

**: OFFICIAL PROCEEDINGS :****: OF THE CITY OF PEORIA, ILLINOIS :**

Council Chambers, Peoria, Illinois, April 22, 2003, a Regular Meeting of the City Council was held this date at 6:18 P.M., at City Hall, Council Chambers, 419 Fulton Street, Mayor David P. Ransburg presiding.

**ROLL CALL**

Roll call showed the following Council Members present: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg – 11; Absent: None.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Ransburg requested a moment of silent prayer then he led the Pledge of Allegiance.

**PROCLAMATIONS, COMMENDATIONS, ETC.**

PROCLAMATION: KINGMAN PRIMARY SCHOOL CENTENNIAL DAY – April 22, 2003

PROCLAMATION: PEORIA URBAN FORESTRY ADVISORY BOARD: ARBOR DAY – April 25, 2003

PROCLAMATION: ROTARY CLUB OF PEORIA WEEK – April 20 – 26, 2003

PROCLAMATION: PEORIA ASTRONOMICAL SOCIETY: DARK SKY MONTH – May, 2003

PROCLAMATION: ILLINOIS STROKE COUNCIL: STROKE AWARENESS MONTH – May, 2003

**MINUTES**

Council Member Nichting moved to approve the minutes of the Regular City Council Meeting and Executive Sessions held on April 15, 2003, as printed, with clarification under Item No. 03-197 to reflect that Ordinance No. 15,462 amended Ordinance No. 14,438 rather than 14,428; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner,  
Mayor Ransburg - 11;

Nays: None.

**PETITIONS, REMONSTRANCES & COMMUNICATIONS**

**CONSENT AGENDA ITEMS BY OMNIBUS VOTE, for the City of Peoria, with Recommendations as Outlined:**

**(03-208) NOTICE OF LAWSUIT on Behalf of R & A PRODUCTIONS, INC. D/B/A MULLIGAN'S Seeking Damages and Lost Profits Regarding an Incident on November 22 and December 13, 2002, and Enjoining the City of Peoria from Enforcing Section 3-14(3) of the City of Peoria Code.**

- (03-209) **NOTICE OF LAWSUIT on Behalf of THE COPLEY PRESS, INC. AND PEORIA JOURNAL STAR, INC. Seeking to have All Future Meetings of the Task Force Open to the Public and All Minutes of the Previous Meetings be Made Available to the Public.**  
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- (03-210) **BIDS for MAINTENANCE CONTRACT, Recommending the Bid of NATIONAL ASPHALT HEATTREATING, in the Amount of \$222,740.70.**
- (03-211) **BIDS for BULK LUBRICANT CONTRACT for Two Years, Recommending the Bid of RILCO OF PEORIA, in the Amounts as Outlined.**
- (03-212) **PAYMENT ESTIMATE FOR PUBLIC IMPROVEMENT PROJECT: JEFFERSON AVENUE RELOCATION (Oak Street to Kumpf Blvd.) (Demolition, construction of new PCC pavement, PCC combination curb and gutter, PCC sidewalk, bituminous overlay, landscaping, storm sewer, lighting, traffic signal items, and related conduit, earthwork, restoration and appurtenances.) P. J. HOERR, INC. – PAY ESTIMATE #9 & SEMI-FINAL: \$83,167.94. (For Information Only)**
- (03-213) **Communication from Director of Public Works and Director of Economic Development Recommending Adoption of ORDINANCE NO. 15,464 to DEDICATE ADDITIONAL RIGHTS-OF-WAY Along WASHINGTON STREET, WATER STREET, AND HAMILTON BOULEVARD, and a PUBLIC ALLEY Between Jefferson Avenue and Adams Street.**
- (03-214) **Communication from Director of Planning and Growth Management Recommending Adoption of ORDINANCE NO. 15,465 Approving the PRIVATE STREETS, PRIVATE STREET NAMES, AND PRIVATE STREET MAINTENANCE AGREEMENT for HILLSIDE VILLAGE SUBDIVISION, a Multi-Family Development Located South of Skyline Drive and North of Sankoty Drive Along the West Side of Illinois Route 6.**
- (03-215) **APPLICATION for CLASS “H” TEMPORARY OUTDOOR LIQUOR LICENSE for ILLINOIS VALLEY STRIDERS for the LOUIE LOUIE FESTIVAL on Friday, May 23, 2003, at Center Stage at the Landing on the Peoria Riverfront.**

