

CITY OF DELAFIELD COMMON COUNCIL MINUTES

CALL COMMON COUNCIL MEETING TO ORDER

Mayor Schuman called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Absent

Mayor Phil Schuman
Jeff Krickhahn, Ald.
Beth Leonard, Ald.
Erv Sadowski, Ald.
Michele DeYoe, Ald.
Gerald MacDougall, Ald.
Lynn Morrison, Ald.
Ron Miskelley, Ald.
Matt Carlson, Administrator

Also Present:

Mark Sewell, City Attorney
Kelley Smith, Lake Country Reporter

ADJOURN INTO CLOSED SESSION PER §19.85(1)(G) CONFERRING WITH LEGAL COUNSEL FOR THE GOVERNMENTAL BODY WHO IS RENDERING ORAL OR WRITTEN ADVICE CONCERNING STRATEGY TO BE ADOPTED BY THE BODY WITH RESPECT TO LITIGATION IN WHICH IT IS OR IS LIKELY TO BECOME INVOLVED (RESPONSE TO DNR OBJECTING TO LAKE RESTORATION PERMIT APPLICATION).

E. SADOWSKI MOTIONED TO ADJOURN INTO CLOSED SESSION PER §19.85(1)(G) CONFERRING WITH LEGAL COUNSEL FOR THE GOVERNMENTAL BODY WHO IS RENDERING ORAL OR WRITTEN ADVICE CONCERNING STRATEGY TO BE ADOPTED BY THE BODY WITH RESPECT TO LITIGATION IN WHICH IT IS OR IS LIKELY TO BECOME INVOLVED (RESPONSE TO DNR OBJECTING TO LAKE RESTORATION PERMIT APPLICATION). J. KRICKHAHN SECONDED THE MOTION. K. SMITH OBJECTED TO THE CLOSED SESSION BECAUSE THE LAKE WELFARE COMMITTEE JUST ADJOURNED FROM THEIR MEETING. THERE IS NOTHING ON THIS MEETING NOTICE STATING THAT THE LAKE WELFARE COMMITTEE WOULD RECONVENE AND DO BUSINESS IN ANOTHER MEETING. HE DID NOT FEEL THAT THE INTENT OF THE CAVOT ON THE AGENDA OF OTHER COMMITTEES BEING PRESENT APPLIED TO CLOSED SESSIONS. IF THE LAKE WELFARE COMMITTEE WAS TO BE INCLUDED IN THE CLOSED SESSION,

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THE AGENDA SHOULD HAVE SO INDICATED. HE THOUGHT THE CLOSED SESSION VIOLATED THE SPIRIT OF THE LAW. IF THE CITY WAS ENGAGED IN OR ON THE VERGE OF LITIGATION, HE WOULD UNDERSTAND, BUT THE DNR HAS NOT FORMALLY REJECTED THE PROPOSAL. HE FELT THAT THIS DISCUSSION WOULD GO BEYOND STRATEGY AND FELT THAT THE CITIZENS HAVE A RIGHT TO HEAR THIS. ONCE LITIGATION IS DECIDED ON, THEN A CLOSED SESSION WOULD BE APPROPRIATE. HE DID NOT FEEL THAT THE LAKE WELFARE COMMITTEE'S INVOLVEMENT WAS PROPERLY NOTICED. ATTORNEY SEWELL STATED THAT THE CLOSED SESSION WITH THE ATTORNEY WAS TO DISCUSS POSSIBLE INVOLVEMENT IN LITIGATION. ATTORNEY SEWELL FELT THAT THE CLOSED SESSION WAS PROPERLY NOTICED. THE COMMON COUNCIL WAS HERE AND THE LAKE WELFARE COMMITTEE WAS INVITED INTO THE CLOSED SESSION TO HEAR THE PRESENTATION. HE BELIEVED IT WAS NOTICED PROPERLY AND BELIEVED IT WAS APPROPRIATE. J. KRICKHAHN WAS NOT AWARE THAT THE LAKE WELFARE COMMITTEE WOULD BE INVOLVED IN THE CLOSED SESSION AND THEREFORE WITHDREW HIS SECOND TO GO INTO CLOSED SESSION. E. SADOWSKI SECONDED THE MOTION. A ROLL CALL VOTE WAS TAKEN: J. KRICKHAHN, NAY; B. LEONARD, NAY; E. SADOWSKI, AYE; M. DE YOE, AYE; G. MAC DOUGALL, AYE; L. MORRISON, AYE; R. MISKELLEY, AYE. MOTION CARRIED. CLOSED SESSION WAS ENTERED INTO AT 6:08 P.M.

