

City Council of Peachtree City
Meeting Minutes
May 21, 2015
7:00 p.m.

The Mayor and Council of Peachtree City met on Thursday, May 21, 2015, at City Hall. Mayor Vanessa Fleisch called the meeting to order at 7:00 p.m. Other Council Members attending: Terry Ernst, Eric Imker, Mike King, and Kim Learnard.

10-minute Talk

Pam Young, executive director of Southern Conservation Trust (SCT), gave an update on the non-profit community land trust that was founded in Peachtree City in 1993. The trust served the Southern Arc of metro Atlanta, providing tools for landowners and partners to ensure vibrant communities. Young announced that SCT had become an accredited land trust in 2015.

Agenda Changes

City Manager Jim Pennington asked Council to remove Consent Agenda item 1 from the agenda.

Learnard moved to remove Consent Agenda item 1 from the Consent Agenda. Ernst seconded. Motion carried unanimously.

Minutes

April 16, 2015, Regular Meeting

May 7, 2015, Regular Meeting

King moved to approve the April 16, 2015, regular meeting minutes and the May 7, 2015, regular meeting minutes as presented. Learnard seconded. Motion carried unanimously.

Monthly Reports

There were no comments on the Monthly Reports.

Consent Agenda

~~1. Consider Application & Acceptance of NARCAN Grant~~

2. Consider MOU with Board of Education for School Resource Officers

3. Consider Amendment to Buildings & Construction Ordinance – Chapter 18, Retaining Walls

Fleisch noted there was a memo on the dais – the staff memo for Consent Agenda item 3.

Learnard moved to approve Consent Agenda items 2 and 3. Ernst seconded. Motion carried unanimously.

New Agenda Items

**05-15-04 Public Hearing – Consider Variance to Rear Building Setback, Bicycles Unlimited
(273 Peachtree PKWY S)**

Senior Planner David Rast addressed Council, saying this request had been part of a variance Council heard on February 5, but had not been included in the legal advertising or in the staff review. The property was part of the office park at the Braelinn Village Shopping Center. The four sides of this tract all had street frontage, which meant the front building setback of 40 feet applied to each side abutting the private streets. In this case, Rast said there was no right-of-way included for the internal drives, so the setback measured from the back of curb. In addition, there was a 20-foot sewer easement on one side of the property, as well as some topographic issues. The site plan included a retaining wall along one of property lines so the site

could be built up for parking and for the building. The initial variance was approved for a 9.7 foot encroachment of a rear corner of the building- into the rear building setback.

The Planning Commission had approved the conceptual site plan, and the applicant was working on the final site plan. The design of the building had similar architectural detailing so each side appeared as frontage. The building had two other tenant spaces in addition to Bicycles Unlimited.

Rast continued that the dumpster enclosure was tucked behind the building in the corner of the service drive for the building. The corner of the dumpster enclosure would encroach 19 feet into the setback, and the distance between that corner and the back of the curb was 21 feet. The dumpster touched the stormwater easement. There had been some concern regarding the proposed location, but Rast said the developer had some remediation techniques in mind that would provide sufficient cover over the stormwater drain line. The enclosure was located closer to the building than most. One of the reasons was that the other owners in the office park did not want to see the enclosure on the corner of the property, which was located at the entrance to the office park. It also provided the opportunity to move the HVAC units farther away from the back of the building and include them in a screened enclosure.

Rast said staff had reviewed the application in terms of the variance procedures, and there were extraordinary circumstances related to the site. Staff recommended Council approve the variance with two conditions:

1. *The variance shall be limited to an encroachment of no more than 19 feet as shown on the conceptual site plan for Bicycles Unlimited as prepared by Capstone Engineering, Inc. (Last revised May 19, 2015). The variance will be limited to the area associated with the enclosure only. There shall be no other encroachments into the building setbacks without first securing additional variances.*
2. *A dumpster enclosure shall be identified on the As-Built Survey to ensure the enclosure encroaches no more than 19 feet into the front building setback as permitted by this variance.*

Chuck Ogletree of South-Tree Enterprises, Inc., the applicant and developer, said they had moved the dumpster all over the site trying to find the best location, and they believed this was it. The site was difficult to develop because of the four fronts, and nearly 60% of the property was located inside the setbacks. He believed the concerns had been mitigated as far as visibility, and the dumpster enclosure was moved away from the main flow of traffic in the office park. When the civil engineering was done, the dumpster could be moved again to get it away from the stormwater drain line. This tract was a unique situation, and Ogletree asked Council to grant the variance..

