members

Vice Mayor Martin commented on the Halloween Costume Contest and how well it turned out. Staff did a good job on redecorating. She recently went to Spruce Creek Elementary and worked with 4th, 5th and 6th grade students regarding City government. There were six Turkish gentlemen here yesterday and an individual from UCF learning about Port Orange City Government. Councilman Pohlmann congratulated Mr. Parker for being a finalist for the City Manager of the Year Award from the Florida League of Cities. Mayor Green will attend the function. Vice Mayor Martin said the City is also up for an award. Councilman Kennedy commented on complaints he has received regarding coming off of the I-95 off-ramp. FDOT needs to be contacted and made aware that they have created a problem and it is dangerous. Mayor Green stated what he believes would work better in that area. Councilman Kennedy said they need to think about the Christmas Parade and how it will be addressed.

Margaret Roberts, City Attorney, said there is a Shade Meeting scheduled next Tuesday at 6:00 p.m. for LaMar Advertising. This needs to be expanded to include potentially Sun Glow litigation. She suggested the meeting begin at 5:00 p.m., to which Council agreed. There is mediation scheduled this Thursday in that case. Ms. Roberts said that there has been with the County and with the Growth Management Commission. The City is in the process of amending its Comp Plan to address the water supply requirement. In doing that the City attached an exhibit to show our water supply area. The County has objected to our water supply area. It goes out and wraps around the wellfields and comes back and wraps around the City. There is a fairly good piece of County land between our municipal boundary and our wellfields that is included in the City's water service area. We are not amending our water service area. This area was adopted in the 1989 Comp Plan. It was reviewed by Volusia Growth Management Commission at that time and there was no problem and no inconsistency found. The County has now found it necessary to object. This is delaying our Comp Plan Amendment. The City has tried to work through this and hopefully still can. In an effort to work through it she has asked the Lewis Longman law firm get involved. Wayne Flowers, Attorney, who is very experienced in this area, will be working on this issue. Consensus of Council was for Ms. Roberts to proceed as outlined. Mr. Parker, City Manager, commented that this is part of a state requirement to amend the Comp Plan for the Water Supply Element. It was 1978 when the 201 Service Area was adopted for wastewater even though this is for potable water. They are somewhat contiguous to each other. Volusia County is a signatory on this issue. The Department of Community Affairs has already found that the City is consistent. It is ready for adoption except in Volusia County you also have to have a consistency statement from Volusia Growth Management Commission in order to adopt. Our plan is correct. There are some issues within Volusia County's own Land Development Codes that are theirs and that they are concerned about. That is not our issue. In the City's Interlocals with them we have agreed to not serve water in any of those areas except for the ones that they have agreed to allow the City to serve. You have to think about that that is the area the City has identified as for water that produces

our wells, etc. That is a part of our plan and basically required to be a part of the Element. The City is doing what it believes is required by State Statute, and protecting what the City has always had in place and that the County agreed to. They did not object when it was originally adopted.

Mr. Parker reminded Council of the Veterans Day Program here at City Center Sunday at 10:00 a.m.

ADJOURNMENT: 8:00 P.M.

Attest:

Mayor Allen Green

Kenneth W. Parker, City Manager

REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS - CITY HALL
1000 CITY CENTER CIRCLE
NOVEMBER 13, 2007

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 7:00 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call: Present: Councilman George Steindorfer
Councilman Bob Pohlmann
Councilman Dennis Kennedy
Vice Mayor Mary Martin
Mayor Allen Green

Also Present: Kenneth W. Parker, City Manager
Margaret T. Roberts, City Attorney
Shirley M. Kelly, Deputy City Clerk
Glenda Leftwich, Recording Secretary

Mayor Green said it has been requested that Agenda Item Nos. 15 and 16 (Summer Trees Plaza PCD) be continued until tomorrow at 7:30 p.m.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to continue Agenda Item Nos. 15 and 16 to date certain of November 14, 2007 at 7:30 p.m. Motion carried unanimously upon roll call vote.

Mayor Green announced that Agenda Item Nos. 18 and 19 would be considered in reverse.

The City Council recessed at 7:05 p.m. to hold a Town Center CRA Meeting, which minutes are under separate cover.

Recess: 7:05 p.m.
Reconvene: 7:10 p.m.

Several students from Atlantic High School Law Academy introduced themselves. They are participating in the Student Government Day Program. Councilman Pohlmann gave an overview of the Program.

SPECIAL REPORT

4. Report from KemperSports Management

Don Koerner, Cypress Head Golf Course, gave an overview of the October performance. Revenues were \$104,507 vs. a budget of \$124,162 and net income was \$53,230 vs. a budget of \$58,532. Because of poor weather total projected rounds was down. The course was very wet in October and mowing not possible. Overseeding was done in October. They are preparing the greens for winter play. People are returning to the area and play is up. Vice Mayor Martin said the landscaping in front of the building looks good.