RECONVENE INTO OPEN SESSION

E. SADOWSKI MOTIONED TO RECONVENE INTO OPEN SESSION. R. MISKELLEY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING WAS RECONVENED AT 7:20 P.M.

ACTION OF ITEMS DISCUSSED IN CLOSED SESSION

No action was taken.

Items listed under the Consent Agenda are considered in one motion unless a Common Council Member requests that an item be removed from the Consent Agenda.

1. APPROVE MINUTES OF JUNE 18, 2007 COMMON COUNCIL MEETINGS.

R. MISKELLEY MOTIONED TO APPROVE THE MINUTES FROM THE JUNE 18, 2007 MEETING. J. KRICKHAHN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. CITIZEN'S COMMENTS FOR ITEMS NOT ON THE AGENDA

There were no citizens who wished to speak in regards to items not on the agenda.

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CITIZEN'S COMMENTS FOR ITEMS ON THE AGENDA

Gerry Holton, 485 Lillian Court – He congratulated Mayor Schuman on creating the Plan B Committee. He addressed the alderpersons and congratulated them for their choice of members for the Plan B Committee. A trust and confidence issue is being dealt with and he addressed raising the spending cap. He did not feel that this was a good time to deal with this issue. He suggested leaving the amount the same, but to add language referencing emergencies. “Don’t fix what ain’t broke.” Confidence and trust are being built, don’t ruin it.

Laura Schult, 935 Bahr Road – Was opposed to a change in the capital spending cap. The cap gives citizens a voice as to how their tax money is spent. She inquired about the search for a new city clerk/treasurer.

Brad Hoffman, 498 Lillian Court – Was in favor of retaining the existing Direct Legislation at \$1 million. The existing ordinance has served the community well. He felt that emergencies would be covered under insurance policies.

Larry Fehrm, 2805 Burries Road – Was in favor in keeping Ordinance 546 as is. He went out door-to-door several years ago collecting signatures for the \$1 million. Nothing has changed. He felt that if the voters were asked today, nothing would change. He urged keeping the direct legislation at \$1 million.

Linda Holton, 485 Lillian Court – She stated that the Council has made great strides in trust – changing the Direct Legislation now would undermine these efforts. She addressed the per capita debt. She encouraged leaving the cap where it is.

Michele Cler, 222 Johns Street – Was in favor in keeping Ordinance 546 in place as is. She stated that Ordinance 546 was put in place to provide limitations on new projects in the City. She was in favor of measures to provide for emergency situations, but stated that she needed to meet with City Staff to further gain further understanding on this issue. She was in favor of the \$1 million cap.

Mayor Schuman asked three times if there were any other citizens who wished to speak. There were none.

L. MORRISON MOTIONED TO CLOSE CITIZEN’S COMMENTS. E. SADOWSKI SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA

- a. RESOLUTION 2007-15 – RESOLUTION REGARDING CONDITIONAL USE PERMIT FOR OAKWOOD CHURCH DATED JUNE 14, 2006.

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E. SADOWSKI MOTIONED TO APPROVE. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. COMMITTEE REPORTS

a. LICENSES - APPROVAL OF THE FOLLOWING LICENSES

Two-year Bartender

Christopher Kuchmek, Oconomowoc; Andrew's Restaurant & Jazz Bar
Rena Manriquez; Pewaukee; The Delafield Hotel
Kathleen Hockwalt, Oconomowoc; Daybreak Mobil
Andrew Busalacchi, North Prairie; White Oak Grill
Kelly Rea, Oconomowoc; White Oak Grill
Nicole Wright, Dousman, Delafield Brewhaus

L. MORRISION MOTIONED TO APPROVE. R. MISKELLEY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

b. PLAN COMMISSION (MINUTES FROM JUNE 27, 2007)

1. RECOMMENDATION TO APPROVE SEASONAL OUTDOOR GRILLING AT **DAYBREAK MOBIL, TAX KEY 798.018**, 622 GENESEE STREET, DELAFIELD, AS A MINOR CHANGE TO THE CONDITIONAL USE PERMIT.

