

JOURNAL OF COMMISSION PROCEEDINGS
February 16, 2021

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Civic Center Gibson Room 212

PLEDGE OF ALLEGIANCE

Due to the COVID-19 health concerns, the format of the City Commission Meeting was held in a virtual video-conferencing environment.

ROLL CALL/STAFF INTRODUCTIONS: City Commission members participated electronically via Zoom Webinar: Bob Kelly, Owen Robinson and Rick Tryon. Commissioners Mary Sheehy Moe and Tracy Houck were excused. City Staff participating electronically were: City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Finance Director Melissa Kinzler; Assistant City Attorney Joe Cik; Planning and Community Development Director Craig Raymond; Library Director Susie McIntyre and Public Works Director Paul Skubinna. Park and Recreation Director Steve Herrig, Fire Chief Jeremy Jones and Police Captain Jeff Newton were present in the Gibson Room, and City Clerk Lisa Kunz was present in the Commission Chambers.

To honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation as follows:

- Attend in person. **The City will be following the Current Governor’s Directives and the Public Health Officer Orders regarding public meetings conducted by, staffed by or held in the facilities of the city.** Masks will be required, social distancing will be enforced, and the total number of persons in the meeting room will be limited to a maximum of 50. Public following these directives may view and participate in the meeting from the Gibson Room. Please refrain from attending in person if you are not feeling well.
- Attend the virtual meeting utilizing Zoom Webinar. Attendees must register in advance for the Commission Meeting: https://us02web.zoom.us/webinar/register/WN_65qzxQcdS6CMae7q_Z-MUw After registering, you will receive a confirmation email containing information about joining the webinar by Zoom.
- Participate by phone. Attendees must register in advance for the Commission Meeting using the link above. After registering, you will receive a confirmation email containing information about joining the webinar by phone. If you do not have internet access, you may contact the Great Falls Public Library by 5:30 p.m. the day of the meeting at 453-9706 and they can assist with registration.
- Provide public comments in writing. Submit comments via mail addressed to City Clerk’s Office, PO Box 5021, Great Falls, MT 59403 or by email to: commission@greatfallsmt.net by 12:00 PM the day of the meeting.
- The agenda packet material is available on the City’s website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on cable channel 190, or online at <https://greatfallsmt.net/livestream>.

AGENDA APPROVAL: City Manager Greg Doyon noted a correction was made to a transposed number on Resolution 10384 (Agenda Item 11) pertaining to golf fees. There were no proposed changes to the agenda by the City Manager or City Commission. The agenda was approved as presented.

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CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS: None.

PROCLAMATIONS: Mayor Kelly read Youth Art Month (March, 2021).

COMMUNITY HEALTH INITIATIVES

1. UPDATE FROM CITY COUNTY HEALTH DEPARTMENT.

Anna Attaway, City County Health Department Communications Specialist, provided the following update:

- Cascade County has remained at a Covid case rate of less than 25 per 100,000 people for the past four weeks.
- A special City-County Board of Health meeting is scheduled tomorrow at 4 PM.
- Eligible people can receive vaccinations at the Veterans Administration and Indian Family Health Center.
- To date, nearly 4,000 people have received their first dose of the vaccine. Administering the second dose began yesterday.
- Beginning Thursday, vaccinations will be open for ages 60 to 69 for people with a qualifying health condition.
- The vaccine wait list is being discontinued starting Thursday. People can register at Benefis.org/coronavirus/covid-19-vaccine.
- Appreciation was expressed to partners Benefis, Alluvian, Great Falls Clinic, Disaster and Emergency Services, Great Falls Fire Rescue, Great Falls Emergency Services, and many volunteers.

Commissioner Robinson inquired where to register for the vaccine starting Thursday.

Communications Specialist Attaway directed people to register at the on-line portal: Benefis.org/coronavirus/covid-19-vaccine.

Commissioner Tryon inquired if rolling back some of the restrictions will be on Wednesday's Board of Health special meeting agenda.

Commissioner Robinson responded that if tomorrow's data indicates four weeks at less than 25 cases per 100,000 people, mandates may be lifted. Cascade County did not issue the mask mandate. The State originally instituted the mask mandate that has since been lifted, but counties and businesses can still require it. The Board of Health will consider that topic at tomorrow's meeting.

Appreciation was expressed to Communications Specialist Attaway and the City-County Health Department for all their work during this pandemic.

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Commissioner Robinson reported that Dr. Anthony Fauci is the featured speaker for tomorrow's Mansfield Lecture Series beginning at noon via Zoom. Anyone interested in hearing his lecture can register in advance.