Mayor Fleisch opened the public hearing. No one spoke for or against the variance request. Fleisch closed the public hearing.

Ernst was concerned having the dumpster next to the service entrance might be too close because of odors, especially if a restaurant located in the building. Rast said he did not know what was proposed for the other tenant spaces, but the trash would be more packing and cardboard rather than food. He noted the situation at the Trek Store in Kedron Village was similar, and the City had not received any complaints regarding odors. Ogletree said the other tenants would not be restaurants, so there should not be any odor issues.

Learnard asked if there would be landscaping. Ogletree said there would be landscaping on the north and west sides of the parcel. Learnard asked if the Planning Commission had looked at the site plan and dumpster location. Rast said the Planning Commission had discussed the need for a variance for the dumpster, as well as berming and landscaping to screen the "rear" of the building that faced the road into the office park. Ogletree said they would bring back a landscape plan.

Fleisch asked Ogletree if the Planning Commission had talked about the architectural features for the dumpster enclosure. Ogletree said the enclosure's façade would be EIFS and stone, similar to the building. Rast noted the ordinance required enclosures to be compatible with the building.

Imker asked if there was any connection between the owner of this building and any other buildings in the park. Ogletree said he owned one of the buildings on the north side of the park, and he was the developer for this building, which would be owned by Bicycles Unlimited.

Imker asked if there were any instances where two businesses shared dumpsters. Rast said there were several instances in the retail centers. Ogletree said they had looked at other options, but there was not a practical way to do it. Fleisch said the dumpster would eventually serve three tenants. Imker asked how that would happen. Ogletree added that the Bicycles Unlimited would use 5,000 square feet of the 10,000 square-foot building, and there would be two other tenants. Imker asked who the other tenants would be. Ogletree said they did not know at this time, adding a restaurant would not be a practical use. However, he could not guarantee a restaurant would not go into a tenant space.

Imker asked if a condition for approval could be added that stipulated there would be no food-related businesses. City Attorney Ted Meeker said the City could not make that a condition because it would affect the zoning of the parcel. Rast clarified that the parcel was General Commercial (GC), and restaurants were allowed in that zoning. Imker asked if Council could accept a promise that there would be no food-oriented businesses, and he wanted to hear that from the owner.

King said they needed to use common sense. The owner of the building controlled who leased the space, and it would be to their benefit not to lease space to a food business.

Imker asked if the City had any liability if the stormwater system failed and destroyed the dumpster. Meeker said there was not an easement or any location on the property the City was required to repair; everything was on private property. Imker asked if the City could be liable if the system failed and created problems upstream or downstream. Meeker said he would have to check the ordinance to be positive, but he believed the City had the ability to fix the stormwater problem and place a lien on the property for payment from the owner. Ogletree said that was correct based on the recorded maintenance agreement for the office park.

Learnard moved to approve the variance to the rear building setback for Bicycles Unlimited subject to the two conditions as presented. King seconded. Motion carried unanimously.

05-15-05 Public Hearing – Consider Variance to Front Building Setback, 333 Aster Ridge Trail

Rast noted this property was located in the Wilshire Estates subdivision and was zoned R-12 Residential. The established front setback was 40 feet within the subdivision. The applicant wanted to add a covered porch to the front of the home so they would have more usable outdoor space. The front stoop was 44 feet off the front property line. The new porch would

extend eight feet from the face of the home, putting it at 38 feet, extending two feet into the front building setback. Rast said staff recommended denial of the variance request, reserving further comments for the public hearing.

Mark Yerkes, applicant and property owner, said they wanted to build a usable front porch. There were homes in Wilshire that had front porches six feet in depth, but Yerkes said that did not easily allow for placement of chairs and tables. The construction would complement the other styles in their neighborhood and would be built of similar materials. The porch would not extend into the side setbacks. Yerkes said he had submitted letters of approval from adjoining neighbors and the homeowners association (HOA), which had approved the addition of the porch pending the landscape plan.

Fleisch opened the public hearing.

Tina Ellis spoke in favor of the variance, saying it would be fantastic to add the front porch, and she looked forward to it. Front porches brought out community, and the design was beautiful.