**Recommendation to Receive and File the Following REPORT BACK:**

- (02-848) **Communication from Mayor David P. Ransburg with a REPORT BACK Regarding CITY OF PEORIA BOARD AND COMMISSION APPOINTMENTS and REAPPOINTMENTS.**  
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Council Member Nichting moved to approve the Consent Agenda items as outlined in the Council communications; seconded by Council Member Turner.

Council Member Sandberg requested Item No. 03-209 be removed from the Consent Agenda for further discussion.

Council Member Gulley requested Item No. 02-848 be removed from the Consent Agenda for further discussion.

Item Nos. 03-208 through 03-215 (excluding Item Nos. 02-848 and 03-209 which were removed from the Consent Agenda for further discussion) were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg - 11;

Nays: None.

**(03-209) NOTICE OF LAWSUIT on Behalf of THE COPLEY PRESS, INC. AND PEORIA  
\* JOURNAL STAR, INC. Seeking to have All Future Meetings of the Task Force Open to  
the Public and All Minutes of the Previous Meetings be Made Available to the Public.**

Council Member Sandberg referred to the Council Meeting during which the Task Force was discussed and he said he thought it had been clarified that the Task Force Meetings would be open to the public and the public would be able to obtain copies of the minutes.

Corporation Counsel Randy Ray said the copies of the tapes and minutes of the Council Meetings in which this topic was discussed were available to any one who wished to review this issue, and he indicated he would be able to answer further questions in an Executive Session.

Council Member Sandberg moved to receive and file the Notice of Lawsuit on behalf of the Copley Press, Inc. and Peoria Journal Star, Inc. seeking to have all future meetings of the Task Force open to the Public and all minutes of the previous meetings be made available to the public; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner,  
Mayor Ransburg - 11;

Nays: None.

**(02-848) Communication from Mayor David P. Ransburg with a REPORT BACK Regarding  
\*\* CITY OF PEORIA BOARD AND COMMISSION APPOINTMENTS and  
REAPPOINTMENTS.**

In discussion with Council Member Gulley, Mayor Ransburg thanked all members of Staff who worked to update and complete this project. He said the communication explained the letters that were normally sent out and the process of appointments and reappointments. He pointed out that reappointments were not automatic, and input from Commission Members and the Council were taken into consideration. He said he would try to be more proactive in the future regarding appointments.

Council Member Gulley moved to receive and file the report back regarding the City of Peoria Board and Commission Appointments and Reappointments; seconded by Council Member Morris.

In discussion with Council Member Spears, Mayor Ransburg said it was found there were numerous different expiration dates for Commissioners and he said he tried to move all expirations to June 30<sup>th</sup>. He said there were a few expiration dates that were mandated by State Statute and could not be changed. He said the Information Directory would be updated periodically, maybe once a quarter.

Motion to receive and file the report back regarding the City of Peoria Board and Commission Appointments and Reappointments was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg - 11;

Nays: None.

**(03-216) Communication from Director of Economic Development Requesting Approval of a  
DEVELOPMENT SERVICES CONTRACT with CENTERBROOK ARCHITECTS AND  
PLANNERS, LLC, for the SEARS BLOCK DEVELOPMENT SITE, in the Amount of  
\$15,000.00, and Requesting Authorization for the Interim City Manager to Execute the  
Necessary Documents.**

Council Member Teplitz moved to approve the Development Services Contract with Centerbrook Architects and Planners, LLC, for the Sears Block Development Site, in the amount of \$15,500.00, and to authorize the Interim City Manager to execute the necessary documents; seconded by Council Member Turner.