E. SADOWSKI MOTIONED TO APPROVE. J. KRICKHAHN SECONDED THE MOTION. L. MORRISION STATED THAT THE SIDE OF THE BUILDING HAS BEEN CLEARED OUT AND IT WILL BE SAFER. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. RECOMMENDATION TO APPROVE SEASONAL OUTDOOR GRILLING AT **DELAFIELD CONVENIENCE, TAX KEY 793.021.001**, 705 GENESEE STREET, DELAFIELD, AS A MINOR CHANGE TO THE CONDITIONAL USE PERMIT.

E. SADOWSKI MOTIONED TO APPROVE. L. MORRISION SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. RECOMMENDATION TO APPROVE THE SIP FOR A RETAIL STORE AT THE SHOPPES OF NAGAWAUKEE PHASE III, **TAX KEY 840.993.006, 3150 GOLF ROAD, DELAFIELD.**

This would change the SIP for a store in the Nagawaukee Shoppes. They had the building under the SIP approved that was going to

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be a bank, but no interest has been expressed for this type of institution. It will be changed to a retail store. The Plan Commission recommended approval of the SIP to allow any type of retail store other than a bank.

B. LEONARD MOTIONED TO APPROVE. J. KRICKHAHN SECONDED THE MOTION. A REPRESENTATIVE FROM TOLD DEVELOPMENT STATED THAT THIS WOULD BE A GENERAL RETAIL USE, NOT RESTAURANT OR OFFICE USE. THEY WOULD LIKE TO KEEP THE OPTION OF AN ATM AT THIS LOCATION, THERE WOULD NOT BE A DRIVE-THROUGH WINDOW, BUT A DRIVE-UP ATM. THE DEVELOPER IS SEEKING APPROVAL FOR RETAIL. L. MORRISON STATED THAT THE PLAN COMMISSION NEEDS TO REALLY TAKE A STRONG LOOK AT THE PARKING IN THIS AREA. SIX WERE IN FAVOR. E. SADOWSKI OPPOSED. MOTION CARRIED.

4. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS

No report.

c. LAKE WELFARE COMMITTEE

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

Two members of the Lake Welfare Committee (LWC) met with the DNR on June 20th. The LWC Annual meeting was held on June 20, 2007 and was well attended.

d. PARK AND RECREATION COMMISSION (MINUTES FROM JUNE 25, 2007)

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

At the last meeting the committee members went through the annual park inventories. These will be submitted to T. Hafner. Work was started on budget items. E. Sadowski reported that the building (warming house) at St. John's Park is always locked. T. Hafner stated that it operates on a timed lock and should be open during park hours. T. Hafner will look into this issue.

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e. PUBLIC WORKS COMMITTEE

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

No report. The next meeting will be held on July 11, 2007 at 6:30 p.m.

f. DEL-HART COMMISSION

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

G. Mac Dougall came to the last Del-Hart meeting and discussed space needs for the City of Delafield. He approached Del-Hart about the possibility of leasing land for cold storage buildings. Discussions are ongoing.

g. POLICE AND FIRE COMMISSION

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

No report.

h. LIBRARY BOARD

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

A meeting was held this last Saturday to discuss the upcoming Plan B Committee meeting at 7 p.m. on July 5, 2007. The next regular meeting will be held on July 10, 2007 at 7 p.m. He invited everyone to Delafield Days this coming weekend.

i. FINANCE ADVISORY BOARD

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

The quarterly meeting will be held on July 24, 2007 at 5 p.m. in the Council Chambers.