City of Excellence and City Manager of the Year Award

Mayor Green announced that last Friday the City of Port Orange was awarded the City of the Year Award by the Florida League of Cities and Mr. Parker received the City Manager of the Year Award. Mayor Green thanked the City Staff and citizens for all that they contribute.

CITIZEN PARTICIPATION (Agenda)

5. Request from Sleepy Hollow Homeowners Association

John Gregorc, President, Sleepy Hollow HOA, spoke regarding property loss and damage reportedly resulting from dredging of the surrounding drainage ditch. Mr. Parker, City Manager, said the City does not have a drainage easement on the Sleepy Hollow side of the ditch. It does on the Woodlake side. The City has in the past cleaned the ditch. There has been erosion that has taken place over the years. The ultimate resolution would be to pipe the ditch. There is no way to haul away the debris. An estimate to pipe the ditch two years ago was \$400,000. Those estimates have not been updated and this is not budgeted. Property owners would have to provide easements as well as design and permitting of the project. The City Council needs to decide if it wishes staff to look into such a project and ways to fund it. Mr. Gregorc spoke regarding fences falling in and a pool deck cracking. Another issue to deal with is that the City in 1978 allowed Dunlawton Square Shopping Center drain into the ditch. Dredging has caused problems. Warren Pike, Public Works Director, said the ditch is in an easement that the property owners own. The City has not been in there since 2004. There is no place to physically put the material when it is removed from the ditch. It is a big maintenance problem.

Mayor Green said he is aware that the shopping center predates today's code requirements. Other discussion included permitting and access problems.

Councilman Steindorfer questions if piping would help. Since he has lived there the water has come up three times. Mr. Pike said the engineers have said it will. Also to be determined is how you would have the shopping center retain water on their site. Mr. Parker said staff can look for funding. There are requirements for permitting. This may be approached as a maintenance issue. The permitting process would then be different. The City may want to look into the possibility of there being any capacity in FDOT ponds given to the City in that area as well as others. That would take some engineering dollars. Staff can look at the issue and bring back a recommendation. The budget will have to be looked at. Vice Mayor Martin suggested looking at emergency grant money availability. Councilman Steindorfer does not want anything done to cause flooding. He feels permitting will be a problem. Councilman Pohlmann said the residents have been responsible in maintaining the neighborhood. He asked why would there be additional water. Mr. Pike explained how this could take place during an "event". Councilman Kennedy agrees something needs to be done.

Mr. Gregorc commented on how because of digging the residents are losing property. Larry Eichler submitted photographs of a problem with the pool shifting because the ground cannot support it. He related his discussion with Bob Newell, the City's Risk Manager. The pool cannot be retrofitted until the bank is secure. Councilman Pohlmann asked does natural erosion play a part. Mayor Green said yes. You would not be able to do some of the things today allowed several years ago. Sleepy Hollow predates current engineering guidelines.

Mayor Green wants to be certain any future renovation of the Dunlawton Square Shopping Center includes on-site stormwater retention such that runoff will now flow into the ditch.

Consensus of Council was that the Public Works Department will investigate further and bring back a recommendation.

CITIZEN PARTICIPATION (Non-Agenda – 15 Minutes)

Wayne Wilcox, Woodlake Subdivision, spoke regarding increased costs to rent the Senior Center. Staff will review the situation and determine if anything can be done.

Dan Zurla spoke regarding walking on public lands (golf courses). Ms. Roberts, City Attorney, objected to his comments. Mayor Green said the City will abide by the Judge's ruling on this issue.

Howard Tipton commended the City and City Manager on the recent awards they won. He is proud of the City of Port Orange.

CONSENT AGENDA

6. Change Order No. 2 to Sale and Hauling of Fill Material
7. Change Order No. 1 to Ruth Street and Powers Avenue Emergency Repairs
8. Bid Award – Construction of Fire Stations No. 72 and 75
9. Bid Award – Transportation and Disposal of Lime Sludge
10. Monthly Development Activity Report and the Building Activity Report for September and October 2007
11. Purchase of Three (3) Complete Rotating Assemblies for Reclaimed Water High Service Pumps
12. Modification of the Community Development Department Organization Chart

Motion made by Councilman Steindoerfer, seconded by Vice Mayor Martin, to approve Agenda Item Nos. 6-8 and 10-12. Motion carried unanimously by voice vote.

9. Bid Award – Transportation and Disposal of Lime Sludge

Mayor Green said he has no current contracts with the hauler, however, has in the past and may the future. He declared a conflict of interest and abstained from voting.