Interim City Manager Bern Ewert displayed slides of development sites in Roanoke, Virginia, showing concepts of a market square and other development to create an entertainment district that would attract citizens to the downtown area who normally did not visit the downtown area. He said he felt there was no question that Lakeview Museum should have a portion of the Sears Block site. He said any site near water held great attraction. He said the Sears Block was a seven-acre site that was located adjacent to the river. He said the City needed to make sure the museum had enough space to prosper, but not more than they needed. He stated he felt the Sears Block could be developed to be an entertainment center for all of Central Illinois.

Interim City Manager Ewert stated the proposed contract would bring the project to a point where a recommendation could be made to the Council so the grant could be applied for, which had a deadline in July, 2003.

Council Member Thetford said the proposed study would not slow the process and since the lease would be for 99 years, she said she felt taking a little extra time to make a decision would be wise. She added the proponents of the museum also supported the study.

In discussion with Council Member Ardis, Director of Economic Development Dave Dobson explained the \$15,000.00 for this contract was already in the budget and had been reserved for this kind of activity.

Council Member Sandberg expressed concern that there was no market study accompanying this contract, and he expressed additional concern that, according to information about the company in the booklet, Centerbrook Architects and Planners, LLC, may not meet the City's affirmative action requirements.

Equal Opportunity Director Kimberly King said absent any complaints or some other indication, and without knowing the makeup of the area where the company was located and expected to recruit from, it was difficult to determine diversity utilization. She added that Centerbrook had provided a written commitment that they shared the City's goals regarding affirmative action by providing a work force profile and by agreeing to provide the City with any additional information regarding their affirmative action and equal opportunity policies that may be required, if requested.

Council Member Grayeb said he supported the motion with the clear understanding and assurance that the proposed study would not retard the ability to apply for the funding in July, meet that deadline, and would help make the project a reality in the City.

Council Member Spears said he would not support the motion. He indicated he did not feel the study was necessary and he felt everything mentioned in the slide presentation was already located in the Fourth District. He said he was in favor of the museum being located on the entire Sears Block and the City needed to tie the Civic Center, the Ball Stadium, and other downtown sites to the proposed area for a museum with walkways to encourage pedestrian traffic to flow throughout the downtown area.

Motion to approve the Development Services Contract with Centerbrook Architects and Planners, LLC, for the Sears Block Development Site, in the amount of \$15,500.00, and authorize the Interim City Manager to execute the necessary documents was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 9;

Nays: Nichting, Spears - 2.

**(03-217) Communication from Director of Public Works Requesting Approval of the LOW BID of PARAGON CONSTRUCTORS, INC., in the Amount of \$75,935.00, for the TWIN TOWERS/JEFFERSON PARKING GARAGE 2003 REPAIRS.**

Council Member Grayeb moved to approve the low bid of Paragon Constructors, Inc., in the amount of \$75,935.00, for the Twin Towers/Jefferson Parking Garage 2003 repairs; seconded by Council Member Turner.

Council Member Gulley expressed concern regarding the unit price structure and any extras that may be required on this project. He said he wanted to make sure there was a unit price structure for the two-inch depth and that Western Water Proofing had an opportunity to submit a reduction to their original bid after the bid opening.

Director of Public Works Steve Van Winkle said he would be glad to report back to the Council regarding this issue.

Council Member Gulley moved to defer this item for one week until the April 29, 2003, Regular City Council Meeting; seconded by Council Member Morris.

Motion to defer this item until April 29, 2003, was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg – 11;

Nays: None.

**(03-218) Communication from the Fair Employment and Housing Commission Recommending Adoption of an ORDINANCE Amending CHAPTER 17 of the Code of the City of Peoria Relating to HUMAN RELATIONS, HOUSING AND EMPLOYMENT Adding SEXUAL ORIENTATION as a PROTECTED CLASS.**

City Clerk Mary Haynes distributed three letters from citizens, two letters in support of the proposed Ordinance, and one letter in opposition, to all members of the City Council.