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j. BOARD OF ZONING

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

The next meeting will be held on July 12, 2007 at 7:30 p.m.

k. PROMOTIONAL AND TOURISM COMMITTEE (MINUTES FROM JUNE 5, 2007)

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

The next meeting will be held on Tuesday, July 03, 2007 at 7 a.m. at the Fish Hatchery.

l. PLAN B SPACE STUDY COMMITTEE

1. REPORT ON DISCUSSION AND ACTION TAKEN AT PREVIOUS MEETINGS, FUTURE AGENDA ITEMS AND UPCOMING SCHEDULED MEETINGS.

The Plan B Space Study Committee met on June 29, 2007. M. Carlson and Robin Flory presented a summary of discussions that have taken place with St. John's. The expected outcome would be a joint library. The St. John's/Delafield Library would be located behind the Delafield Post Office. Legal aspects were reviewed; the libraries would share space, but would be run separately. The Plan B Committee continues to work towards their goals. Two library scenarios are being considered. Building/leasing/owning options for the library are being explored. The Safety Campus is progressing and details are being fine tuned. Cold/remote storage locations are being worked on. This is a work in progress. The Committee is trying to get the best solution to present to the Council. He stated that all committee members are working as quickly as possible. The next meeting will be held on July 5, 2007 at 7 p.m. with a meeting also being scheduled for July 18, 2007 at 11 a.m.

5. OLD BUSINESS

- a. DISCUSSION REGARDING CAPITAL PROJECT REFERENDUM REQUIREMENT.

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R. Miskelley had previously asked for the language regarding protection against emergencies and direct assessments; M. Carlson will provide this language to the Alderpersons tomorrow morning. Included in the commissioner's packets were the results of what other communities have done. It was clarified that there was no time limit for action after August 1. Mayor Schuman addressed the trust issues and stated that it goes both ways. He felt that the test for the referendum requirement should be whether or not it is on the real estate taxes; he felt that if it were a direct assessment, it should not be. B. Leonard disagreed. General discussion took place. M. Carlson gave an example that could happen in the future, i.e. a damaged storm sewer line that needs to be replaced using special assessments. He clarified that the \$1 million has not stopped the City. G. Mac Dougall stated that many constituents look at this as a security blanket. M. Carlson stated that this cap does not have anything to do with operating the City. E. Sadowski reviewed the email with the eight current cities with direct legislation. There are very few municipalities in the League of Municipalities that have Direct Legislation. He would like anything that Plan B Committee comes up with to be on a referendum. This will be put on a future agenda.

b. DISCUSSION AND EXPLANATION OF ZONING AND BUILDING RESTRICTIONS IN FLOODPLAIN AREA (FEMA REPORT) AND FEMA FLOODPLAIN APPEAL STATUS

M. Carlson stated that the city's municipal code specifically addressed buildings in the floodplain (Chapter 20). If your property is in the floodplain you can build on it and can "flood proof" the construction. Nonconforming uses as a result of a flood plain mapping change are also addressed in Chapter 20. Even with the City appealing, each individual homeowner also needs to appeal. The City would serve as "clearing house" for individual owners to file the appeal. This information is provided on the City's website under the FEMA mapping issue. There is a short time frame for the appeal. The City would like to receive the individual appeals by July 6, 2007 in order to submit them in a timely manner. B. Leonard would like the deadline to be extended. She could not find the letter on the website today. M. Carlson stated that if the letters come in after the 6th, the City would still forward the letters.

T. Hafner stated that the DNR has indicated that July 12 is the firm deadline. The City would like the appeals by July 6, 2007 in order to meet this deadline. Mayor Schuman has been in contact with D. Vrakas and it looks as if the County will also appeal the FEMA Report.

The City's FEMA Appeal has been submitted. A copy of the Appeal will be made available in the City Library.

Mayor Schuman stated that in summary, the DNR's modeling assumes that the gates of the dam do not open/are inoperable. It makes no

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difference whether or not the new dam was in or not, they (the DNR) just assumed it didn't operate. The City Engineer contacted the US Army Corp of Engineers and they indicated that the DNR is not using the modeling that they favor. T. Hafner stated that there are some concerns about the methodology used as far as storage of flood waters within the lake that was neglected by the DNR. The DNR modeled the entire lake, including St. John's Bay as a lake, whereas when you look at the zoning, St. John's is a flowage and operates very differently than a lake. There is an issue with regards to carrying the flow from the dam down to the culverts where the flows should have been reduced following the dam. There is also the historical perspective. The City has good information from heavy flooding events that occurred in 1997 and 1998. The calibration of the DNR model doesn't seem to come close to what is seen in past historical events. The City made a comparison of the City's proposed model with those historical events and the City comes closer with its model to predicting the actual extent of flooding based on the amount of rain received during those storms. Mayor Schuman asked if the DNR's regulations require them to consider past history. T. Hafner confirmed that that was in the Statutes.

