

**ONTARIO CITY COUNCIL MEETING MINUTES**  
**June 6, 2016**

The regular meeting of the Ontario City Council was called to order by Mayor Ronald Verini at 7:00 p.m. on Monday, June 6, 2016, in the Council Chambers of City Hall. Council members present were Ronald Verini, Norm Crume, Tessa Winebarger, Betty Carter, Marty Justus, Larry Tuttle, and Charlotte Fugate.

Members of staff present were Adam Brown, Tori Barnett, Larry Sullivan, Kari Ott, Dan Cummings, Cal Kunz, Steve Mallea, Cliff Leeper, Betsy Roberts, and Anita Zink.

The meeting was recorded and copies are available at City Hall.

Tessa Winebarger led everyone in the Pledge of Allegiance.

**AGENDA**

Mayor Verini stated that there were a few changes to the Agenda that evening. Under presentations, following the swearing in of the new City Manager and the new Police Chief, Megan Cook would be speaking on behalf of the Friends of the Aquatic Center. Also, under New Business, they would eliminate item "B", as that was addressed at the Thursday work session; then add in a new "C", for potential action on rescinding the enhanced fees for the MCOA building permit.

Original item "B" under New Business, Microclor Cell Purchase-Water Department: Request for Earlier CIP Purchase, was acted upon at the Thursday, June 2, 2016 work session.

Charlotte Fugate moved, seconded by Tessa Winebarger, to adopt the adjusted Agenda as amended. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

**CONSENT AGENDA**

Betty Carter moved, seconded by Norm Crume, to adopt Consent Agenda items A) Minutes of Regular Meeting of May 16, 2016; B) Minutes of Special Meeting of July 14, 2015; and item C) Approval of the Bills. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

Original item "C" from the Consent Agenda, listed as ROW Request – Wooden Pergola at Malheur County on Aging, was acted on at the Thursday, June 2, 2016 work session.

**PRESENTATIONS**

City Manager Adam Brown and Police Chief Cal Kunz were sworn into office by City Recorder Tori Barnett. The Mayor, Council, staff, and those in attendance at the meeting welcomed the two new members of the City of Ontario staff.

**PUBLIC COMMENT**

*Megan Cook, Friends of the Aquatic Center representative, stated: We are a small group of citizens trying to get input from the community and the surrounding area as to how they would use the Aquatic Center if it were open or if it were usable. We are having an event this Saturday, June 11<sup>th</sup>, from 11am-2pm. The event will start at the Aquatic Center. It is a free family event. We have had tons of support from local businesses, who donated items such as Burger West will be doing hot dogs and ice cream sandwiches. We will have it on the street of SW 3<sup>rd</sup> Avenue. We have asked the Public Works Department if we could get the road closed, and also if they would waive the fees. The event has been funded by Ford Family Foundation who gave us a \$2,500 grant in order for us to be able to advertise it and provide it as a free family event. We are asking that the street be closed all the way down to the Red Apple entrance. We will also be using the field next to the Boys and Girls Club. The school district allowed us to use and field and waved the fees as well. The Fire Department will be manning the fire hydrant which will create a spray type structure. Off of that, we will also be having a simulated splash pad. We will be asking people to fill out a quick five question survey telling us how they would use the facilities, when they would use it, and what services they would like to see offered if it were open. Just wanted to let you know about the event. I do have a dunk tank signup sheet if any of you would be willing to get dunked. The Mayor has volunteered, so I'm looking for a few more public figures. Should be a fun family event and it looks like we will have a good turnout. Hope to see you all there. When we are done with this phase, which should be the end of June, we will go to the next phase which will be taking all of those surveys, taking all of the information and trying to create one to three plans of how we can make this happen and to be able to keep it open forever. Please like us on Facebook, Friends of the Aquatic Center.*

**AMEND AGENDA**

Marty Justus moved, seconded by Betty Carter, to amend the Agenda to include a second Executive Session under ORS 192.660(2)(d). Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

**NEW BUSINESS**

**Bid Award: Well 17 Pump Installation**

Betsy Roberts, City Engineer, presented.