Motion made by Vice Mayor martin, seconded by Councilman Kennedy, to approve Agenda Item No. 9. Motion carried 4 – 0 upon roll call vote, with Mayor Green abstaining.

TABLED ITEMS

13. First Reading – Ordinance No. 2007-32 – Amending Chapter 16, Section 5(b) and Chapter 2, Section 2 of the Land Development Code Relating to Special Setbacks and Requirements for Sunrooms (tabled 7/17/07) (re-tabled 10/16/07)

Remains on the table.

REPORT FROM ADVISORY BOARD

14. Citizen Advisory Committee for MPO

No report

COMMUNITY DEVELOPMENT

15. Resolution No. 07-102 – Approving the Incorporation of Policies in the Master Development Agreement for the Summer Trees Plaza PCD (continued to date certain of November 13, 2007)

Will be heard Wednesday, November 14, 2007 at 7:30 p.m.

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16. First Reading – Ordinance No. 2007-34 – Rezoning 0.89 Acres from PUD to PCD and Approving the Master Development Agreement and Conceptual Development Plan – Summer Trees Plaza PCD (continued to date certain of November 13, 2007)

Will be heard Wednesday, November 14, 2007 at 7:30 p.m.

17. First Reading – Ordinance No. 2007-56 – Approving the 3rd Amendment to the Master Development Agreement for the Westport PCD

Planning Commission recommends approval.

ORDINANCE NO. 2007-56

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE THIRD AMENDMENT TO MASTER DEVELOPMENT AGREEMENT WESTPORT COMMERCIAL DEVELOPMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Gwen Perney, Planner, gave the staff presentation. All technical comments have been resolved. Council is pleased to see this project moving forward. It is their understanding a Kohls will be going in.

Motion made by Vice Mayor Martin, seconded by Councilman Steindorfer, to approve Ordinance No. 2007-56 on first reading. Motion carried unanimously upon roll call vote.

19. First Reading – Ordinance No. 2007-58 – Annexation – Cracker Creek

ORDINANCE NO. 2007-58

(Williams)

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ANNEXING PROPERTY LOCATED EAST AND SOUTH OF TAYLOR ROAD, ALONG THE NORTH BANK OF SPRUCE CREEK; BEING CONTIGUOUS TO THE CITY OF PORT ORANGE; REDEFINING BOUNDARIES OF THE CITY OF PORT ORANGE; ASSIGNING ANNEXED PROPERTY TO CITY COUNCIL DISTRICT 3; DIRECTING CITY CLERK TO PUBLISH NOTICE OF ANNEXATION AND TO PROVIDE COPY OF NOTICE TO VOLUSIA COUNTY COUNCIL; DIRECTING CITY CLERK TO FILE ORDINANCE WITH CLERK OF CIRCUIT COURT AND CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND DEPARTMENT OF STATE; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Penny Cruz, Senior Planner, gave the staff presentation. If approved, the owners intend to amend the future land use and zoning of the property to a City future land use and zoning, with the intent of creating an environmentally sensitive recreation facility to operate in cooperation with Gamble Place. Mr. Parker, City

Manager, stated that Mr. Williams, applicant, has invited he and Mayor Green to attend an Executive Meeting tomorrow.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to approve Ordinance No. 2007-58 on first reading. Motion carried unanimously upon roll call vote.

18. First Reading – Ordinance No. 2007-57 – Adoption of the Spring 2007 Comprehensive Plan Amendment Package

Planning Commission recommends approval.

ORDINANCE NO. 2007-57

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING, PROVIDING FOR ADOPTION OF AMENDMENTS TO COMPREHENSIVE PLAN; AMENDING FUTURE LAND USE ELEMENT; FUTURE LAND USE MAP AND TRANSPORTATION ELEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Penny Cruz, Senior Planner, made the staff presentation. She stated there is a citizen information form on the podium outside Council Chambers. This was reviewed by DCA and they had no objects. FDOT, however, did have a comment regarding trip generations. Staff completed the changes as requested by FDOT staff for their review during the review period and DCA approved them. Mr. Parker asked if the Volusia Growth Management Commission has not approved this. Ms. Cruz said yes.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to approve Ordinance No. 2007-57 on first reading. Motion carried unanimously upon roll call vote.

Agenda Item Nos. 20 and 21 are discussed simultaneously, however, separate votes taken on each.