c. UPDATE ON DEER MANAGEMENT WORKSHOP HELD ON JUNE 26, 2007

Nine people attended the workshop. A presentation took place with documentation and photographic evidence. A DNR representative was in attendance at the meeting and conducted a presentation along with possible remediation. The DNR has a funding pool that the City could apply for to be used for abatement. The method is decided on by the community. Discussion took place regarding a comprehensive wildlife plan - this would include methods to control white tailed deer and Canadian geese. However, M. DeYoe stated that she just discovered tonight that the City is ineligible to apply for the grant; she will contact the DNR to find out why.

6. MAYOR'S REPORT

a. RESIGNATION LETTER FROM FINANCE ADVISORY BOARD MEMBER JOHN GEHLHAART.

Due to a move out of the City, J. Gehlhaart has resigned from the Finance Advisory Board.

b. CERTIFICATE OF APPRECIATION FROM THE STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES TO THE CITY OF DELAFIELD FOR THE PRESERVATION OF THE FISH HATCHERY (CHENTIS-KRUEGER COMMUNITY SENIOR CENTER)

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A plaque from the DNR was given to the City for the Fish Hatchery Building.

c. OTHER

E. Sadowski was thanked for his work on the fireworks. E. Sadowski reviewed significant contributors and individuals were instrumental in the Fireworks.

Other activities that Mayor Schuman participated in or will participate in include:

- Spoke at the Lake Welfare Committee Annual Lake Awareness Meeting
- Participated in the Dunk Tank
- Delafield Days this coming weekend
- Attended FEMA meetings

7. NEW BUSINESS

- a. RESOLUTION 2007-16 – RESOLUTION DETERMINING TO BORROW \$2,455,000 AND TO ISSUE GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2007-A, OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN IN SUCH AMOUNT, PROVIDING DETAILS, PRESCRIBING THE FORM OF NOTE, AWARDING THE NOTES TO THE BEST BIDDER, AND LEVYING TAXES.

The bid opening took place this morning. The results of the bid opening were distributed to the Commissioners and a Resolution to award the sale was offered. Phil Kossen from Ehlers and Associates was present at the meeting. The process was reviewed. A conference call with Moody's took place last week. The City was awarded an upgrade to a Double A3 rating from Moody. The report on the sales results was reviewed. The low bid was UMB Bank from Kansas City, Missouri at 4.286%. Other bids were also reviewed. He was pleased with the number of bids received and the overall outcome.

E. SADOWSKI MOTIONED TO APPROVE RESOLUTION 2007-16 – RESOLUTION DETERMINING TO BORROW \$2,445,000 AND TO ISSUE GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2007-A, OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN IN SUCH AMOUNT, PROVIDING DETAILS, PRESCRIBING THE FORM OF NOTE, AWARDING THE NOTES TO THE BEST BIDDER, AND LEVYING TAXES. L. MORRISION SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

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8. ADMINISTRATOR'S REPORT

Copies of the Survey Results from Waukesha County Smart Growth were distributed to the Commissioners.

9. CLERK'S REPORT

a. TEMPORARY LIQUOR LICENSES ISSUED:

Delafield American Legion Post (Women's Softball tournament) July 6-8, 2007
St. Joan of Arc (church festival) July 20-21, 2007
Chamber of Commerce (Delafield Days) July 6-7, 2007

10. FINANCIAL REPORT

a. APPROVE VOUCHER LIST

E. SADOWSKI MOTIONED TO APPROVE. B. LEONARD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

11. CORRESPONDENCE

a. Letter to Alderman Ron Miskelley from Larry and Alyce Schouten dated June 2, 2007 regarding a spending cap on capital expenditures in the City of Delafield.

12. ADJOURNMENT

E. SADOWSKI MOTIONED TO ADJOURN FROM THE MEETING. M. DE YOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 8:53 P.M.

Minutes Prepared By:

Accurate Business Communications, Inc.