To bring the new potable water well No. 17 online, the pump and controls had to be installed as well as installation of piping to connect to the existing raw water supply system and construction of a well house. Anderson-Perry provided drawings and specifications detailing the project needs. This project was being constructed through a Public Works – Contractor partnership. Because of the unique split of work shown on the drawings, Public Works staff employed the use of the informal bid process (endorsed by the Council previously) to engage three pump contractors as well as three electrical/controls contractors.

Bids were solicited from seven contractors (including at least three well pump suppliers and three electrical/communications suppliers). Two bids were received for the pump installation and two bids were received for the telemetry/electrical installation; summarized below:

**Pump Bids**

Leon’s Pump – Ontario Oregon	\$12,600.00
Riverside Inc. – Parma Idaho	\$20,017.00

**Electrical/Control Bids**

Vale Electric/ACS	\$59,509.00
Control Engineers	\$62,787.00

At the April 4, 2016 meeting, the Council approved Resolution 2016-114, the addition of \$90,000 to the Water Fund to provide a total budget of \$100,000.

The apparent low bid submitted for the Pump Installation was from Leon’s Pumps. The apparent low bid submitted for the Control/Telemetry was from Vale Electric/ACS. The combined cost of those two bids totaled \$72,109. Public Works staff would use as many supplies on-hand as possible to complete their portion of the work, but have been budgeted up to \$15,000 for their effort. The remaining \$12,891 will be held as contingency until the project was completed.

The combined low bid from Leon’s Pumps and Vale Electric/ACS was \$72,109.00. The budgeted amount for this project was \$100,000.00. Subtracting the potential amount needed by Public Works staff for the building, piping, and concrete flooring, it was anticipated that \$12,891.00 would be available for contingency.

Councilor Fugate asked about the total of \$87,109.

Ms. Roberts stated that was the estimated cost. There was \$100,000 budgeted, and that request came in around a month ago. She had worked with Kari Ott [Finance] to put in increase in that budget.

Norm Crume moved, seconded by Betty Carter, that the City Council award the pump installation for Well 17 Pump Installation Project to the apparent low bidder Leon’s Pumps of Ontario, Oregon for \$12,600.00 and the Control/Telemetry portion of the Well 17 Pump Install Project to the apparent low bidder Vale Electric/ACS of Vale Oregon for \$59,509.00. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

