

## **WOODWAY CITY COUNCIL MINUTES**

July 11, 2022 – 5:30 p.m.

The Woodway City Council met in a regular meeting in the Donald J. Baker Council Chambers at Woodway City Hall, 922 Estates Drive, Woodway, Texas, on Monday, July 11, 2022, at 5:30 p.m. The following individuals were in attendance:

Mayor:	Absent
Mayor Pro Tem:	David Mercer
Councilmembers:	David Russell, Storey Cook, Gayle Avant, Janell Gilman and John Williams
City Manager:	Shawn Oubre
City Secretary:	Donna Barkley
City Staff:	Lenny Cabellero, William Klump, Brenda Hernandez, Bret Crook and Khalil El-Halabi
Contract Staff:	Amy DeLong, City Attorney
Registered Guests:	Lori Whitsell, 431 Woodfall Dr., Woodway David & Cheryl Keyston, 400 Shadow Mountain Drive, Woodway Janine Woodward, 530 Mountain Lake Dr., Woodway Michael Rolfsen, 2612 Eldridge, Waco, TX Mike Meadows, 211 Oak Creek Circle, Waco, TX Randy Reid, 275 Settlers Creek Trail Sterling Thompson, 2416 Columbus Ave., Waco, TX Patti Shelby, 716 Wedgewood Dr., Woodway Gary Gilman, 420 Broughton Dr., Woodway Karenn Malvanti, 800 Fairway Rd., Woodway Will Phipps Nancy Goebel, 14009 Horseshoe Circle, Woodway

### **CALL MEETING TO ORDER**

Mayor Pro Tem Mercer called the meeting to order at 5:31 p.m.

### **INVOCATION**

#### **1. INVOCATION**

Councilmember Cook provided the invocation.

### **ORGANIZATION OF THE CITY COUNCIL**

#### **2. CANVASS RESULTS OF THE JUNE 28, 2022, RUNOFF ELECTION**

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Mayor Pro Tem Mercer as presiding officer of the canvassing authority compared the Official Cumulative Report from McLennan County along with Resolution R-22-15, declaring the results of the June 28, 2022 runoff election. All of the figures were found to correspond, and Mayor Pro Tem Mercer stated that the official tabulation of votes was a true and correct reflection of the votes cast. The results of the runoff election held June 28, 2022 are confirmed with the following results:

David G. Henry, Sr. ....	508
Amine Qourzal .....	588

### 3. DISCUSSION AND CONSIDER ACTION ON RESOLUTION R-22-15, DECLARING THE RESULTS OF THE JUNE 28, 2022, RUNOFF ELECTION

Councilmember Gilman moved to adopt Resolution R-22-15, declaring that the returns had been canvassed for the June 28, 2022, runoff election, and that Amine Qourzal had been elected to office. Councilmember Williams seconded, and the motion passed unanimously by the Councilmembers present.

## **PRESENTATIONS**

### 4. PRESENTATION OF YARD OF THE MONTH FOR JULY

Mayor Pro Tem Mercer announced the Yard of the Month award for July being the Sampson Family at 908 Ivy Ann. The Sampson Family were not in attendance.

### 5. QUARTERLY PRESENTATION – PUBLIC SAFETY DEPARTMENT

Chief Crook presented the quarterly report. This is the quarterly comparison statistics for April 1 – June 30, 2021 and April 1 – June 30, 2022. He discussed statistics for Police Calls for Service, Fire/EMS Calls for Service, VCO Calls for Service, Traffic Stops, Citations, Accidents, Arrests, Online Solicitations, Thefts, Assaults and Weapon Violations.

The top four offenses during this time period in 2021 were drug/narcotic violations, all other larceny, Drug/Narcotic Violation, Destruction/Damage/Vandalized and Driving Under Influence. The top offenses during this time period in 2022 were the same as in 2021. Questions were answered.