PETITIONS AND COMMUNICATIONS/NEIGHBORHOOD COUNCILS/ BOARDS AND COMMISSIONS

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Daniel Hartzell, City resident, discussed the origination of the Pledge of Allegiance and Black History Month.

3. APPOINTMENT TO THE PARK AND RECREATION BOARD.

Commissioner Robinson moved, seconded by Commissioner Tryon, that the City Commission appoint Dustin P. Jacobs for a three-year term through December 31, 2023, to the Park and Recreation Board.

Mayor Kelly requested that Assistant City Attorney Joe Cik inform the Commission if there are any items on the agenda that require more than three votes to pass.

Assistant City Attorney Joe Cik responded that passage of anything on the agenda tonight requires a unanimous vote.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly asked if there was any discussion amongst the Commissioners.

Mayor Kelly read background information from the agenda report, and noted that the City would continue to advertise for the other opening.

Mayor Kelly called for the vote.

Motion carried 3-0.

CITY MANAGER

4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Greg Doyon provided updates on the following:

AIM HIGH BIG SKY RECREATION CENTER (OF 1770)

- The planning process for consideration of the Conditional Use Permit for the facility site location in Lions Park will start with the Planning Advisory Board on March 23rd, and then for Commission action on May 18, 2021. The public will have an opportunity to comment at both meetings.
- The design process continues with everything from utility layout to code review and, particularly, life safety issues, access in and out of the building, and parking. The design team met with Neighborhood Council 9 last week. Residents expressed concerns about

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loss of park function, open space, traffic generation, pedestrian safety, and access on and off 10th Avenue. Those concerns will be addressed during the design process.

- A new Survival Instructor at Malmstrom made the design team aware the military training need for a winch to lower people into the pool or across the pool. The City wants to do as much as it can to help facilitate and work with military partners to access some of that equipment because it turns that facility into something very desirable for Malmstrom and MANG to do that type of training.
- He and Deputy City Manager Chuck Anderson conducted 12-hours of listening sessions at the Police Department regarding what civilian and uniformed staff wanted in their next leader. Later in the process, he will engage the Chamber on the business community concerns and obtain feedback from different community populations prior to the finalist review.
- The City's ISO commercial rating improved to rating 3 and residential stayed the same at 4. A review is conducted every five years of the City's processes, procedures, and code adoption. Insurance companies use these ratings to set homeowner rates. The ratings range from one to 10, with one being the most favorable.
- Great Falls Fire Rescue (GFFR) is planning to take occupancy of Fire Station 4 by the end of next week and get it to full service by the first week in March. GFFR has seen a number of sprinkler and standpipe system ruptures. As things thaw out, they want to remind everyone to check for leaks.
- FEMA awarded the City a grant in the approximate amount of \$350,000 for the bank stabilization project by the refinery.
- The golf courses are operating better due to a change in management to CourseCo, and new techniques and marketing. He clarified that the general fund is still owed about \$1 million dollars from the golf courses in order to eliminate debt that has been owed over many years of operating losses. CourseCo has been taking care of small maintenance items, but the City is still responsible for large-scale maintenance projects.

Commissioner Robinson noted receiving a letter from someone expressing disappointment that the roof of the proposed aquatics facility is flat. The roof appears slanted in the latest rendition of the facility that he recently received.

Manager Doyon responded that he passed along that concern to the architects. There is a flat area for the mechanicals on the north side that will contain a drain. The concern is understandable and he will address it again with the architects.

Commissioner Tryon requested a brief update on the negotiation of the \$343,000 change order that came before the Commission in the recent past.

Manager Doyon reported that the City has not reached a satisfactory outcome and will continue to work with legal to try to negotiate a more reasonable number.

Public Works Director Paul Skubinna added that staff is diligently working with the project representatives to work through a solution and remedy for the City.

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CONSENT AGENDA.

5. Minutes, February 2, 2021, City Commission Meeting.
6. Total Expenditures of \$2,797,756 for the period of January 16, 2021 through February 3, 2021, to include claims over \$25,000, in the amount of \$2,306,432.
7. Contracts List.
8. Grants List.
9. Approve the application submittal for a FEMA, Assistance to Firefighters Grant, by Great Falls Fire Rescue in the amount of \$1,300,000 for an Aerial Apparatus.
10. Set a public hearing for Resolution 10387, a Conditional Use Permit for a “worship facility” land use upon the property addressed as 511 Central Avenue, for March 16, 2021.