20. Resolution No. 07-114 – Proposed Utility Easement Vacation – Airport Road Commercial Subdivision, Tract A (5820 South Williamson Boulevard) and Lot 1 (5830 South Williamson Boulevard)

RESOLUTION NO. 07-114

A RESOLUTION OF THE CITY COUNCIL OFS
THE CITY OF PORT ORANGE, VOLUSIA
COUNTY, FLORIDA, VACATING A PORTION OF
PLATTED DRAINAGE AND UTILITY
EASEMENTS FOR LOT 1 AND A PORTION OF
TRACT A, AIRPORT ROAD COMMERCIAL
SUBDIVISION; SUBJECT TO THE
RESERVATION OF AN EASEMENT;
AUTHORIZING THE MAYOR AND CITY
MANAGER TO EXECUTE A QUIT CLAIM DEED;
AND PROVIDING AN EFFECTIVE DATE.

Mike Hill, Community Development Engineer, made the staff presentation. The request is being made in connection with a proposed retention area enlargement and sewer main relocation to be completed with a future Walgreen Pharmacy. An easement has been recorded over the future location of the sanitary sewer main. The property owners wish to complete this process and to have legal documents recorded prior to property conveyances to other parties. Franchise Utility Company release letters have been obtained and City Departments have reviewed the request and requested that the quit claim deed be recorded only when the sewer relocation work has been completed and accepted. Staff recommends that the easement be vacated to the extent that the property owners execute a temporary utility easement over the active sewer main written to expire when a change of use drainage and access easement for the enlarged retention area is recorded. That easement will be the last legal document to be recorded at the time when the sanitary sewer main relocation is completed and ready for acceptance and it will be a condition for the future Walgreens Pharmacy Development to receive a Certificate of Occupancy.

A Representative of Charles Wayne Properties, Inc. was present to answer any questions.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to adopt Resolution No. 07-114. Motion carried unanimously upon roll call vote.

21. Resolution No. 07-115 – Proposed Utility Easement Vacations – Ortega Commercial Subdivision, Lot 3 and Lot 4 (5810 South Williamson Boulevard)

RESOLUTION NO. 07-115

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING A PORTION OF PLATTED DRAINAGE AND UTILITY EASEMENTS FOR LOTS 3 AND 4, ORTEGA COMMERCIAL SUBDIVISION; SUBJECT TO THE RESERVATION OF AN EASEMENT; AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE A QUIT CLAIM DEED; AND PROVIDING AN EFFECTIVE DATE.

Mike Hill, Community Development Director, said the same conditions apply to this as the former case.

Motion made by Councilman Steindorfer, seconded by Councilman Martin, to adopt Resolution No. 07-115. Motion carried unanimously upon roll call vote.

22. Resolution No. 07-116 – Proposed Easement Vacation – Deep Forest Village Subdivision, Lot 1, Block 12 (962 Sandcrest Drive)

RESOLUTION NO. 07-116

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, VACATING A PORTION OF PLATTED DRAINAGE AND UTILITY EASEMENT FOR LOT 1, BLOCK 12, DEEP FOREST VILLAGE

SUBDIVISION; AUTHORIZING THE MAYOR AND
CITY MANAGER TO EXECUTE A QUIT CLAIM
DEED; AND PROVIDING AN EFFECTIVE DATE.

Mike Hill, Community Development Director, was present to answer questions. There were none.

Motion made by Vice Mayor Martin, seconded by Councilman Pohlmann, to adopt Resolution No. 07-116. Motion carried unanimously upon roll call vote.

23. Concurrency and Fair-Share Agreement for the Final Site Plan – Port Orange Properties

Gwen Perney, Planner, gave the staff presentation. The subject property is located on the south side of Taylor Road, between the I-95/Dunlawton Interchange and Summer Trees Subdivision. The development consists of a 13,606 SF office/retail building and a 3,290 SG commercial outparcel. The fair-share amount for Port Orange Properties is \$169,855. This will go toward the improvements of the Dunlawton Avenue/Clyde Morris Boulevard Intersection, the I-95 Interchange area, Town/West Williamson Boulevard Intersection, and the Summer Trees road extension. The project is currently going through site plan review at the staff level.

Motion made by Vice Mayor Martin, seconded by Councilman Steindoerfer, to approve the Concurrency and Fair-Share Agreement for the Final Site Plan for Port Orange Properties. Motion carried unanimously upon roll call vote.

PUBLIC SAFETY

24. Biketoberfest Report

The City Council heard a report on Biketoberfest activities from Gerald Monahan, Police Chief, and Sgt. Chris Besuden. They gave an overview of the number of traffic violations, sound violations, and complaints investigate during that period. Consensus of Council Members was that overall they were pleased with how things went. Chief Monahan stated the City's Ordinance related to alcohol and bars is keeping activities at bars where they need to be.