Pam Kemp said she appreciated the improvements to the home, but said she was concerned about granting variances too freely. If Council kept making exceptions it would erode the City's planned community qualities.

Rast said he agreed the design was attractive and would be a nice addition to the home. Staff's concern was the request did not meet all of the criteria required for variance approval. The roof structure was what caused the need for a variance, so staff had suggested limiting the roof to six feet so it would not go into the front building setback. He added he did have some potential conditions if Council decided to approve the variance request.

There were no other speakers, and Fleisch closed the public hearing.

King clarified that the HOA had approved the porch, asking if any neighbors disapproved. Yerkes said he had a letter from one neighbor who was fine with the porch, and he was sure he could obtain something from the neighbors across the street. King noted the porch could become a casual gathering place for the neighbors, saying there were several neighborhoods that did this, and he had no objection to a two-foot variance.

Learnard said she had driven through the area, and she had not seen any porches on homes that were close by the Yerkes' home. She said the applicant had options, and a variance was for when the options had run out.

Imker asked Meeker if approval of this variance meant Council would have to approve a similar variance from a neighbor. Meeker said the neighbor would have a good argument. Imker asked approval of the variance would set a precedent. Meeker said Council sat in a quasi-judicial capacity when it came to variances. Another homeowner would have an argument for approval. Georgia law said one Council's actions could not bind future Councils, but approval of the variance would open the door. Imker said that was what he was looking for, saying approval of the variance would leave it open for all 10,000 homeowners to have a two-foot encroachment into a setback. Imker said other variance approvals had been given because they were special cases. An argument for denying the variance was he did not see a special case in this request.

Yerkes said the City was near buildout of residential properties, and homes would eventually need to be redeveloped, so this type of request would come up again. Improvements were needed to make the City a viable place to live.

Ernst asked Rast to clarify his statement regarding options. Rast said as long as the edge of the porch roof stopped at the 40-foot setback line a variance would not be needed.

Fleisch said that, given the nature of the street and the shorter front yards, approving the variance would open up the door for others. The porch would be very obvious in the streetscape. Fleisch noted that some of the backyards in the neighborhood were not the best either.

Yerkes said he understood that the City was concerned about causing harm if the variance was approved, but the porch would not harm the City as it would be an improvement to the home.

Learnard moved to deny the variance to the front building setback at 333 Aster Ridge Trail. Ernst seconded. Motion carried 4-1 (King).

05-15-06 Public Hearing – Consider Variance to Side Building Setback, 102 Denham Square

Rast noted this home was located in the Blueberry Hill subdivision, which was zoned GR-10. The side setbacks were zero, but there had to be a 10-foot separation between buildings, and a 25-foot separation between every 10 dwellings. The building separations were Building Code-, Fire Code-, and aesthetics-related. This particular building was on Lot 2. He continued that the setback between the edge of the building and property line was 7.6 feet. The distance between the buildings on Lots 1 and 2 was 14.9 feet. The foundation survey for Lot 1 showed a separation of 15.1 feet between the two homes. Rast said he was not sure why the measurements varied, but the measurements were recorded on the foundation surveys for each lot. Staff did not measure the actual distance, but used the presumption that the homes were at least 15 feet apart.

The applicant wanted to extend the deck on the side of the home by approximately three feet from the side of the home and put in a handicapped accessible ramp to help get one of the residents in and out of the home and into the driveway. Extending the deck off the side of the home from three feet to seven feet from the building put the deck just about on the property line, leaving eight feet, four inches between the deck and home on Lot 1. The floor of the deck was more than 24 inches above grade, so the deck was considered a structure. Rast had spoken with the Building Official and the Fire Marshal, and neither had an issue with the separation being less than 10 feet because there was still sufficient room for responders to maneuver on the side of the home. Since the side setbacks were zero, Rast explained the applicant was actually asking for an encroachment into the 10-foot distance between the buildings. The encroachment would be a 1.8-foot encroachment into the 10-foot building separation between the dwellings. Rast continued the lots in the subdivision were very narrow, and there were some extenuating circumstances in this case. Staff's recommendation was the variance be approved with the following conditions:

1. *The variance shall be limited to an encroachment of no more than one foot, eight inches as shown on the schematic deck plans (C.S.M. Construction Co.) as submitted with the variance application.*
2. *There shall be no other encroachments permitted without first securing additional variances.*