Commissioner Robinson moved, seconded by Commissioner Tryon, that the City Commission approve the Consent Agenda as presented.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Tryon referred to the background information in Agenda Item 9 about the 1996 Smeal ladder truck and inquired about the apparatus not being specified correctly for weight and service requirements prior to its purchase.

Fire Chief Jeremy Jones explained that in 1996 the materials used on the apparatus was much heavier technology than today. Because of the limitations on staffing in response to structural fires, GFFR is required to carry more equipment than what is required on the trucks so that they can meet all of the emergencies that the public may face. The manufacturer of the Smeal truck had some issues with frames and bodies that resulted in a class action lawsuit. GFFR ended up sending the aerial apparatus back to the manufacturer to get the frame strengthened and the body issues fixed. Ultimately, it is a moot point. According to the recommendation of the National Fire Protection Association (NFPA), Annex D, the apparatus should be replaced at year 25. This apparatus is now at 26 years.

Commissioner Tryon inquired if the City’s match of \$130,000 was already budgeted for if the grant is awarded.

Chief Jones responded that the Fire Department’s apparatus falls under the Capital Improvement Plan. He has been working with Fleet Manager Doug Alm and Finance Director Melissa Kinzler to address this purchase during the upcoming budget, if the grant is awarded.

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Commissioner Robinson referred to Item 6 and inquired the anticipated installation date of the parking pay stations.

Planning and Community Development Director Craig Raymond responded that installation is soon, and the hope is to have the pay stations on-line and functioning April 2, 2021.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 3-0.

PUBLIC HEARINGS

11. RESOLUTION 10384, ESTABLISHING GOLF FEES.

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Park and Recreation Director Steve Herrig echoed City Manager Doyon's previous comments about the budget for the golf courses. Although CourseCo is doing a great job and the golf courses are doing good, debt still needs to be addressed, as well as increased operating costs and larger capital needs down the road.

Director Herrig also noted a transposed number in the Resolution. The adult weekday season pass for Eagle Falls was set forth as \$750 and corrected to \$570.

Mayor Kelly added that the proposed fees are set forth in the agenda packet.

Mayor Kelly asked if the Commission members had any clarifying questions.

Hearing none, Mayor Kelly asked if there were any comments from the public in support of or in opposition to Resolution 10384.

Hearing none, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Tryon moved, seconded by Commissioner Robinson, that the City Commission adopt Resolution 10384, establishing Golf Fees.

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Mayor Kelly noted that CourseCo representatives presented the year's review and upcoming goals at this evening's work session.

Commissioner Tryon inquired if this item could come before the Commission again for consideration if there was a dissenting vote tonight.

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Assistant City Attorney Cik responded that if any one of the Commission members does not vote affirmatively tonight, it could be brought back for action.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 3-0.

OLD BUSINESS

12. PUBLIC LIBRARY BASEMENT FLOODING MITIGATION PROJECT (OF 1762.1).

Library Director Susie McIntyre reported that the Library has had severe flooding in the basement for years and water was entering the building from multiple locations. The largest amount of water entered through the spaces surrounding a large basement pipe that empties storm water from the roof. The area where the pipe penetrates the wall was compromised. During any large storms, the water re-entered the building from that space around the pipe. Water also entered into the basement through the expansion joints and cracks in the floor. Mitigation of this continued flooding was necessary to ensure the structural integrity of the building and to address health and safety concerns.

TD&H designed the project, it was put out to bid, and Capcon was the low bidder. During the project, they ran into a couple of things that were unforeseen. The cost overages could not have been predicted, and City staff determined the work needed to be done in order to meet City inspection requirements and to ensure that the project successfully addressed all flooding and safety issues.

Commissioner Tryon moved, seconded by Commissioner Robinson, that the City Commission approve the contract cost overages in the amount of \$8,053.80 and approve final payment for the Public Library Basement Flooding Mitigation Project in the amount of \$73,489.88 to Capcon LLC and \$742.32 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly asked if there was any discussion amongst the Commissioners.

Mayor Kelly inquired where the funds were coming from to pay for the overage.

Director McIntyre reported that the Library received an anonymous \$85,000 donation last year to pay off late fines. The donor has agreed to allow the Library to use that income on capital improvements. A small portion of the overage will come from the Building and Maintenance budget.

Appreciation was expressed to the anonymous donor.

Commissioner Tryon referred to the cost overages in the agenda report and inquired how the original drawings mistakenly showed asphalt instead of concrete on a portion of 2nd Avenue North.

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Director McIntyre explained that TD&H missed the extra parking area along 2nd Avenue North in their design drawings. TD&H provided a contract discount because of that mistake.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 3-0.