ADMINISTRATION

25. Resolution No. 07-117 – Policies and Fees for the Sale of Credits from the City of Port Orange Wetland Mitigation Bank

RESOLUTION NO. 07-117

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING POLICIES AND FEES FOR THE SALE OF CREDITS FROM THE CITY OF PORT ORANGE WETLAND MITIGATION BANK; PROVIDING FOR CONFLICTING RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

Mr. Parker, City Manager, said the "Whereas" clauses established what the City is trying to do with the Stanaki property. Discussion among Council, Mr. Parker, and Roger Smith, Public Utilities Director, included number of credits, and how this will allow for the sale of additional credits to developers from the City's wetland mitigation bank, establishes price per credit, creates policies for DRI and non-DRI developments, and allows fees collected to be used toward maintenance of the mitigation bank. At the request of Paul Poole, Merryville Lane, Mr. Parker described how credits are valued.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to adopt Resolution No. 07-117. Motion carried unanimously upon roll call vote.

26. Continued Participation in Water Authority of Volusia

Councilman Steindorfer said Council will need to decide by April if they wish to remain a member of the Water Authority. No fee will be charged this year but will next year.

Mr. Parker, City Manager, said he and Roger Smith, Public Utilities Director, met last week with Brad Blais of Quentin Hampton Associates, Inc., regarding the City's CUP. The City needs to begin planning for its water supply beyond the year 2020. The Permit will have to be totally renewed in 2021. This should be

addressed as a regional issue. Mayor Green said all options should be reviewed, none of which are going to be inexpensive.

Motion made by Councilman Steindorfer, seconded by Vice Mayor Martin, to continue to participate in the Volusia Water Authority, depending upon the cost of membership. Motion carried unanimously upon roll call vote.

27. Budget Update

Mr. Parker, City Manager, said staff is still in the process of closing out the books. Council will receive a packet of material for their December 4, 2007 meeting. A model has been developed and patterns of revenues are fairly consistent. Building fees continue to be slow. Less than \$40,000 was collected in October. There was not a lot of building permits issued. If and when Kohls comes on line it will generate a lot of money. The Pavilion is tracking through the process and will have a large building fee associated with it. The City is using the skills of employees in different areas as feasible. The City cannot subsidize the Building Fund. Other review included the Water & Sewer and Drainage Funds. Mr. Parker spoke regarding the January 29, 2008 Referendum and how it could adversely affect revenues. The City's preliminary model shows a loss of \$1.7 million if the Referendum is approved. There is not way of knowing the impact of portability. The worse case scenario ran shows the City loosing \$2.3 million. It is difficult at this point to get exact numbers. There will be an economic impact on the community. The State of Florida has again taken care of itself. They excluded the School System. The State requires the School Systems to do a minimum levy of property taxes. The County will also be impacted. Staff will prepare some presentations to look at in December. Other discussion by Council Members included the continuing practice of the State to pass unfunded mandates, tax breaks given to certain groups, and the need for local and state elected leaders to tell the truth. Vice Mayor Martin said the State should have waited on the Tax Committee recommendation before recommending unfunded mandates.

28. Update on DOR Ruling Relating to Cypress Head

Mr. Parker, City Manager, said his recommendation to Council is to authorize the payment to the Department of Revenue of about \$11,000 as it relates to Cypress Head. The Golf Board has recommended payment.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to authorize the payment to the Department of Revenue regarding Cypress Head in an approximate amount of \$11,000. Motion carried unanimously upon roll call vote.

COUNCIL COMMENTS

29. Comments/Concerns from Council Members

Margaret Roberts, City Attorney, stated her objections made by an individual earlier in the meeting regarding walking for public land. She said as a member of the judicial system she has the obligation to show her respect for the system. If the City Council had control over the issue it would be appropriate for the individual to appear before Council. If the person wants to bash the judiciary he should go there. She does not believe he is relying on facts. His comments are an abuse of this government's process. Mr. Parker, City Manager, said for the record that Cypress Head does allow walking. There are periods during the day when carts are required during the prime season. The court system did make a ruling on this particular issue. The City has not violate any person's rights.

Mr. Parker gave an overview of upcoming meetings/events. The employee recognition for years of service luncheon is Thursday at Lakeside Center and the Chamber's Annual Banquet is that evening. Saturday the VFW dedication is scheduled for their new building. On November 27th there is a Town Center CRA Meeting scheduled. Student Government Day is November 30th. The Christmas

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parade will be on December 1st. Council Members should decide if they wish to walk, use golf carts, or provide their own transportation.

ADJOURNMENT: 9:35 P.M.

