



1111 Bayou
La Marque, Texas 77568
409.938.9202

**City of La Marque
Minutes
March 24, 2014**

Minutes of the City Council Regular Meeting of the City of La Marque, Texas that was conducted on Monday, March 24, 2014 at 6:00 p.m. at 1109-B Bayou Road for purpose of considering the following agenda:

(1) Mayor Hocking called the meeting to order at 6:00 pm.

(2) ROLL CALL

**Mayor Hocking
Mayor Pro-Tem Bell
Councilmember Brown
Councilmember Trube
Councilmember Osteen**

**City Manager Buttler
City Attorney Ortego
City Clerk Eldridge**

(3) Mayor Hocking led the invocation and the Pledge of Allegiance.

(4) MINUTES

a. City Council Regular Meeting held on March 10, 2014.

** Councilmember Trube made a motion to approve the minutes of Regular Meeting held on March 10, 2014.

** Councilmember Osteen seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

(5) CITIZEN PARTICIPATION

Comments from the Public (At this time, any person with city-related business who has signed up may speak to Council (limited to three (3) minutes). In compliance with Texas Open Meeting Act, the City Council may not deliberate on comments. Personal attacks will not be allowed, and personnel matters should be addressed to the City Manager during normal business hours.

Richard Loftis commented, "As you all know I have been down here several times on a complaint. I just came back to say, "Thank you" to City Council, Mrs. Buttler and Ana Tims, for finally doing something about the complaint. Hopefully, the problem doesn't reoccur, but if you see me sitting here you will know why. Thank you again."

(6) PUBLIC HEARING

a. Conduct Public Hearing to receive public input regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-001**, an Ordinance of the City Council of the City of La Marque, Texas changing the Zoning classification from Single Family



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Residential to General Commercial, of a tract of land, lots six (6), seven (7), eight (8) and nine (9) in Section 1 Amburn's Subdivision in the Daugherty Survey No. 4, out of the Marchand Tract, S.F. Austin, League No. 4, Galveston County, Texas, according to the map or plat thereof recorded in Volume 254 A, Page 50, all in the map of records in the office of the County Clerk of Galveston County, Texas; Amending the Zoning Map of the City adopted the 12th day of December 2005, by Ordinance Number 953.

Mayor Hocking recessed the Regular Meeting and opened the Public Hearing at 6:02 p.m.

No one spoke.

- b. Conduct Public Hearing to receive public input regarding the recommendation of the Parks Board to adopt Ordinance No. **O-2014-006**, an Ordinance of the City Council of the City of La Marque, Texas, Amending Section 44-19, City Park Hours, of the Code of Ordinances, City of La Marque, Texas, to provide an exception for Bayou Fest, organized sport activities and other events authorized by the Parks Board or the City in any City Park.

No one spoke.

- c. Conduct Public Hearing to receive public input regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-007**, an Ordinance regarding the proposed abandonment of a 70.5' wide street (Oak Street) R.O.W. abandoned section of 4th Street between block 50 and block 49 and 80' to 100' wide street section of Prune between block 49 and block 56.

1. Lester Bellow, Pearland, Texas commented, "I missed the first reading. I was talking to Ana Tims about this last week. I have been stabling horses on this tract of land for about eighteen years. I was under the assumption it was owned by Don Chambers, the Chambers family. A few years later, I discovered it wasn't. I consider what I have been paying him, rent for allowing my horses stay on there. It is owned by the City of La Marque. I spoke to Mr. Hill and the boat company owners, next to it. I know that a piece of this property should already be deeded to the boat company. If there is going to be a bidding process for this property, will I be able to take a part in that bidding process?"

City Attorney, Ellis Ortego responded, "The property owners adjacent to this proposed property to be abandoned will have first priority."

Mr. Bellow continued, "So, the owners adjacent to this property, will you be giving it to them or are they going to buy it? They may let me stay there for a little bit longer, but if, not there is an eviction process, right? I just want to make sure that I have time to remove my horses. This will be worked about between me and my two neighbors. There is another tract of land close by, that the City owns. I guess we can talk about that at another date."