NEW BUSINESS

13. IRRIGATION UPGRADES IN JAYCEE, ROOSEVELT, AND VALLEYVIEW PARKS (OF 1740.3).

Park and Recreation Director Steve Herrig reported that this irrigation project was originally bid in 2020 to be funded by Park District dollars available at that time. Bids were received on June 2, 2020 with one bid received. The bid was substantially higher than the cost estimate and the allocated project funding. City Staff concluded that the COVID-19 pandemic and subsequent lack of labor force contributed to the lack of bids and high bid prices. The bid was rejected and plans were to rebid in late fall 2020 or early winter 2021, when it was anticipated the irrigation contractors would have adjusted to the new circumstances that the COVID-19 pandemic has created. By postponing the bid, additional dollars were added to the project made possible by Park District year three funds to cover all three parks. Advanced Lawn Care's bid was under the engineer's estimate and under budget for the Park and Recreation Department to perform the irrigation upgrades in those three parks.

Commissioner Robinson moved, seconded by Commissioner Tryon, that the City Commission award a contract in the amount of \$422,970 to Advanced Lawn Care for Irrigation Upgrades in Jaycee, Roosevelt, and Valleyview Parks, and authorize the City Manager to execute the construction contract documents.

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners.

Commissioner Tryon expressed appreciation to Director Herrig for the great job he is doing, and he looks forward to greener parks.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 3-0.

ORDINANCES/RESOLUTIONS

14. RESOLUTION 10388, AMENDING RESOLUTION 8895, ESTABLISHING DISTRICT BOUNDARIES FOR NEIGHBORHOOD COUNCILS.

Deputy City Manager Chuck Anderson reported that on August 5, 1997, the City Commission adopted Resolution 8895, establishing district boundaries for Neighborhood Councils. The Resolution did not include language pertaining to subsequent annexations that would, in effect, also amend/extend the boundaries of Neighborhood Councils. Neighborhood Councils are kept apprised of proposed Resolutions to Extend the Boundaries of the City of Great Falls, and provide

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input for Planning Advisory Board consideration, and recommendations to the City Commission. The extending of the Neighborhood Council boundaries was thought to be part of the City's annexation process. Amending Resolution 8895 will clear up ambiguities and provide a formal means of amending/extending neighborhood council boundaries as additional property is annexed into the City.

Commissioner Robinson moved, seconded by Commissioner Tryon, that the City Commission adopt Resolution 10388.

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners.

Commissioners noted it is straightforward and obvious it needs to be done.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 3-0.

15. **RESOLUTION OF INTENTION 10385, INTENTION TO VACATE THE ALLEY EASEMENT LEGALLY DESCRIBED AS THE WEST 20 FEET OF LOTS 1B, 1D, 1C, 1G, 1FF, 1FA, 1FB, 1FC, 1FD, AND 1FE OF SUN RIVER PARK ADDITION IN GREAT FALLS, MONTANA.**

Planning and Community Development Director Craig Raymond reported that the Applicants, Gary and Nancy Martin, together with a majority of the affected neighbors have requested that the City vacate the undeveloped alley between 24th Street SW and 25th Street SW from Central Avenue West and 2nd Avenue SW. The alley proposed to be vacated has never been improved or maintained by the City. According to neighboring residents, allowing public access has led to encroachment and maintenance issues along with other undesirable problems. Some property owners have blocked access over the years with landscape features, trees, fences, and even storage sheds.

Staff is aware that, although support for the alley vacation is beyond the minimum required to approve this measure, it is not universally supported. Each parcel will be able to maintain access to the public rights-of-way along the platted streets and avenues as opposed to an unofficial, unimproved and unmaintained alley. All existing utilities will continue to be supported and protected by an easement. As such, the City Public Works Department and NorthWestern Energy are supportive of the vacation.

Commissioner Tryon moved, seconded by Commissioner Robinson, that the City Commission adopt Resolution of Intention 10385, and set a public hearing for March 16, 2021.

Mayor Kelly noted that written correspondence was received and included in the agenda packet, and that the public will have additional opportunity to comment at the public hearing via email, in person, telephonically, in writing, or electronically. He asked if there were any comments from the public.

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Appearing electronically was **Bill Levine**, Marra, Evenson & Levine PC, representing Roxann Settera, 123 25th Street SW, in opposition to Resolution 10385. Mr. Levine commented that he understands that this is the first step of a two-step process and that a final decision is not being made about vacating this alley now. However, he thinks there is a fundamental question that needs to be asked: Why exactly is the City vacating this alley? He does not believe there is a clear answer to that question. There are landowners that do not need it and do not particularly want it, and have asked that it be vacated. However, there are also a number of landowners, his client among them, who do need this alley and benefit from it. In this situation, he suggested the City do what it can to protect those rights of access for the minority of landowners who do depend on the alley.