Mayor Allen Green

Attest:

Kenneth W. Parker, City Manager

SPECIAL CITY COUNCIL MEETING
COUNCIL CHAMBERS - CITY HALL
1000 CITY CENTER CIRCLE
NOVEMBER 13, 2007

THE SPECIAL CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 5:06 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call: Present: Councilman George Steindorfer
Councilman Bob Pohlmann
Councilman Dennis Kennedy
Vice Mayor Mary Martin
Mayor Allen Green

Also Present: Kenneth W. Parker, City Manager
Margaret T. Roberts, City Attorney
Glenda Leftwich, Recording Secretary

Mayor Green announced the attorney-client session is being held to discuss issues related to litigation expenditures and settlement negotiations in the following lawsuit filed in the Seventh Judicial Circuit, in and for Volusia County, Florida:

LAMAR ADVERTISING OF DAYTONA, ETC. VS. THE CITY OF PORT ORANGE, FLORIDA, Case No. 2004-31518 CICI, and

CITY OF PORT ORANGE, FLORIDA, VS. SUN GLOW CONSTRUCTION, INC., ET ALL – Case No. 2007-32358 CICI.

The estimated time to complete the attorney-client session is one hour and 30 minutes.

Margaret Roberts, City Attorney, said the following persons will be attending the attorney-client session:

Mayor Allen Green
Vice Mayor Mary S. Martin
Councilman Dennis Kennedy
Councilman Robert Pohlmann
Councilman George Steindorfer
City Manager Kenneth W. Parker
City Attorney Margaret T. Roberts
Assistant City Attorney Ann-Margret Emery

Volusia Reporting Company Certified Court Reporter

Mayor Green announced that it is 5:10 p.m. and this portion of the special meeting is recessed and will immediately reconvene in the City Manager's Conference Room for the attorney-client session commencing as soon as the Court Reporter is ready to take the transcription.

The City Council reconvened at 6:24 p.m. in Council Chambers and announced the attorney-client session is terminated. Ms. Roberts said staff will proceed according to City Council's directions.

ADJOURNMENT: 6:25 p.m.

Mayor Allen Green

Attest:

Kenneth W. Parker, City Manager

SPECIAL CITY COUNCIL MEETING
COUNCIL CHAMBERS - CITY HALL
1000 CITY CENTER CIRCLE
NOVEMBER 14, 2007

THE SPECIAL CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Allen Green at 7:30 p.m.

Pledge of Allegiance

Silent Invocation

Roll Call: Present: Councilman George Steindoerfer
Councilman Bob Pohlmann
Councilman Dennis Kennedy
Vice Mayor Mary Martin
Mayor Allen Green

Also Present: Kenneth W. Parker, City Manager
Margaret T. Roberts, City Attorney
Shirley M. Kelly, Deputy City Clerk

Mayor Green announced the purpose of the Special Meeting is to consider a settlement agreement regarding City of Port Orange vs. Sun Glow; consider Resolution No. 07-12 regarding policy issues and consider Ordinance No. 2007-34 on first reading which rezones 0.89 acres from PUD to PCD and approving the Master Development Agreement and Conceptual Development Plan – Summer Trees Plaza PCD.

DISCUSSION/ACTION

4. Consider a Settlement Agreement Regarding City of Port Orange vs. Sun Glow

Mr. Parker, City Manager, reviewed the basic terms of the settlement agreement and what has changed since Council last reviewed it. City Staff and Mr. Khazraee's Attorney worked diligently today to get this ready. On page 3 a date has been inserted. On page 4 © and (d) there are items relating to the amount of cubic feet of wet storage that can be placed into the storm water facility being constructed. From the beginning as this was being negotiated one of the items was to be sure that the City had one pond and not a lot of ponds in the area. The parties have tried to be sure there is one central pond that not only serves the Williamson Road but also meets the Outstanding Florida Water issues and some drainage issues trying to be addressed out of Taylor Woods to provide outfall on all of those items. This concept goes back with the City for a number of years. Mr. Parker referenced the dry retention area, Exhibit F. The St. Johns River Water Management District (WMD) now requires wet storage and dry storage in some areas. This provides a provision on Tract E Parcel and in some areas around the parking lot that those would be designated for dry retention and the estimate is that about 7,200 square feet will be needed for dry retention. Item E on page 5 relates to putting into an all inclusive number except for items that have been designated, for example, the \$18,000 that the City is paying Quentin Hampton for the engineering work associated with getting the permits for the modification of the pond that will be in the City's name.

The number is \$3,399,500 and that includes all fees and costs described in Paragraph 4 (f) and everything else in the document unless it is specified. There are minor changes in (f) and (g) items. He understands that Sun Glow is in agreement with those. On page 6 – item (f) is basically language that all taxes would be pro-rated to the date of Closing. The closing costs are at the bottom of page 6. Closing dates are before December 31, 2007. No. 8 has changed that relates to this does not include the storm water fees. The storm water fees that the City charges all of its' residents will continue to be charged. This relates to the special types and any type of special charges that would be there. Item No. 10 is the construction easement. That is the current construction easement that the City currently has. There have been some minor changes in the indemnity language. There has been some re-numbering to get the numbers corrected and the Exhibits.