## **ITEMS RELATED TO PROPOSED 2022/2023 ANNUAL BUDGET AND PROPOSED 2022 AD VALOREM TAX RATE**

### 6 FOLLOW-UP DISCUSSION ON THE PROPOSED BUDGET AND TAX RATE

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Mayor Pro Tem Mercer called for a motion open this item for discussion. Council member Cook moved to open this item for discussion and Councilmember Williams seconded.

Dr. Oubre provided that we sent to the County in a timely manner the notice needed to increase the 65 and older exemption from \$10,000 to \$20,000 and we added the exemption for the disabled for \$20,000. The County has acknowledged this so when they send the certified tax roll, that calculation will be included.

That calculation will also be used to set the No New Tax Rate, the Revenue Cap Rate and the Voter Approval Tax Rate.

He also stated that we are looking at scheduling a Budget Workshop on August 8<sup>th</sup> earlier in the day before the scheduled Council meeting.

### **PUBLIC HEARINGS AND RELATED ACTION**

7.       A.       PUBLIC HEARING ON APPLICATION TO DEVELOP AND SITE DEVELOPMENT IN A PLANNED DISTRICT (PHARMACY SUPPLIER) LOT 6, BLOCK 1, OF THE BUSH ADDITION TO THE CITY OF WOODWAY, MCLENNAN COUNTY, TEXAS, LOCATED AT 8801-D WOODWAY DRIVE

Mayor Pro Tem Mercer opened the public hearing.

Mr. Randy Reid, Realtor, and also the managing member of the LLC that owns this property spoke in favor. They have a tenant, who has signed a lease, that is requiring some additional improvements to the building. This is a pharmacy that was created by a company that owns about fifty nursing homes. The pharmacy is a business that was developed for the nursing homes. It is basically a private enterprise, not really open to the public. That could change in the future, but right now they have a great business model and they need more space.

He also requested an exemption with regards to the required planting of trees on the back fence of the property and some on the side. The back fence is 193 feet from the back of our building and this would require approximately 300 feet of water lines to plant a short row of trees. There is a 10 ft. easement with a sewer line that runs along the back fence. He does have a letter from a representative of the owner of the property behind his property, Gary Tulley, stating they don't want any additional trees since there are already a lot of trees. The fence is a privacy fence over 6 ft. tall. He feels that the requested exception is very reasonable.

With no one else to speak in favor or in opposition, Mayor Pro Tem Mercer closed the public hearing.

Dr. Oubre provided additional information along with an aerial view of the property on a PowerPoint presentation. Planning and Zoning approved the Site Development Plan with the exception.

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**B. DISCUSSION AND CONSIDER ACTION ON APPLICATION TO DEVELOP IN A PLANNED DISTRICT (PHARMACY SUPPLIER) LOT 6, BLOCK 1, OF THE BUSH ADDITION TO THE CITY OF WOODWAY, MCLENNAN COUNTY, TEXAS, LOCATED AT 8801-D WOODWAY DRIVE**

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Cook moved to open this item for discussion and Councilmember Gilman seconded.

Mr. Reid stated that at the Planning & Zoning meeting, the applicant had agreed to do the berm. The only exception they are requesting is for the trees.

Councilmember Russell moved to approve the Application to Develop in a Planned District (Pharmacy Supplier) Lot 6, Block 1, of the Bush Addition to the City of Woodway, McLennan County, Texas, located at 8801-D Woodway Drive. Councilmember Avant seconded and the motion passed by a five to one vote in favor with Mayor Pro Tem Mercer voting against. Mayor Pro Tem Mercer voted Nay to the process not the application.

**C. DISCUSSION AND CONSIDER ACTION ON SITE DEVELOPMENT PLAN IN A PLANNED DISTRICT (PHARMACY SUPPLIER) LOT 6, BLOCK 1, OF THE BUSH ADDITION TO THE CITY OF WOODWAY, MCLENNAN COUNTY, TEXAS, LOCATED AT 8801-D WOODWAY DRIVE**

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Avant seconded.

Dr. Oubre reiterated that if the Council wants to consider disallowing the requirement of the Ordinance to place the trees, the Applicant says the berm will be placed on Highway 84, and you will need a super majority vote to override the recommendation of the Planning & Zoning Commission.