- d. Conduct Public Hearing to receive public input regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-008**, an Ordinance amending Section 41-



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210 and Section 71-4 of the Code of Ordinances of the City of La Marque, Texas to add definitions of approved fence materials and screening fence or blind fence; amending Section 41-211 of the Code of Ordinances of the City of La Marque, Texas, to prohibit screening fences or blind fences in front yards; amending Section 71-21 (3) a. and b., of the Code of Ordinances of the City of La Marque, Texas to increase the maximum height of screening elements and fences for residential districts from six (6) feet to seven (7) feet and the maximum height of screening elements and fences for nonresidential districts from eight (8) feet to twelve feet (12); amending Section 71-21 (3) by adding a new subsection c. to prohibit screening fences or blind fences in front yards; and providing for a severability clause.

No one spoke.

e. Conduct Public Hearing to receive public input regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-009**, an Ordinance of the City Council of the City of La Marque, Texas changing the Zoning classification from Single Family Residential to General Commercial, a tract of land, Lots two (2); three (3) and four (4), Block 22, Division J Cook and Stewart Subdivision, Galveston County, Texas recorded in Volume 81, Page 526, all in the map records in the office of the County Clerk of Galveston County, Texas, from Single Family Residential to General Commercial; amending the Zoning map of the City adopted the 12th day of December 2005 by Ordinance 953.

No one spoke.

Mayor Hocking closed the Public Hearing and reconvened the Regular Meeting at 6:11 p.m.

(7) OLD BUSINESS

a. Discussion/possible action regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-001**, an Ordinance of the City Council of the City of La Marque, Texas changing the Zoning classification from Single Family Residential to General Commercial, of a tract of land, Lots six (6), seven (7), eight (8) and nine (9) in Section 1 Amburn's Subdivision in the Daugherty Survey No. 4, out of the Marchand Tract, S.F. Austin, League No. 4, Galveston County, Texas, according to the map or plat thereof recorded in Volume 254 A, Page 50, all in the map of records in the office of the County Clerk of Galveston County, Texas; Amending the Zoning Map of the City adopted the 12th day of December 2005, by Ordinance Number 953. **THIS IS THE SECOND AND FINAL READING.**

** Councilmember Osteen made a motion to approve Ordinance No. **O-2014-001**.

** Councilmember Bell seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

b. Discussion/possible action regarding the recommendation of the Parks Board to adopt Ordinance No. **O-2014-006**, an Ordinance of the City Council of the City of La Marque, Texas, Amending Section 44-19, City Park Hours, of the Code of Ordinances, City of La Marque, Texas, to provide an exception for Bayou Fest, organized sport activities and other events authorized by the Parks Board or the City in any City Park. **THIS IS THE SECOND AND FINAL READING.**

** Councilmember Trube made a motion to approve Ordinance No. **O-2014-006**.

** Councilmember Bell seconded the motion.



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Councilmember Osteen commented that he didn't like the minutes as part of the backup not being signed yet and asked what the significance was to the highlighted area in the minutes.

City Manager Carol Buttler said that the minutes have been recorded by the secretary, but not approved by the Board yet, and the highlighted area was to draw attention to that portion since several of the items were all discussed at the same meeting. **MOTION CARRIED UNANIMOUSLY.**

c. Discussion/possible action regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-007**, an Ordinance regarding the proposed abandonment of a 70.5' wide street (Oak Street) R.O.W. abandoned section of 4th Street between block 50 and block 49 and 80' to 100' wide street section of Prune between block 49 and block 56. **THIS IS THE SECOND AND FINAL READING.**

** Councilmember Brown made a motion to approve Ordinance No. **O-2014-007**.

** Councilmember Trube seconded the motion.

Councilmember Bell asked the City Attorney if he felt comfortable moving forward with this item, as he was a little concerned with any liability issues with what Mr. Bellows spoke of.