Ms. Roberts, City Attorney, said the indemnity paragraph is a consistency revision. There were some other minor typo type revisions. Mr. Parker has covered the major items. Ms. Roberts said this document does now meet the goals and objectives of the City. Her understanding is that the funding has been appropriated and the City Council is now in a position to approve the agreement.

Councilman Kennedy said this has been a long and hard process and feels the City should move forward. Councilman Pohlmann agrees. He asked about any County participation. Mr. Parker said they would be participating. They will be provided a copy of the final documents and an adequate billing. Vice Mayor Martin said everyone has worked very hard on this. She agrees to move forward. Councilman Steindorfer had no comments. Mayor Green Vice Mayor Martin said everyone has worked very hard on this. She agrees to move forward. Councilman Steindorfer had no comments. Mayor Green Vice Mayor Martin said everyone has worked very hard on this. She agrees to move forward. Councilman Steindorfer had no comments.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to approve the Mediation Settlement Agreement between Sun Glow Construction and the City of Port Orange. Motion carried unanimously upon roll call vote.

5. Resolution No. 07-102 – Approving the Incorporation of Policies in the Master Development Agreement for the Summer Trees Plaza PCD

RESOLUTION NO. 07-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE INCORPORATION OF POLICIES IN THE MASTER DEVELOPMENT AGREEMENT FOR THE SUMMER TREES PLAZA PCD; PROVIDING FOR CONFLICTING

RESOLUTIONS AND PROVIDING AN EFFECTIVE DATE.

Motion made by Vice Mayor Martin, seconded by Councilman Steindoerfer, to adopt Resolution No. 07-102.

Ms. Roberts, City Attorney, said there has been one revision from the document City Council first received. That is Paragraph 1. This is a consistency revision so that it reflects the Agreement as the City Council has entered into in the mediation settlement. Council Members had no question.

Main motion to adopt Resolution No. 07-102 carried unanimously upon roll call vote.

6. First Reading – Ordinance No. 2007-34 – Rezoning 0.89 Acres from PUD to PCD and Approving the Master Development Agreement and Conceptual Development Plan – Summer Trees Plaza PCD

ORDINANCE NO. 2007-34

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY CONSISTING OF APPROXIMATELY 0.89 ACRES LOCATED ON THE SOUTHSIDE OF TAYLOR ROAD, WEST OF WILLIAMSON BOULEVARD, FROM PUD (PLANNED UNIT DEVELOPMENT) TO PCD (PLANNED COMMERCIAL DEVELOPMENT); ESTABLISHING BOUNDARIES; AUTHORIZING REVISION OF OFFICIAL ZONING ATLAS; APPROVING THE SUMMER TREES PLAZA MASTER DEVELOPMENT AGREEMENT FOR PLANNED COMMERCIAL DEVELOPMENT FOR PROPERTY CONSISTING OF THE ABOVE-REFERENCED 0.89± ACRES TOGETHER WITH THE ADJOINING PROPERTY CONCURRENTLY ZONED PCD CONSISTING OF APPROXIMATELY 10.83 ACRES; AND PROVIDING AN EFFECTIVE DATE.

Mr. Parker, City Manager, pointed out some items that have changed since memorandums have gone out. One is that there was a discussion about the length of time that the current Land Development Code (LDC) would apply to this particular piece of property. That has been worked out. This Agreement has a ten (10) year period that the current LDC would apply to the development. Should Mr. Khazraee or Sun Glow or its' successors not develop within that period or not develop all of it that would lapse. What revisions would be made to the LDC after that point in time would then apply? The second items relate to Page 8 and storm water retention facilities. Earlier during the