There was a brief discussion as to why the Planning & Zoning Commission denied this exception.

There was also a lengthy discussion regarding the requested exception.

Councilmember Cook moved to approve the Site Development Plan in a Planned District with the requested exception to the tree requirement. Councilmember Gilman seconded, and the motion passed unanimously by the Councilmembers present.

**8. A. PUBLIC HEARING ON APPLICATION FOR CHANGE IN ZONING CLASSIFICATION OF LOT 1, BLOCK 1 OF THE EYE WACO REALTY ADDITION, LOCATED IN THE MOSES ALLEN SURVEY ABSTRACT 48, MCLENNAN COUNTY, TEXAS AND BEING ALL OF A CALLED 3.16 ACRE TRACT OF LAND DESCRIBED IN A DEED TO TOM G. SALOME AND BOB R. DAVIS, RECORDED UNDER MCLENNAN COUNTY**

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### CLERKS DOCUMENT 2004021093 OF THE OFFICIAL PUBLIC RECORDS OF MCLENNAN COUNTY, TEXAS, FROM "R-1" SINGLE FAMILY RESIDENTIAL TO "O-P" PLANNED OFFICE PARK

Mayor Pro Tem Mercer opened the public hearing.

Mike Meadows, with Kelly Realtors, represents the gentleman that currently has the property under contract to purchase. In order for him to use this property he needs to have the zoning changed and to replat the lot. Dr. Rolsten is here and he is the gentleman seeking to purchase the property. He is looking to find a home for his business. He is an Ophthalmologist currently located in Waco.

The rezoning request is only for the front portion of the property. They will leave the back portion as residential. When they came before Planning & Zoning, they discussed their plans with the neighbors. There were three neighbors that came to the Planning & Zoning meeting and spoke in favor of what we are proposing to do. Two of those neighbors were the adjacent property owners.

With no one else to speak in favor or in opposition, Mayor Pro Tem Mercer closed the public hearing.

- B. DISCUSSION AND CONSIDER ACTION ON AMENDING THE FUTURE LAND USE PLAN OF LOT 1, BLOCK 1 OF THE EYE WACO REALTY ADDITION, LOCATED IN THE MOSES ALLEN SURVEY ABSTRACT 48, MCLENNAN COUNTY, TEXAS AND BEING ALL OF A CALLED 3.16 ACRE TRACT OF LAND DESCRIBED IN A DEED TO TOM G. SALOME AND BOB R. DAVIS, RECORDED UNDER MCLENNAN COUNTY CLERKS DOCUMENT 2004021093 OF THE OFFICIAL PUBLIC RECORDS OF MCLENNAN COUNTY, TEXAS, FROM "R-1" SINGLE FAMILY RESIDENTIAL TO "O-P" PLANNED OFFICE PARK

Dr. Oubre provided that this item is to take action on the Future Land Use Plan. The current Future Land Use Plan needs to be changed from "P-C" Planned Commercial to "O-P" Planned Office Park on the front portion of the property.

The first time this went to Planning & Zoning, there was a lot of discussion from the surrounding property owners about it all going to Planned Office Park. Mr. Meadows and Dr. Rolsten listened very intently, came back and decided to turn this into two lots, meet and address the concerns of the neighborhood to leave the back section to Single Family Residential. Every concern was addressed.

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Cook moved to open this item for discussion and Councilmember Williams seconded.

Mayor Pro Tem Mercer further clarified that this item is specifically related to changing the Future Land Use Plan. The actual zoning change will be addressed in the next item. There was no further discussion.

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Councilmember Cook moved to approve amending the City of Woodway Future Land Use Plan of Lot 1, Block 1 of the Eye Waco Realty Addition, located in the Moses Allen Survey Abstract 48, McLennan County, Texas and being all of a called 3.16 acre tract of land described in a Deed to Tom G. Salome and Bob R. Davis, recorded under McLennan County Clerks Document 2004021093 of the Official Public Records of McLennan County, Texas, from "P-C" Planned Commercial to "O-P" Planned Office Park. Councilmember Russell seconded and the motion passed unanimously by the Councilmembers present.