Council Member Teplitz moved to adopt the Ordinance amending Chapter 17 of the Code of the City of Peoria relating to Human Relations, Housing and Employment adding Sexual Orientation as a Protected Class; seconded by Council Member Turner.

Corporation Counsel Randy Ray explained the proposed Ordinance added sexual orientation as a protected class which may not be discriminated against in housing, employment and public accommodations. He said the Ordinance was not amended in any other manner, but there were exceptions for small businesses and small renters remained in place.

Council Member Teplitz moved to grant Privilege of the Floor to those who wished to address this issue; seconded by Council Member Turner.

Hearing no objections, Mayor Ransburg granted Privilege of the Floor to those who wished to address this issue.

Ms. Lori Brown of 3439 N. Gale; Ms. Carol Hoke of 1400 N. E. Madison; Rev. James Polk, President of the Central Illinois Chapter of Interfaith Alliance of 2127 N. Ardell; Rev. Anna Saxon, Pastor at Westminster Presbyterian Church, of 3628 N. Breckenridge Court; Ms. Judy McKinny, Mental Health Clinician, of 818 W. Moss Avenue; Mr. Kirk Coleman of 3200 Indiana Avenue; Mr. Douglas Dranpole, President of the Men's Network; Mr. Paul Isen, Pastor of Glen Oak Christian Church, of 10906 N. Rhonda Way, Dunlap spoke in favor of the proposed Ordinance.

Mr. Jerry Asal of 727 W. Hampshire Road; Mr. Brad Dunham, Attorney, of 6200 N. Suffolk Drive; Mr. Louis Carr of 1817 W. Lake Street; Ms. Geraldine Godfrey, member of the Fair Employment Housing Commission, of 4020 N. Brookdale; Mr. Dan Smith, Attorney, of 7814 N. Radnor Road, distributed a copy of an article about a federal lawsuit challenging the Sexual Orientation Ordinance to members of the Council; Mr. Rupert Watt of 303 E. Nebraska; Mr. Watt of 6312 Siler Street; and Mr. Joseph Grimaldi, Sr. of 1022 W. Gilbert Avenue spoke in opposition to the proposed Ordinance.

In discussion with Council Member Ardis regarding who would make a determination for religious institutions, Corporation Counsel Randy Ray said each case would be determined by the finder of fact. He said the finder of fact would have to give deference to the First Amendment Rights of Freedom of Religion and each case would have to determine who the person was making the decision. He said, in cities where these Ordinances were in place, it had been found that finders of fact were able to address these issues. He said the body who heard the case made the determination.

In further discussion with Council Member Ardis, Equal Opportunity Director Kimberly King explained the complaint process, the investigation and appeal process. She indicated she was unable to determine why more complaint cases had not been filed.

Council Member Ardis said he felt the approval of the proposed Ordinance would expand an area so constitutionally important to civil rights that the decision should not be made on the City or County level.

Council Member Nichting said he agreed with Council Member Ardis and he felt the approval of the proposed Ordinance would be a violation of the Constitution, and the decision should not be made by this Body.

Council Member Gulley spoke in support of the proposed Ordinance even though he had not supported it at the Commission level. He spoke against discrimination of any kind against any person.

Motion to adopt ORDINANCE NO. 15,466 amending Chapter 17 of the Code of the City of Peoria relating to Human Relations, Housing and Employment adding Sexual Orientation as a Protected Class was adopted by roll call vote.

Yeas: Grayeb, Gulley, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg – 8;

Nays: Ardis, Morris, Nichting - 3.

### **UNFINISHED BUSINESS**

**(02-649) Communication from Corporation Counsel Recommending Adoption of an ORDINANCE Amending Chapter 18 of the Code of the City of Peoria Relating to SIDEWALK VENDORS (PUSHCARTS). (Refer to Item No. 02-619) (New Communication and Ordinance)**

Council Member Gulley moved to adopt the newly distributed Ordinance amending Chapter 18 of the Code of the City of Peoria relating to Sidewalk Vendors (Pushcarts); seconded by Council Member Morris.