discussion of the Settlement Agreement he made reference to the WMD requiring dry retention in addition to wet retention in this particular area. The last two sentences in Number E has a provision excluding any dry retention areas for 45,000 cubic feet capacity of dry retention as shown on conception plan that with the understanding that no additional dry retention shall be required on the Summer Trees Plaza site. The current site plan in front of Council anticipates that it will require 45,000 cubic feet of space for dry retention. This is an unknown. The City will have to go to the WMD. This is the best number that the Engineers have been able to come up with. They normally are somewhat conservative. This would mean that should additional dry retention be needed the City would expand the dry retention onto Parcel E. The City has had a discussion with Quentin Hampton today, and looked at site E and believes there is enough flexibility should there be a requirement above the 45,000 cubic feet. On Page 9 there is discussion about the \$18,000. It places the responsibility for any modifications to the outfall structures or anything into the pond on Sun Glow to construct those types of improvements. On Page 10, Item No. C, Mr. Parker pointed out what is occurring. Summer Trees Plaza and Site E. Site E is the retention pond that is being acquired. If this project were being developed under normal circumstances because it is commercial abutting residential the City would require buffering in that area. However, the City is acquiring the properties that are adjacent to the residential. This now acknowledges that E would belong over on the City side of the ledger and that the commercial site would not longer be responsible for providing that buffer on Site E. Any landscaping buffering that would occur on E would be a part of a City requirement on ourselves to require the buffering. The second portion relates to the landscape buffering upon Taylor Road. It talks about in this document a landscape buffer will be required along Taylor Road on Sites A and B. Mr. Parker referred to the site plan. Mike Disher, Planning & Development Manager pointed out where the dry retention areas are. Mr. Parker said there is a buffering required but there is also an acknowledgement of where the dry retention areas are and that they have to retain water. There is not a relief from the landscaping but it has to not impede the water that has to be retained inside the pond, etc. It is trying to make sure that we are not creating a problem in addressing this. Wayne Clark, Community Development Director, and Margaret Momberger, Landscape/Architect, feel like the buffering requirements can be achieved and achieve the landscaping requirements. Mr. Parker said he has spoken to Mr. Khazraee regarding this and he has assured that he can meet the landscaping and buffering requirements also.

Mike Disher, Planning & Development Manager, reviewed the layout and how resolution was reached on various items. He pointed out the five sites the property is divided into. This is a zoning proposal that will establish permitted uses, development requirements, etc. for the property. Each site as it comes in will have its' own site plan that is engineered to those provisions. There is predominantly retail and office type uses proposed. Site E is the five-acre retention area. One of the items talked about throughout this process in the agreement and how is to transfer some of those development rights from one location to another onto the remainder of the property. Also, as part of the concept plan is an example of what that would look like under ordinary circumstances. This is a common practice in the City and has been done on some other properties as well. Mr. Disher spoke regarding Summer Trees access. He

pointed out a property that has been purchased by the applicant and is being rezoned as part of this proposal from PUD to PCD. The City is realigning Summer Trees Road as part of the extension going out to Williamson Boulevard. He pointed out how the part Taylor Road would be affected. That will provide access to the neighborhood and to the rest of the property. He pointed out a driveway, or entrance point, for commercial uses proposed. Mr. Disher pointed out other accesses proposed to get in and out of the property. Another item unique to this is that the PCD authorizes an off-site sign. This was recommended by the Planning Commission. That is solely for the purposes of advertising along Taylor Road. Mr. Disher responded to and/or answered questions raised by Council Members regarding the parking layout and separation of some of the traffic. Mr. Disher pointed out that the layout is conceptual in nature. There will have to be final engineering done which may call for some modifications. Another concern raised by Council was the potential of traffic interfering with the Summer Trees residents. Other Council and Staff concerns include cut through traffic and the impact on residential streets. Mr. Disher said there will be an entrance on Taylor Road that does not come off of Summer Trees Road. There will be an entrance from the east side too.

Elaine Ling, resident of Summer Trees Adult 3, representing 206 homes spoke regarding their concerns and a request that some permitted uses be deleted from the proposal. Another problem is because of all the commercial area going on in the area. To her knowledge they are still in the MDA, i.e., hotels/motels, retail and garden nursery, retail home building supplies, and retail furniture/appliance. They feel this development as proposed will create a hardship for entering and leaving their homes. Also, there is now a Church in the area using Summer Trees Road. They are looking at greatly increased traffic. Councilman Pohlmann does not see people cutting through as being a problem. Vice Mayor Martin understands their concerns, but this particular project there is only one driveway on the road area they are talking about. This site would not cause a cut-through. It is very restricted.

Michael Woods, Attorney representing Lee Khazraee, Sun Glow Construction, said the question was whether the Agreement was consistent with the underlying future land use. What has been discussed regarding those uses is to not outwardly prohibit them at this time given the fact that Council is dealing with a conceptual plan. He does not believe it is their intent to develop all four of those uses on the property. At a site plan stage is when one or more of those uses would be considered, if at all.

Council feels there may be a need for stop signs and other traffic control signs at Crooked Pine Road. Councilman Kennedy said perhaps some traffic calming devices could be considered. Mr. Parker suggested Staff begin looking at traffic calming for the Summer Trees residential streets, and test methods considered but not implemented in other parts of the City.

Hotels and other proposed uses are a concern to Council. Mayor Green asked that Council be given the flexibility to review any such site plans.

Motion made by Vice Mayor Martin, seconded by Councilman Kennedy, to approve Ordinance No. 2007-34 on first reading, subject to final agreed upon revisions being made to the MDA before second reading on December 4, 2007. Motion carried unanimously upon roll call vote.

ADJOURNMENT: 8:45 P.M.

Mayor Allen Green

Attest:

Kenneth W. Parker, City Manager