- C. DISCUSSION AND CONSIDER ACTION ON ORDINANCE 22-04, AMENDING THE ZONING CLASSIFICATION OF LOT 1, BLOCK 1 OF THE EYE WACO REALTY ADDITION, LOCATED IN THE MOSES ALLEN SURVEY ABSTRACT 48, MCLENNAN COUNTY, TEXAS AND BEING ALL OF A CALLED 3.16 ACRE TRACT OF LAND DESCRIBED IN A DEED TO TOM G. SALOME AND BOB R. DAVIS, RECORDED UNDER MCLENNAN COUNTY CLERKS DOCUMENT 2004021093 OF THE OFFICIAL PUBLIC RECORDS OF MCLENNAN COUNTY, TEXAS, FROM "R-1" SINGLE FAMILY RESIDENTIAL TO "O-P" PLANNED OFFICE PARK

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Avant seconded.

Mayor Pro Tem Mercer stated that this agenda item will be addressing the zoning change of the property in question.

There was a brief discussion.

Councilmember Gilman moved to adopt Ordinance 22-04, amending the zoning classification of Lot 1, Block 1 of the Eye Waco Realty Addition, located in the Moses Allen Survey Abstract 48, McLennan County, Texas and being all of a called 3.16 acre tract of land described in a Deed to Tom G. Salome and Bob R. Davis, recorded under McLennan County Clerks Document 2004021093 of the Official Public Records of McLennan County, Texas, from "R-1" Single Family Residential to "O-P" Planned Office Park. Councilmember Cook seconded, Mayor Pro Tem Mercer read aloud the caption of the ordinance as required. The motion passed unanimously by the Councilmembers present.

### **DISCUSSION AND CONSIDER ACTION**

9. DISCUSSION AND CONSIDER ACTION ON AWARD OF ANNUAL AUDIT SERVICES (SEALED PROPOSAL #22-02)

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Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Avant seconded.

Dr. Oubre provided that this item is for the auditing services we do every year to have a third party come and look at how the City staff as well as Council manages the funds, spends the funds and properly follows the purchasing procedures. For many years we have been using a firm that you are familiar with, JRBT. Dr. Oubre is of the opinion that auditing services should be rotated every five years, and this year the contract was expiring. We did request proposals for auditing services. We received two qualifying proposals, with one being from Brooks Watson & Co., and the second being from Patillo Brown & Hill. This is for a three-year period with two one-year extensions beginning this September. We put together an internal committee, myself, Dr. Caballero and Ms. Hernandez. The Committee is recommending to you the approval of Brooks Watson & Co.

There was a brief discussion.

Councilmember Williams moved to award the Sealed Proposal #22-02, Annual Financial Audit Services, to Brooks Watson & Co., PLLC and authorize the City Manager to execute the engagement letter for audit services for up to a five-year period (three years, plus two one-year extensions) to commence September 2022. Councilmember Gilman seconded and the motion passed unanimously by the Councilmembers present.

### 10. DISCUSSION AND CONSIDER ACTION ON AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH A&G IRRIGATION, FOR THE INSTALLATION OF IRRIGATION AT THE CARLEEN BRIGHT ARBORETUM

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Cook seconded.

Dr. Oubre provided information regarding the issues with irrigation at the Carleen Bright Arboretum. The Council has addressed their concerns about the timeline of the reopening of the Arboretum. This is one way to expedite that timeline by awarding this contract. However, if you do, you may waive this argument if we get into litigation with S.J. Louis or we try to get reimbursed for this from S.J. Louis, because it is not giving them the opportunity, although, one could argue they have had many opportunities, but it does not follow the letter of the contract. Dr. Oubre, like the City Council would like to get the Arboretum open, and it can't be opened without irrigation. We have received three quotes from three local vendors. This quote from A&G Irrigation was the lowest and seems to cover everything. I just want you to be aware that we might be removing this argument as a reimbursable as we get into further negotiations or litigation with S.J. Louis.