Mr. Levine also expressed concerns about the legal position that Ms. Settera and her neighbors will be put into if the City does vacate this alley.

Appearing electronically was **Steve Schoeneman**, 121 25th Street SW. Mr. Schoeneman, spoke in opposition to vacating the alley access. He purchased this property 19 years ago and it has never been a problem. The City had a problem maintaining the alley. He wants the alley access to get to the back on his home to trim trees and perform maintenance on the house that requires equipment into the back yard of the property. Mr. Schoeneman commented that some of the houses are so close together you could not get into the back of the property unless you have an alley. The City needs to let go of the issue it has with this alley.

Mayor Kelly noted that Mr. Schoeneman's signature was on the Martin's petition in support of the request to vacate the alley.

Mr. Schoeneman responded that he emailed the City on two occasions expressing opposition. He wants the alley to remain accessible, as it was when they purchased the property 19 years ago.

Nancy and Gary Martin, 124 24th Street SW, Petitioners, read from a written that, in summary:

- When they purchase the lot in 2003, they were informed it had an easement for utility and emergency vehicle access only.
- City Planning staff referred to an easement during construction of their home and shop.
- County Planning labeled it an easement and provided a document and map from 1952.
- At the time Lot 1, Block 17 was annexed into the City in 1954, the alley was not abandoned.
- Subsequent to annexation, lots were sold in their entirety and taxed on the full square footage of the properties; no deductions were made for an alley.
- The City has never utilized the alley for garbage collection or to perform any grading or maintenance.
- Homeowners on 24th Street SW have provided access to their backyards from their front yards to avoid crossing anyone's property to get to their own backyards.

Mrs. Martin concluded that, because of the confusion of whether the strip of land is an alley or an easement they are petitioning to have the alley abandoned, and acknowledge that an easement would still be needed for access by utility and emergency vehicles. As property owners, they want to be afforded full ownership of the land.

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Mr. Martin added that the strip of land should never have been a public access. They have dealt with abandoned vehicles and damage to the property. People think they can use it whenever they want and drive across it when they are paying taxes on it and maintaining it. However, anyone that has asked has been granted access to cross the property.

Alan Graf, 28 24th Street SW, commented that he purchased Lot 1G in 1991. His deed also says that strip is a utility right-of-way, not a public access. Mr. Graf submitted an invoice to the City of Great Falls for mowing and weed control services since 1991 in the amount of \$48,000. Mr. Graf requested that either he be provided all of his land, or that the City maintain its property.

Andrew Benbow, 116 24th Street SW, commented that his deed also says it is a utility right-of-way and not an alley. He added that the City filled in the ditches causing drainage to the back of his property that is in question. Because it is open for anyone to use, he has had to pull at least 10 stuck vehicles out of there in the last four years. He disagreed with comments set forth in Attorney Levine's letter pertaining to an issue with wood deliveries.

Vicky Luraas, 120 24th Street SW, commented that she has spent \$2,000 for gravel because neighbors with no respect drive through the back of her property and around the shed in her backyard.

There being no one further to address the Commission, Mayor Kelly reminded everyone that the public hearing on this matter is March 16th.

Written correspondence in opposition to Resolution of Intention 10385 was received from: **Steve Schoeneman**, 121 25th Street SW, **Roxann Settera**, 123 25th Street SW, and **William J. Levine**, Marra Evenson & Levine PC, 2 Railroad Square, counsel for Roxann Settera.

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Tryon commented that this matter appears to be a property rights issue. He requested an analysis from the Legal Department as soon as possible before the March 16 public hearing.

Assistant City Attorney Joe Cik responded that the original 1952 document says it is an easement for public right-of-way purposes, which are two different things. That is why staff is going through the more formal process for a right-of-way vacation while allowing a utility easement. The Legal Department will provide more information prior to the hearing.

Commissioner Robinson requested that the addresses be added to the map with the lot numbers.

Director Raymond agreed he could provide that.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 3-0.

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CITY COMMISSION

16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS

None.

17. LEGISLATIVE INITIATIVES.

Mayor Kelly encouraged use of the leg.mt.gov website to track and comment on legislative bills.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Robinson moved, seconded by Mayor Kelly, to adjourn the regular meeting of February 16, 2021, at 8:32 p.m.**

Motion carried 3-0.

Mayor Bob Kelly

City Clerk Lisa Kunz

Minutes Approved: March 2, 2021