**Funding Opportunities for Street Department**

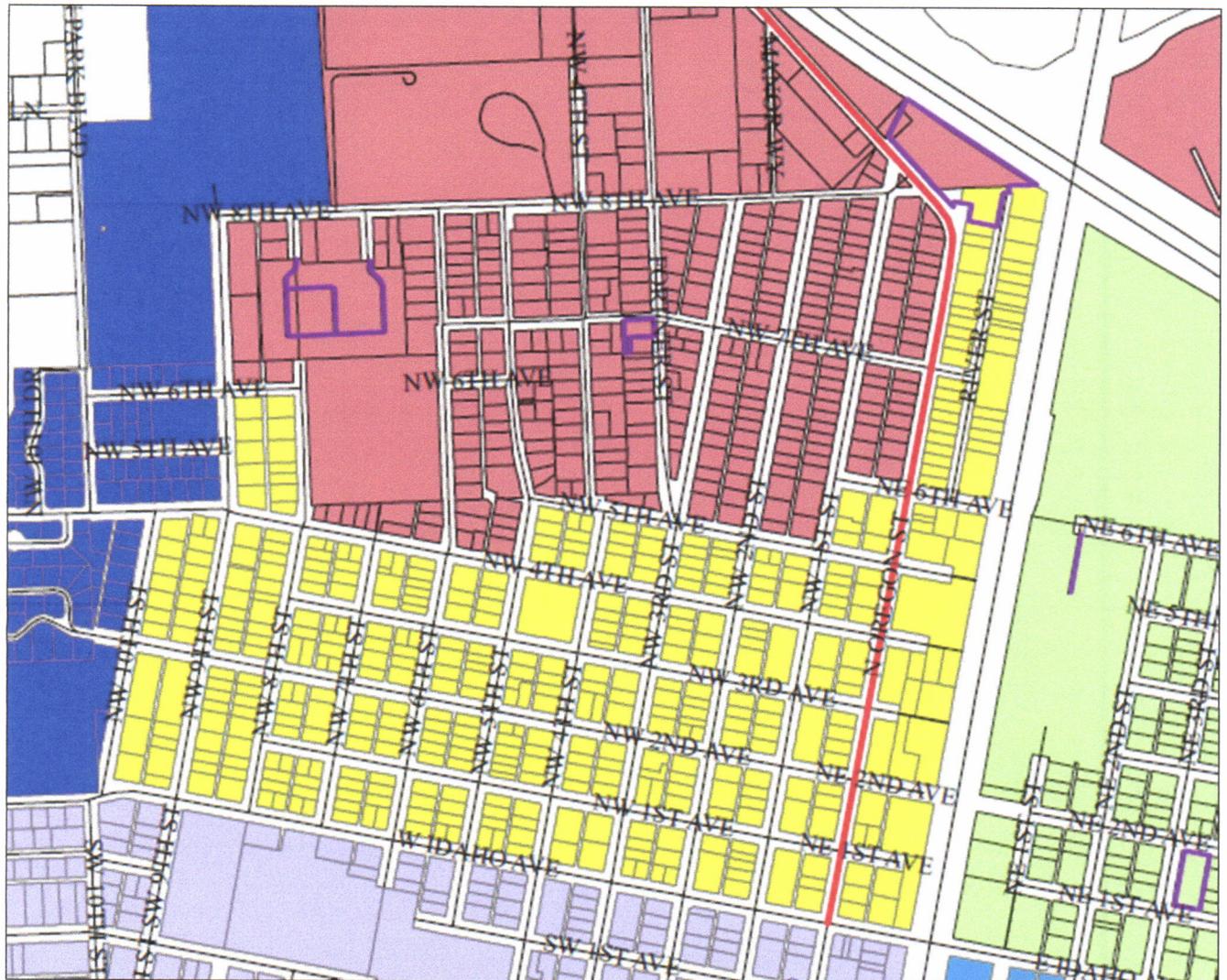
Betsy Roberts, City Engineer, presented.

In light of decreasing fund availability in the Streets Fund, Public Works staff reviewed several options for funding sources, reallocation of funds, etc. The report before Council provides a few options available specific to the Streets Fund. Public Works staff would like direction from the Council regarding these opportunities.



**Modified Chip Seal Approach – 2016**

Per the standard annual chip seal rotation, Area 6 was slated for crack fill and chip seal this year. Public Works staff requested a budget of \$225,000 to conduct this year's crack and chip seal work. Public Works endorsed a systematic process for maintenance; however, in light of the imminent Street Fund budget shortfalls, Public Works determined that a more in-depth review of the Area 6 streets was in order. Accordingly, the City Engineer, along with the Field Superintendent, evaluated the condition of chip seals in Area 6. Area 6 generally included the area in yellow in the map below:



This area was mostly residential. It does not see high volume traffic or heavily loaded vehicles. The pavement evaluation revealed that existing chip seals were in adequate condition such that chip sealing could be held off for a year and re-evaluated next year. However, it was essential that the crack sealing was completed this summer as planned. Public Works staff does not believe that holding off on chip seal in Area 6 for a year will have any negative side effects to the streets in the area. However, staff wants to be clear that while withholding preventative maintenance like chip sealing could be acceptable and sometimes necessary, it should not be considered standard practice.

The table below has been provided in an effort to convey information regarding existing revenue or budget, as well as anticipated expenditures over the next several years.

Source	FY 2016-17	FY 2017-18	Cumulative
<b>Revenue (+)</b>			
• City Grant Fund	\$30,000		
• City Street Fund	\$150,000 <sup>1</sup>	<b>\$150,000<sup>3</sup></b>	
• ODOT Fund Exchange		\$365,500+≅\$120,000 <sup>2</sup>	
			\$635,500
<b>Expenditures (-)</b>			
• SE 2 <sup>nd</sup> Final Design etc.	(\$30,000)		
• SE 2 <sup>nd</sup> Construction		(\$515,558) <sup>4</sup>	=\$119,942
• Annual Chip Seal Program		(\$225,000) <sup>5</sup>	=( \$105,058)
<b>Balance</b>	<b>\$150,000</b>	<b>(\$105,058)</b>	

<sup>1</sup> Contributed from modified chip seal program – recommend pushing 2016 dollars forward to FY 2017-18 to support obligation or maintain fund balance to continue future chip seal program

<sup>2</sup> This is the 2016 Fund Exchange balance (rounded) plus the anticipated yearly amount (estimated average has been \$120,000 or a bit more).