3. *A Foundation Survey shall be submitted to the Building Official once the deck is complete. The purpose of the survey is to confirm the deck extends no more than one foot, eight inches into the side building setback as permitted by this variance. The survey should establish the location of the home on the adjoining lot (Lot 1).*

Bonnie Hopkins, applicant and property owner, explained she was the caretaker for her mother, who was now immobile. She used an electric lift to get her mother in the wheelchair, and it took two people to transfer her to chairs. Her mother loved to sit in the sun, but could not get out on the front porch. The only sun the house really received was on the side porch, which Hopkins could access via wheelchair. All the exits in the home had steps, and her husband was also disabled. Both she and her husband were in their 60s, and they wanted to stay in the home, so the fewer steps the better. The house on that side of her home was a rental, and she had tried unsuccessfully to contact the homeowner, but she had not been able to get the owner to return her calls. The renter had no problem with the plan. The HOA had given its approval. The house next door had its side porch on the other side of that house, and there was only a window on the side of the house that faced her home.

The public hearing opened.

Pam Kemp said approval of the variance would be great for these circumstances. As the City's population aged, there would be more of this type of variance request. There were several subdivisions with zero lot lines. She suggested Council change the ordinance to accommodate access ramps.

Linda Flowers also spoke in favor of granting the variance, noting this was not a common situation. She had recently spent time on crutches with a newborn in a home with stairs, and it was very difficult.

Fleisch closed the public hearing.

King said this decision was cut and dried; they needed access.

Learnard asked if the variance was required because the deck was more than 24 inches high. Rast said that was correct.

Imker asked if the variance was approved would they also need to change the ordinance to allow for an eight feet separation between homes rather than 10 feet. His preference would be to continue the variance and add an ordinance amendment to allow for the handicapped access ramps. It needed to be done, with an exception for wheelchair situations.

Rast clarified the handicapped accessible ramp could be built without a need for a variance. It was the deck portion extending from the home that needed the exception because of its height.

Fleisch said she had concerns about the neighboring property owner who was leasing the home on Lot 1, asking what the City's obligation was to notify them. Meeker said the City had to post the property and run a legal notice. Rast added it was not required to notify the neighbors or the HOA. He trusted that the applicant had made several attempts to contact the owner.

There were several inaudible comments from the applicant and those attending the meeting. Marianne Dias said extending the width of the deck was needed for maneuvering room for the wheelchair.

King said he agreed with Imker's proposal to change the ordinance. He preferred to grant the variance, then amend the ordinance later, so the resident would not have to wait on a continuance.

Imker said one of the conditions for approval of a variance was if the ordinance created an inconsistent hardship, adding Council could consider this a special case with the hardship created by the intent of the ordinance. He agreed Council could approve the variance now and come back with an ordinance update later.

Learnard moved to approve the variance to the side building setback at 102 Denham Square with three conditions as noted in the Council meeting packet. King seconded. Motion carried unanimously.

05-15-07 Public Hearing – Consider Transmittal of Peachtree City Comprehensive Plan – 2015 Partial Plan Update

Rast said this was the transmittal resolution for the update to the City's Comprehensive Plan. The updates were to the Short Term Work Program (STWP), Capital Improvement Element (CIE), and the annual impact fees financial report. He had asked Finance to look at his figures for the CIE one more time, and the result was on the dais. A few of the figures had changed due to budget amendments, so there might be a few discrepancies that would not need to be changed before sending the update to the Atlanta Regional Commission and Department of Community Affairs (DCA). The police vehicle purchases were one of the changes. Staff recommended approval.

The public hearing opened. There were no comments. Fleisch closed the public hearing.

King moved to approve agenda item 05-15-07 Consider Transmittal of Peachtree City Comprehensive Plan – 2015 Partial Plan Update. Ernst seconded. Motion carried unanimously.

05-15-08 Consider Non-Profit Funding Request – Promise Place

Fleisch said she had spoken with Pennington, and the recommendation was to continue this agenda item since a change might be required in the City's policy on non-profit funding. She asked that a date not be set for the continuation.

Learnard moved to continue the non-profit funding request for Promise Place. Ernst seconded. Motion carried unanimously.