Mr. Ortego answered, "I do, apparently there is some kind unrecorded document or transaction between the old seller and Mr. Bellows, but it was not a valid deed or other document. The City owns the property." **MOTION CARRIED UNANIMOUSLY.**

d. Discussion/possible action regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-008**, an Ordinance amending Section 41-210 and Section 71-4 of the Code of Ordinances of the City of La Marque, Texas to add definitions of approved fence materials and screening fence or blind fence; amending Section 41-211 of the Code of Ordinances of the City of La Marque, Texas, to prohibit screening fences or blind fences in front yards; amending Section 71-21 (3) a. and b., of the Code of Ordinances of the City of La Marque, Texas to increase the maximum height of screening elements and fences for residential districts from six (6) feet to seven (7) feet and the maximum height of screening elements and fences for nonresidential districts from eight (8) feet to twelve feet (12); amending Section 71-21 (3) by adding a new subsection c. to prohibit screening fences or blind fences in front yards; and providing for a severability clause. **THIS IS THE SECOND AND FINAL READING.**

** Councilmember Osteen made a motion to approve Ordinance No. **O-2014-008**.

** Councilmember Brown seconded the motion. **MOTION CARRIES 4 TO 1, WITH COUNCILMEMBER TRUBE OPPOSING.**

e. Discussion/possible action regarding the recommendation of the Planning and Zoning Commission to adopt Ordinance No. **O-2014-009**, an Ordinance of the City Council of the City of La Marque, Texas changing the Zoning classification from Single Family Residential to General Commercial, a tract of land, Lots two (2); three (3) and four (4), Block 22, Division J Cook and Stewart Subdivision, Galveston County, Texas recorded in Volume 81, Page 526, all in the map



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records in the office of the County Clerk of Galveston County, Texas, from Single Family Residential to General Commercial; amending the Zoning map of the City adopted the 12th day of December 2005 by Ordinance 953. **THIS IS THE SECOND AND FINAL READING.**

** Councilmember Trube made a motion to approve Ordinance No. **O-2014-009.**

** Councilmember Osteen seconded the motion.

Councilmember Bell asked that for these types of rezoning requests that pictures also be part of backup of the proposed property, some pictures of the street and maybe the surrounding areas so that Council can have a better idea of what they are looking at. **MOTION CARRIED UNANIMOUSLY.**

(8) CONTRACTS/AGREEMENTS

a. Discussion/possible action regarding the approval of Resolution No. **R-2014-005**, a resolution for a Fourth Amendment to the Mainland Water Project Customer Contract.

** Councilmember Bell made a motion to approve Resolution No. **R-2014-005.**

** Councilmember Trube seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

b. Discussion/possible action regarding the approval of Resolution No. **R-2014-006**, a Resolution for a Second Amendment to Mainland Water Project Customer Contract (South Project).

** Councilmember Bell made a motion to approve Resolution No. **R-2014-006.**

** Councilmember Trube seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

c. Discussion/possible action regarding submittal of a grant application to H-GAC for surveillance equipment to eliminate solid waste dumping.

** Councilmember Trube made a motion to approve the grant application to H-GAC for surveillance equipment to eliminate solid waste dumping.

** Councilmember Brown seconded the motion.

Councilmember Osteen asked what the cost would be to the City.

City Manager Carol Buttler said that the only cost will be for the line connection to the Police Department as well as a line to the Development Services Department.

Councilmember Trube asked "Are we going to keep them as long as they show production? Will someone be monitoring these cameras?"

Ed Hirsh, Public Works said "This is a great opportunity. There is no cost for the City for the first year, providing we receive the grant. Year two it will cost the City \$682.00. The City asked for three sets of cameras for three locations, and three cameras per site. H-GAC asked that the cameras be used on a year-round basis. Once cameras are in place and a few arrests have been made, it may detour those from dumping. We will be rotating the cameras throughout the City. Once the camera is set and then someone triggers it, it will send out a notice to the Police Department, Sergeant on duty as well as the Development Services Department. "



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It was said that Clean City Commission supported the grant application, they weren't applying for the grant, the City of La Marque is the applicant. Discussion followed concerning who originated the idea? What data or stats did we have to show a need for the grant? It was said that the cost to the Public Works department yearly for illegal dumping was around \$30,000. Both Councilmembers Brown and Trube reported that there had been several locations within their districts where illegal dumping was a problem. Some of the areas were Banana Street, and Bayou Road close to the feeder road. Mayor Hocking has also witnessed illegal dumping.