<sup>3</sup> This assumes carrying forward the additional chip seal funding to aid in covering the SE 2<sup>nd</sup> Street obligation.

<sup>4</sup> SE 2<sup>nd</sup> Street project is slated for construction starting in 2018. The current federal program requires that total City match is available prior to expenditure, so would likely be due to ODOT by January 2018.

<sup>5</sup> This assumes the Annual Chip Seal Program is reinstated after a 1 year hiatus.

The annual chip seal program, budgeted for \$211,760, could be conducted as planned this year, or the Council could consider locating funding to support the SE 2<sup>nd</sup> Street project for next year from another source.

By modifying the Annual Chip Seal Program for FY 2016-17, the Council could seed FY 2017-18 Streets Fund with an additional \$150,000. This provided adequate funding to meet the City’s FY 2017-18 obligation to ODOT for the SE 2<sup>nd</sup> Street Project. WITHOUT this additional funding, the City would need to secure an additional \$30,000 to fulfill its obligation. Even with moving the \$150,000 forward one year, the Street Fund would need at least another \$105,058 to cover just the Annual Chip Seal Program.

Staff noted that the modified chip seal program was a solution that could be applied occasionally but should not be considered a permanent solution to increase funding in the Street Fund.

Councilor Justus asked when was this modification you are talking about from most used to least used, when could she have that for them, or was that an internal thing the Council didn’t need to approve.

Ms. Roberts stated it would come before Council for approval of the funding. In previous actions, they had presented the concept to the Council, explaining how they’d like to accomplish the action, and they really just wanted a head nod or head shake on the project. This project was something she’d be working on through the fall and winter, and would have ready around the beginning of the year. They could look at this might impact costs and what areas they were working on.

Councilor Fugate voiced her concern. She had gone up to La Grande and driven through their residential areas, and they were terrible. She believed they had sacrificed the area for the main drags. This Council, in the past, had a propensity to not maintain things. She was concerned if they'd take care of the residential areas if money got tight.

Ms. Roberts stated that goal was to not do that.

Councilor Fugate asked what the life of a road was.

Ms. Roberts stated it depended on the base conditions.

Councilor Tuttle stated this exchange that Ms. Roberts was talking about, with ODOT for the \$365,000 and change, when was that money available? Was that available immediately?

Ms. Roberts stated she believed it could be. They needed to let ODOT know by the end of September if the city wanted to use the money. The letter indicated that amount would be this construction year. Staff would be meeting with ODOT again, and they would discuss what the timelines were going to be.

Councilor Tuttle verified that the money would not transfer to the city, that they'd just hold that money and use it as part of the match.

Ms. Roberts stated likely not. They were actually in the process of potentially changing shifting how the SE 2<sup>nd</sup> project was funded and that could impact the way the money flowed through, but she didn't have all the details on that yet.

Kari Ott, Finance, stated they'd still have to book that money in the Street Department, to get the cost of the road. The city might not see that money coming in, but it would be in the financials. The funding had to be booked because it's a city asset improvement and city money. They just wouldn't see the actual money coming in.

Councilor Tuttle asked what the funding was in the 2016-2017 budget for the SE 2<sup>nd</sup> project.

Ms. Roberts stated it had \$30,000.

Councilor Tuttle stated he thought they needed to look at possibly taking some money out of that contingency and into that street fund.

Norm Crume moved, seconded by Tessa Winebarger, that the City Council authorizes a change to the City's Street Fund to modify the Chip Seal line item from \$211,760 to \$61,760. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

#### **Rescind Enhanced Fee for CMOA Building Permit**

Larry Sullivan, City Attorney, presented.