05-15-09 Discuss Changes in State Law Relative to Fireworks

Fire Chief Joe O'Connor addressed the changes that would become effective on July 1, 2015, concerning fireworks. House Bill 110 had dramatically changed the definition of legal fireworks in the state. Consumer fireworks such as fire crackers, blank cartridges, rockets, bombs, and sparklers would be legal as defined by the National Fire Protection Association (NFPA) and NFPA 1124, the Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles. The list of what was not legal included balloons, bags, parachutes or other devices requiring an open flame underneath the device for propulsion and floating, or wish lanterns that used an open flame to create a lighting effect in any public waterway, pond, stream, or river.

O'Connor continued that the new law restricted the time fireworks could be used to 10:00 a.m. – midnight any day; and on July 3 and 4 and December 31 and January 1 to 10:00 a.m. – 2:00 a.m. Use outside of the permitted times required a special use permit and a maximum fee of \$100.

Fireworks could not be used within 100 yards of a nuclear power facility, gas station, or gasoline processing facility. In addition, cities could not prohibit use of fireworks unless expressly forbidden by General Law. The City had the right to prohibit use on City-owned property, which was the current ordinance, and it would continue.

Fireworks could be sold by a licensed distributor at a fireworks retail facility. The facility must be compliant with NFPA 1124 and licensed through the state. O'Connor continued that the City could not restrict sales of fireworks through additional regulations, but could still control sales locations through zoning regulations.

Temporary stands would be licensed through the local Fire Department, with a maximum fee of \$500 that must be used for public safety. Licenses would expire after 90 days. O'Connor said they expected to have only one temporary stand in the City, which had been the standard in the past. Licensed distributors would be able to operate a maximum of two temporary stands, but the stands had to be located in the same county as the retail facility. Licensed distributors could open one of the two temporary stands if located within 75 miles of the border of a county that did not have a licensed distributor.

O'Connor continued that the City's Fire Marshal did not think the City would be a huge market for fireworks, but there would be a public education campaign about the laws and safety. O'Connor said the time restraints could lead to a very loud July 4th since July 3 and July 4 fell on Friday and Saturday this year.

Learnard asked O'Connor if he expected more injuries and complaints than in the past. O'Connor said things had always happened in spite of the law, and they expected more activity with the changes going into effect on July 1. There had been a couple of good years without any serious fireworks injuries.

Learnard commented that the state had prohibited the City from doing what Council felt was best for the community. Pennington said yes, adding the changes to the state law essentially decriminalized what had been going on for years. The new laws were very specific.

Ernst asked O'Connor if staff had spoken to the retailers that would sell fireworks. O'Connor said the bill had just been signed on May 1. The state fire marshal's office would regulate all sales this year.

Imker asked what had motivated the change in the law. He believed it was money at the expense of the health and well-being of citizens. Imker asked about enforcement, reiterating the City could prohibit on public land. He asked what would happen if fireworks flew on another person's property. Meeker said the state law did not address those instances, but the person setting off the fireworks could be accountable for any damage that was done.

Imker asked how staff planned to educate the public. O'Connor said they would work with the newspapers and Tyler, adding Peachtree City was not the only community dealing with this issue.

Kemp noted the streets in her neighborhood were public property and asked whether that would keep people from setting off the fireworks. Fleisch said that was a good question, pointing out that there were streets in the City owned by the subdivisions. Meeker said he would have to look at the covenants for those subdivisions to see how the streets were deeded.

Lynne Lasher asked if there was a way to rent vacant properties for the fireworks stands. Meeker said the City could not do that, but there were limits on outside displays.

Flowers asked if the change negated the nuisance ordinance. Meeker said it did. Martine Yancey told Council the discussion had been very informative, adding it might be a good opportunity for the Fire Department to sell fire extinguishers as a fundraiser.

05-15-10 Consider Addendum to SafeBuilt Contract for Supplemental Planning Services

Community Services/Public Services Director Jon Rorie reported there had been an uptick in projects over the last year, and staff was currently working on 21 retail/office/industrial projects. There were also active residential projects, plus the day-to-day issues of the department. A planning and development director position had been budgeted in FY 2015, but those positions were difficult to fill nationwide. The field had been narrowed to five candidates for interview, so the process was moving forward.

Rorie continued that it was important to maintain the level of service, so staff reached out to SafeBuilt, the contractor for building and inspection services, and its planning services arm, LSL Planning. Rorie said the time period would not exceed 18 weeks, and the budget impact would be approximately \$27,000. This was a stop-gap measure until the new director was on board.