There was a brief discussion.

Councilmember Avant moved to authorize the City Manager to enter into an agreement with A&G

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Irrigation, for the installation of irrigation at the Carleen Bright Arboretum grounds. Councilmember Gilman seconded, and the motion passed with the Councilmembers present.

11. DISCUSSION AND CONSIDER ACTION ON ACCEPTANCE OF APPLICATION TO DEVELOP IN A PLANNED DISTRICT (GENERAL RETAIL) LOT 1, BLOCK C, PANTHER TERRACE ADDITION TO THE CITY OF WOODWAY, MCLENNAN COUNTY, TEXAS, LOCATED AT 135 ESTATES DRIVE

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Cook seconded.

Dr. Oubre provided that this is just for acceptance at this point. Most of you are familiar with this location, as it is currently operating as Woodway Automotive on Estates Drive. Mr. Phipps, the Applicant, is here to answer any questions.

Councilmember Williams moved to accept the Application to Develop in a Planned District (General Retail), Lot 1, Block C, Panther Terrace Addition to the City of Woodway, McLennan County, Texas, located at 135 Estates Drive. Councilmember Cook seconded, and the motion passed by a five to one vote. Mayor Pro Tem Mercer voted Nay to the process not the application.

### **CONSENT AGENDA**

*The Consent Agenda consists of non-controversial, routine and budgeted items which require no public hearing. The Consent Agenda is subject to being approved with one single motion; however, the Mayor or any City Councilmember may remove any item from the Consent Agenda for separate discussion and consideration.*

12.
  - A. DISCUSSION AND CONSIDER ACTION ON MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD JUNE 13, 2022, AT 5:30 P.M.
  - B. DISCUSSION AND CONSIDER ACTION ON MINUTES OF THE SPECIAL CITY COUNCIL MEETING HELD JUNE 27, 2022, AT 12:00 P.M.
  - C. DISCUSSION AND CONSIDER ACTION ON REQUEST FROM JOHN WILLIAMS FOR THE RENEWAL OF A SPECIAL USE PERMIT FOR A HOME OCCUPATION (MAIL ORDER BUSINESS - BOY SCOUT MEMORABILIA) AT 204 TAOS, WOODWAY, TEXAS
  - D. DISCUSSION AND CONSIDER ACTION ON EMERGENCY REPAIRS TO BOSQUE WELL



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Dr. Oubre provided information on Items C & D. No items were removed for individual discussion.

### 13. DISCUSSION AND CONSIDER ACTION ON CONSENT AGENDA

Councilmember Cook moved that the Consent Agenda be approved as follows:

- A. Approve the minutes of the regular City Council meeting held June 13, 2022 at 5:30 p.m.
- B. Approve the minutes of the special City Council meeting held June 27, 2022, at 12 p.m.
- C. Approve request from John Williams for the renewal of a special use permit for a home occupation (mail order business – Boy Scout memorabilia) at 204 Taos Drive, Woodway, Texas
- D. Approve the expenditure in the amount of \$128,505.00 (Jurgensen Pump, LLC) for emergency repairs to Bosque Well

Councilmember Gilman seconded the motion, and the motion passed unanimously by the Councilmembers present.

## **VISITORS**

### 14. HEAR VISITORS

The following Woodway citizens were in attendance and made comments:

- Diana Palach, 808 Forest Oaks, regarding the placement of the “Hear Visitors” on the agenda
- Karenna Malavanti, 800 Fairway Rd, regarding the City’s Dangerous Dog Ordinance