Malheur Council on Aging (MCOA) constructed a pergola without obtaining a City building permit. After construction was started, the City learned about the construction, which also encroached on a City right of way. At the June 2, 2016, work session, Dan Shepard with CH2M briefed the Council on the situation. The Council approved the encroachment permit for MCOA. The Council also had a discussion about whether the City was authorized to charge MCOA an enhanced building permit fee. Staff informed the

Council that the building permit fee schedule authorized charging a double fee and that state law allowed charging an enhanced fee based on the extra expense for investigating and processing an untimely building permit application. Following that discussion, the Council directed staff to charge MCOA an enhanced building permit fee.

Dan Cummings, Community Development Director, investigated the matter further after the meeting and found Resolution 2013-115 setting building permit fees, including a fee for starting construction without obtaining a permit. That fee included a \$50 administrative charge, plus a double fee for a first offense and a triple fee for a second offense.

In 2015, the City entered into a contract with the State, in which the City agreed to charge building permit fees in accordance with state law. ORS 455.088 sets the fee for starting construction without obtaining a permit. It does not authorize a doubling or tripling of the normal fees, but limited the amount to the extra expense caused to the City because of the untimely permit application.

In this case, MCOA's untimely filing would not cost the City any additional expense. The only extra work was done by Dan Shepard, a CH2M employee, in investigating and processing the encroachment permit, and Cliff Leeper of CH2M informed the City attorney that CH2M would not pass that cost on to the City in this instance. Therefore, the City did not have a basis for charging MCOA an enhanced building permit fee.

Based upon that information, staff was recommending that the Council rescind its motion to charge MCOA an enhanced building permit fee. In addition, unless the Council directed otherwise, staff would prepare a new building permit fee resolution that would bring the schedule into conformance with ORS 455.088. Further, staff would prepare a resolution setting a fee for doing encroachment permits, for which the City does not currently impose a fee.

Councilor Fugate asked if he charged for his advice.

Mr. Sullivan stated that was not a fee under the state law that could be passed on to the applicant. The enhanced fee had to be compensation for work done by the city's Building Official.

Councilor Justus asked if the state set the \$50 administration fee or was that something the city charged?

Mr. Cummings stated the \$50 fee was in the city ordinance. The state told the staff that their rules overruled the city's, and the city could not charge that. He was working with the state to find a solution, and he'd bring that back to Council.

Councilor Justus asked if that \$50 fee covered his costs.

Mr. Cummings stated no, it did not.

Councilor Fugate asked if the pergola permit had not been issued yet because of this.

Mr. Cummings stated it had not. He had not issued the permit yet. He wanted to hear how the action would be taken care of that night at the Council meeting.

Councilor Tuttle asked about the right-of-way.

Mr. Cummings stated it would take someone with a program to survey it all out

Councilor Crume asked if the street was where it was supposed to be.

Mr. Cummings stated he could not answer that.

Councilor Crume stated if it wasn't, wouldn't the city have to move the street?

Mr. Cummings stated that in looking at the maps, it appeared to be in the right-of-way.

Councilor Crume stated that until someone built, the city didn't have to worry about it. But, when that happened, they would have to have a survey done.

Marty Justus moved, seconded by Charlotte Fugate, that the City Council rescind its direction to staff to charge MCOA an enhanced building permit fee for starting construction of a pergola without obtaining a permit. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Justus-yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

#### **DISCUSSION ITEMS**

Councilor Fugate asked Ms. Barnett to some information on having a party at the Cultural Center for the City Manager and Police Chief. They needed to have a date to put in the paper so the community could be notified. She suggested having it in the evening so people could go when they got off work, and to just serve some soft drinks and cookies.

Councilor Winebarger suggested including Oster Professional Group in the welcome, since they'd be joining as the Finance Department in July.

Mayor Verini stated they should include the new part time Airport Manager, too. He asked Ms. Barnett what she thought the expense might be at the Cultural Center for this.

Ms. Barnett stated the city, by contract, received a free room, so the only expenses would be for the food items.

Councilor Justus asked if the city had any money set aside in the budget for this type of event.

Ms. Ott stated there were funds in the General Supplies and Maintenance lines, but nothing specifically set aside of this. Those funds could be used for that.