King moved to approve agenda item 05-15-10, the addendum to the SafeBuilt contract for supplemental planning services. Learnard seconded. Motion carried unanimously.

05-15-11 Consider Property Purchase – 202 Driftwood Lane & 402 Harbor Loop

Stormwater Manager Michael Madison told Council both of the properties routinely had structural flooding. The flooding had occurred during 2009 and 2012. A conceptual plan to alleviate the issue by routing the stormwater to Lake Peachtree had been designed by Integrated Science & Engineering (ISE), and the estimated cost for construction and engineering was \$1.7 million. Staff researched and found these were the only properties in the neighborhood that had reported structural flooding. Madison then suggested purchasing the properties in lieu of the \$1.7 million project. The total for both homes was \$397,000. The remainder of the funds earmarked for this project could then be used for other stormwater projects.

Imker asked if stormwater funds would be used for the purchase. Meeker said yes, adding the funding for the project was included in the most recent Stormwater Utility bond. Imker said he did not see a downside.

Fleisch asked what the lots would look like when the houses were removed. Madison said everything would be removed, including the slabs. There would be some grading done to route the stormwater. Fleisch clarified there would be no big detention pits. Madison said there would not. Fleisch asked how long this project had been looked at. Madison said he was not sure, but it had been discussed in 2010. He continued that the owner of 402 Harbor Loop said she had problems in 2009. Fleisch asked when the closings would be. Meeker said mid-June.

Imker asked if the lots would be grassed. Madison said some hardwoods would be planted, and they would look like greenbelt areas. Imker said the neighbors would not want a visual eyesore.

Kemp asked if the \$397,000 included demolition. Madison said it did not, but they were looking at having Public Works take care of the demolition, which would save money. King said they were considering putting some of the usable building materials out to bid, or possibly sell the houses to someone who would move them.

Ernst moved to approve the contracts and authorize the Mayor or City Manager to sign all documents necessary to complete the transactions for 202 Driftwood Lane and 402 Harbor Loop. King seconded. Motion carried unanimously.

Council/Staff Topics

Pennington said the applications for the planning and development director had been narrowed down, and they hoped to hire someone by mid-July or early August. He continued that seven candidates for the police chief position had been interviewed by Rorie, Human Resources & Risk Management Director Ellece Brown, Meeker, and himself, and that field had been narrowed down further. The interviews with the citizen panel (Rev. George Dillard, Debbie Britt, and LaGrange Police Chief Lou Dekmar, with Pennington and Meeker observing) were scheduled to begin June 2 at 9:00 a.m.

A meeting with Trinity Development and SCT on the Overlook project (SR 54 West) was scheduled on May 27 to discuss easements and other issues. Pennington hoped bringing everyone together would help move the project forward. The MacDuff Parkway project was also moving along.

Executive Session

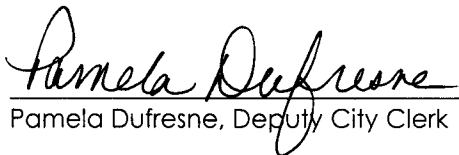
Learnard moved to convene in executive session at 9:01 p.m. to discuss personnel and threatened or pending litigation. King seconded. Motion carried unanimously.

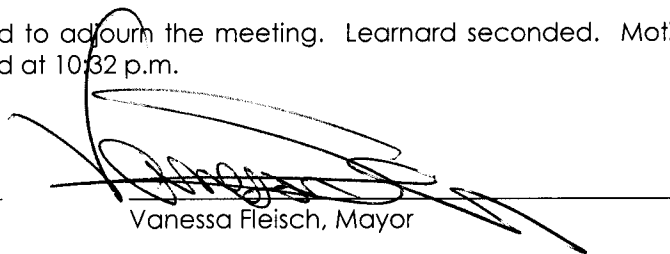
Imker moved to reconvene in regular session at 10:30 p.m. Learnard seconded. Motion carried unanimously.

Consider Appointment of Interim City Manager

King moved to appoint Jon Rorie as the Interim City Manager. Learnard seconded. Motion carried unanimously,

There being no further business, King moved to adjourn the meeting. Learnard seconded. Motion carried unanimously. The meeting adjourned at 10:32 p.m.


Pamela Dufresne, Deputy City Clerk


Vanessa Fleisch, Mayor