Council Member Gulley discussed the negotiations held between the pushcart owners and restaurant owners who both came forward with very different views on the matter. He said the size of push carts and areas, cash registers or some means of documenting push cart sales, and the annual fee charged for push carts were the primary issues. He said it was suggested that a parking pass would be distributed to vendors during their opening times. He said the proposed Ordinance was a compromise between the two groups.

Council Member Morris recommended that the Council support the motion to approve the proposed Ordinance, but he requested that the Council either vote for the Ordinance in its entirety or vote against it.

Hearing no objections, Mayor Ransburg granted Privilege of the Floor to those who wished to address the Council.

Mr. Dorian LaSaine, 4444 N. Knoxville, Attorney representing the Pushcart Owners, thanked those for their assistance in constructing the proposed Ordinance. He said neither side had exactly what they wanted, which he felt, indicated a good agreement. He urged the Council to adopt the proposed Ordinance.

Ms. Sandra Birdsall, Attorney representing the Downtown Restaurant Association, thanked those involved with the Task Force. She said the restaurant owners did not agree with the proposed Ordinance. She said the association did not agree with the Ordinance regarding the creation of sidewalk stations and a size in excess of 50 square feet. She said there had been extensive studies on other cities and sidewalk usage, and it was found that no city allowed anything like the proposed Ordinance. She added that most cities had design criteria to create a certain atmosphere in the downtown area, and most cities limited the ability of carts to compete with restaurants by menu choices. She said the City had over 30 downtown restaurants and she requested that the restaurant owners' investments be respected. She said the association had an economic objection to the fees being charged because carts operated on the sidewalks for about seven or eight months of the year for \$1,400.00, as opposed to a small restaurant whose costs exceeded \$1,400.00 monthly to operate for lunch. She said the association also objected to the continual encroachment on restaurants. She also suggested that a rotation process be established. She said, however, the Downtown Restaurant Association would support the proposed Ordinance. She said the group valued compromise and the spirit of resolution. She requested that the process continue to be studied in the future.

Council Member Thetford said she hoped the proposed Ordinance would stand for a considerable amount of time and this issue would not have to be revisited. She said she wanted the downtown restaurants and pushcart owners to work together to provide fine entertainment and food for all who visited the downtown area. She said she did not want the proposed Ordinance to establish a new level of bureaucracy in the City. She agreed that pushcarts needed a mechanism to show how much money was being collected.

Council Member Grayeb said he felt the proposed Ordinance made it difficult for pushcarts to exist in the downtown area. Discussion was held clarifying how parking was handled during the time the pushcart owners unloaded and loaded, and the cash register or receipt system.

In discussion with Council Member Grayeb regarding records of sales that pushcart owners would have to maintain, Corporation Counsel Randy Ray stated there were no specific regulations for restaurants and night clubs to maintain those same kinds of records.

Council Member Grayeb said he felt this proposal was unfair for the pushcart owners, and he said he could not support the proposed Ordinance unless these kinds of regulations were imposed across the board.

Council Member Ardis said he could not support the proposed Ordinance because he felt it was unequitable and unfair to restaurant owners. He suggested that the proposed Ordinance be improved.

Council Member Sandberg indicated he also could not support the proposed Ordinance because of unfairness. He said pushcarts should be small. He said the current pushcarts were no longer small and there were no common design plans. He said he felt the Ordinance was contrary to the vision of what the City wanted the downtown to become as outlined in the DPZ plan.

In discussion with Council Member Teplitz regarding the moratorium on tickets, Corporation Counsel Randy Ray indicated that warnings had been given the day before the two tickets for pushcart violations had been written.

Council Member Teplitz requested that the two tickets be dismissed. (Clerk's Note: No vote was taken.)

Motion to adopt the newly distributed ORDINANCE NO. 15,467 amending Chapter 18 of the Code of the City of Peoria relating to Sidewalk Vendors (Pushcarts) was approved by roll call vote.

Yeas: Gulley, Morris, Nichting, Spears, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: Ardis, Grayeb, Sandberg - 3.