## **EXECUTIVE SESSION**

- 15. NOTICE IS HEREBY GIVEN THAT A CLOSED MEETING WILL BE HELD PURSUANT TO *SECTION 551.087 OF THE TEXAS GOVERNMENT CODE (V.C.T.A.)* TO DISCUSS OR DELIBERATE REGARDING COMMERCIAL OR FINANCIAL INFORMATION THAT THE GOVERNMENTAL BODY HAS RECEIVED FROM A BUSINESS PROSPECT THAT THE GOVERNMENTAL BODY SEEKS TO HAVE LOCATE, STAY, OR EXPAND IN OR NEAR THE TERRITORY OF THE GOVERNMENTAL BODY AND WITH WHICH THE GOVERNMENTAL BODY IS CONDUCTING ECONOMIC DEVELOPMENT NEGOTIATIONS
- 16. NOTICE IS HEREBY GIVEN THAT A CLOSED MEETING WILL BE HELD PURSUANT TO

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*SECTION 551.072 OF THE TEXAS GOVERNMENT CODE (V.C.T.A.) TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY IF DELIBERATION IN AN OPEN MEETING WOULD HAVE A DETRIMENTAL EFFECT ON THE POSITION OF THE GOVERNMENTAL BODY IN NEGOTIATIONS WITH A THIRD PERSON*

Mayor Pro Tem Mercer closed the open meeting at 6:44 p.m.

Mayor Pro Tem Mercer reconvened the open meeting at 7:26 p.m.

### **OPEN SESSION AND RELATED ACTION**

17. DISCUSSION AND CONSIDER ACTION ON AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROGRAM PROJECT AGREEMENT UNDER THE CITY OF WOODWAY'S ADOPTED CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM ENTERED INTO BETWEEN APPLICANT AND THE CITY OF WOODWAY

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Cook seconded.

Dr. Oubre provided that as was discussed in executive session, this will authorize the staff to draw up documents for your review and consideration of approval at a later date, with the terms as discussed in executive session with the applicant.

Councilmember Russell moved to authorize the City Manager to authorize the City Attorney to negotiate the Program Project Agreement and bring back to City Council for review and approval. Councilmember Gilman seconded and the motion passed unanimously by the Councilmembers present.

18. DISCUSSION AND CONSIDER ACTION ON AUTHORIZING STAFF TO LIST CITY OWNED PROPERTY LOCATED AT 1216 WOOD VALLEY WITH A LOCAL REALTOR

Mayor Pro Tem Mercer called for a motion to discuss. Councilmember Russell moved to open this item for discussion and Councilmember Avant seconded.

Dr. Oubre provided that this is property the City owns and wants to see if the market is conducive to finding a buyer for it. We have an appraisal that is about ten or twelve months old. In the past you have listed these properties for sale with the local realtor, Camille Johnson who is in the City of Woodway.

Councilmember Russell moved to authorize the City Manager to list the property at 1216 Wood Valley with realtor Camille Johnson. Councilmember Gilman seconded and the motion passed unanimously by the Councilmembers present.

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### **CITY MANAGER AND CITY COUNCIL REPORTS**

19. CITY MANAGER’S REPORT (BRIEFINGS OR UPDATES MAY BE PROVIDED REGARDING CITY SERVICES, ADMINISTRATIVE/PERSONNEL MATTERS, REAL ESTATE/DEVELOPMENT, INFRASTRUCTURE, EVENTS, REGULATIONS, COMMUNITY AND INTERGOVERNMENTAL RELATIONS ISSUES)

Dr. Oubre provided:

- TML Conference in October in San Antonio
- City’s Drought Contingency Plan, Stage 2 beginning Friday, July 15<sup>th</sup> at 12 a.m.

20. CITY COUNCIL REPORTS (BRIEFINGS OR UPDATES MAY BE PROVIDED REGARDING CITY COUNCIL COMMITTEE AND LIAISON ASSIGNMENTS)

No reports at this time.

### **CLOSING ITEMS**

21. CONSIDER ACTION ON ADJOURNMENT

Councilmember Russell moved to adjourn the meeting. Councilmember Avant seconded the motion, and the motion passed unanimously by the Councilmembers present. The meeting adjourned at 7:35 p.m.

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Donna Barkley, City Secretary

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Amine Qourzal, Mayor