Council direction to have a party at the Cultural Center, have Ms. Barnett get various dates, send out to Council, and find an agreeable date for everyone. There was discussion on what to have available – cookies, punch, etc., and Ms. Barnett stated she would get some ideas put together for them.

#### **CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS**

Councilor Fugate stated her concerns with new revenue. She provided Mr. Cummings with a binder she had from a 20-member committee from 2008, where they explored many different revenue avenues. She believed it would be good for Mr. Brown to see it, and maybe get some ideas, or add some.

Councilor Crume stated he had talked with the new Airport Manager and he and the FBO were pleased with the lack of weeds around the airport. He gave CH2 the thumbs up!

Councilor Justus stated Revitalize Ontario! was working with Mr. Cummings in putting together a survey for downtown parking.

Councilor Tuttle stated he was happy to see the new employees, and was looking forward to working with them.

Mayor Verini stated this was a great opportunity to look at the city's budget, the expenses, and the safety in this community, and having both on board was powerful. He thanked them very much for being here.

Larry Sullivan stated for the last few years, the city has not had a Franchise Agreement with Cable One because of ongoing litigations regarding whether the city could charge a larger fee for its broadband service or restricted to charges a franchise fee for the cable. The Oregon Supreme Court finally came down with a decision that it has been sitting on for a couple of years and ruled the cities can charge for broadband service for cable television operations. So, he'd start moving forward on that Franchise Agreement, because at least now there was some leverage.

Mayor Verini stated there had been a lot of talk in the community about losing the stations which aired Salem news, so can that be addressed there?

Mr. Sullivan stated it was possible. It appeared that Cable One had been fairly aggressive in restricting the kind of benefits the community had been receiving from franchise, and maybe that was a reaction to the city's attempt to get more franchise fees. He didn't know, but they would be back at the negotiating table.

Councilor Winebarger thanked Ms. Barnett and Sgt. Mallea for filling in as interim in the City Manager and Police Chief positions, and for all their hard work.

Mayor Verini stated there might have been some miscommunication at the last meeting regarding the June 16<sup>th</sup> and June 30<sup>th</sup> work sessions. On June 30<sup>th</sup>, there were going be Council and staff members going on a site visit, so that meeting needed to be moved. That would be for the July 5<sup>th</sup> Council meeting. They could move the 30<sup>th</sup> to the 29<sup>th</sup>, if that suited the Council.

Council consensus to move the work session of the 30<sup>th</sup> to the 29<sup>th</sup>.

Mayor Verini continued that on June 16<sup>th</sup>, he, Councilor Carter, and some staff, would be unavailable from about 1-3pm, but those were not sure times. Could they move that work session to begin earlier? It was an especially important meeting as they'd be discussing the upcoming budget, along with many other things.

Council consensus to begin the work session of the 16<sup>th</sup> to begin at 9:00 a.m.

**EXECUTIVE SESSION**

**Executive Session: ORS 192.660(2)(i)**

An executive session was called at 8:09 p.m. under provisions of ORS 192.660(1)(i) to review and evaluate the performance of an officer, employee or staff member. The Council reconvened into regular session at 8:33 p.m.

**FURTHER BUSINESS**

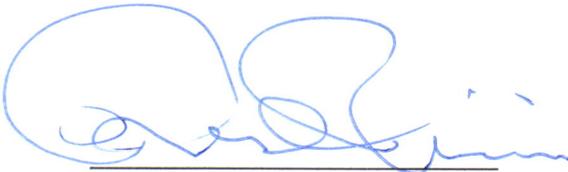
Councilor Justus asked to have information on how the budget had been over-expended by \$10K in a line item, and how it wasn't brought to Council to move any funds.

**ADJOURN**

Norm Crume moved, seconded by Tessa Winebarger, that the meeting be adjourned. Roll call vote: Crume-yes; Winebarger-yes; Carter-yes; Jost-Yes; Tuttle-yes; Fugate-yes; Verini-yes. Motion carried 7/0/0.

**APPROVED:**

**ATTEST:**



Ronald Verini, Mayor



Tori Barnett, MMC, City Recorder