**(03-170) Communication from the Director of Planning and Growth Management Regarding ZONING CERTIFICATES and USE CHANGES, with a Request to DEFER this item until the May 13, 2003, Regular Council Meeting or to TABLE.**

Council Member Nichting moved to defer this item until the May 13, 2003, Regular City Council Meeting; No second was heard.

Following a brief discussion in which Director of Planning and Growth Management Wayne Anthony suggested tabling this item, Council Member Thetford moved to Table this item; seconded by Council Member Teplitz.

Motion to Table this item was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg – 10;

Nays: Nichting - 1.

**NEW BUSINESS**

**COMMENTS Regarding a SUMMIT MEETING with WORKFORCE DEVELOPMENT Relating to FUTURE WORKFORCE SHORTAGE**

Council Member Morris discussed a summit meeting held with Workforce Development in which he along with Council Member Gulley, Council Member Grayeb, and Mayor Ransburg were present. He commended the work of the group and stressed the importance of beginning to address the projected workforce shortage in the City of Peoria in the future.

**(03-219) REQUEST to DIRECT THE STAFF to Petition to REZONE PROPERTY Located at WAR MEMORIAL, BIG HOLLOW, PEAR TREE DRIVE and PARTRIDGE DRIVE from a Class C-1 to a Class C-2 for a SPECIAL USE for a SHOPPING CENTER.**

Council Member Nichting moved to direct the Staff to enter into a Petition with Mr. Tom Camper and Mr. Dave Schielein to rezone property located at War Memorial, Big Hollow, Pear Tree Drive and Partridge Drive from a Class C-1 to a Class C-2 for a Special Use for a Shopping Center and begin working through the Zoning Commission; seconded by Council Member Ardis.

In discussion, it was determined that the Petitioners would be Mr. Camper, Mr. Schielein and the City of Peoria.

Council Member Sandberg expressed concern that a Special Use for a shopping center required traffic studies, drawings, economic development studies, and he indicated he did not feel the City should be involved in those processes because the City would also be the reviewer of fact. He suggested the two individuals petition the City on their own.

Council Member Nichting explained the entities involved were national chain-type establishments. He said each would have to go to their main offices to begin the process and extra time would be needed. He said the opportunity for development with the current tenant may be lost.

Discussion was held regarding whether or not this undertaking could be implemented without a vote.

Interim City Manager Bern Ewert said he felt a better approach would be to provide a report back regarding what position the City should take on this issue.

Council Member Sandberg moved for a substitute motion to request a report back regarding possible rezoning of property located at War Memorial, Big Hollow, Pear Tree Drive and Partridge Drive from a Class C-1 to a Class C-2 for a Special Use for a Shopping Center; seconded by Council Member Morris.



Substitute motion to request a report back regarding possible rezoning of property located at War Memorial, Big Hollow, Pear Tree Drive and Partridge Drive from a Class C-1 to a Class C-2 for a Special Use for a Shopping Center was approved by roll call vote.

Yeas: Ardis, Grayeb, Gulley, Morris, Nichting, Sandberg, Spears, Teplitz, Thetford, Turner, Mayor Ransburg - 11;

Nays: None.

#### **CITIZEN REQUESTS TO ADDRESS THE COUNCIL**

#### **(03-220) REQUEST from CITIZENS to Address the CITY COUNCIL Regarding VARIOUS ISSUES.**

Hearing no objections, Mayor Ransburg granted Privilege of the Floor to those who wished to address the Council.

Ms. June Moore, 1409 W. Millman, expressed concern about increased loitering problems, and other crimes encouraged by warm weather.

Council Member Gulley said he planned to discuss these topics with Interim City Manager Bern Ewert in the near future.

#### **EXECUTIVE SESSION**

It was determined an Executive Session was not needed.

#### **ADJOURNMENT**

Council Member Nichting moved to adjourn the Council Meeting; seconded by Council Member Turner.

Approved by viva voce vote.

The Council Meeting adjourned at 9:59 P.M.

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Mary L. Haynes, MMC  
City Clerk of Peoria, Illinois