Councilmember Bell said that he didn't want to see the City applying for grants simply because "we feel like we could receive them." "I don't want to see us put in for grants without having data to suggest the need for those grants. There are several cities that probably need grant funding just as we do." He suggested staff to be thoughtful and deliberate with the grants that we as a City, apply for.

Councilmember Osteen added, "What I am concerned about is, you give an inch and they take a mile. I don't want to get into this Big Brother situation the cities are getting into; the next thing will be red light cameras, which we aren't going to approve. I feel like there is probably a need for it. I don't think the \$682.00 is excessive, but we don't want the cameras pointing into people's yards."

Councilmember Bell added, "I believe grant applications should be Council driven or data driven." **MOTION CARRIED UNANIMOUSLY**

d. Discussion/ Possible action regarding award of Bid #LM 02-14 to Mike's Tree Services for demolition of substandard structures for the amount of \$98,000.00. **THIS ITEM WAS TABLED FROM THE MARCH 10, 2014 CITY COUNCIL MEETING.**

** Councilmember Trube made a motion to award of Bid #LM02-14 to Mike's Tree Service for demolition of substandard structures for the amount of \$98,000.

** Councilmember Brown seconded the motion.

Councilmember Bell asked for the representative of Mike's Tree Service to come to the podium. Once at the podium, Councilmember Bell commented to Miguel Ramirez, "It looks as though the majority of your business dealings have been landscaping-type service, now it sounds like you have moved into the demolition business, do you have any training in demolition?"

Mr. Ramirez answered, "I have experience."

Discussion continued, with the number of demolitions he had performed. Ana Tims, Director of Development Services said he had all of the insurance, and said it was attached to the packet.

Councilmember Osteen asked him if carried worker's compensation insurance, to which Mr. Ramirez replied, that he didn't, that he takes care of any employee that injures themselves on the job, himself. "I cover all the expenses."



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Councilmember Osteen asked, "Are your employees American citizens? Do you carry a bond, and how much is it?"

Mr. Ramirez replied that his workers were American citizens and he carries a \$10,000 bond.

Discussion continued as to the amount of bond he should be carrying, whether it was required in the State of Texas to carry worker's compensation and that it was a requirement in our ordinances to do so. The requirement of a bid bond if he was awarded the bid was discussed. The kind of equipment he would be using, whether he rented the equipment locally was also briefly mentioned.

Councilmember Osteen commented, "I think he needs to carry worker's compensation, you got to protect your employees."

Councilmember Bell commented, "We might be putting an unfair burden on this contractor that we have not put on other contractors, by asking him to provide this."

It was determined that according to the ordinance, that the contractor is required to carry worker's compensation on each of his employees in accordance with the Worker's Compensation Act. The possibility of tabling the item and rebidding was discussed; whether the contractor could sign a release; that it would be unfair to put stipulations to this contractor's bid; whether our ordinance was consistent with what is required by the State.

** Councilmember Trube withdrew her motion.

** Councilmember Brown withdrew his motion.

It was asked why weren't bidders made aware of this. It was determined that in the bid packet, it stated that bidders are responsible to follow all ordinances, and all requirements of the bid, and there was a pre-bid meeting as well.

Chief Aragon read that it was not a requirement in the State of Texas to carry worker's compensation on employees.

City Attorney stated, "I think we need to table this item, and let me research the worker's compensation law and the liability of the contractor and the liability of the City. Had I known this issue was going to come up, I could have done some research prior to the meeting."

** Councilmember Osteen made a motion to table this item.

** Councilmember Bell seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

(9) NEW BUSINESS

a. Discussion/possible action regarding Resolution No. **R-2014-008**, a Resolution approving the Commissioners' Court of Galveston County nominations of members for reappointments and appointments to the United Board of Health.

** Councilmember Brown made a motion to approve Resolution No. **R-2014-008**.

** Councilmember Trube seconded the motion. **MOTION CARRIED UNANIMOUSLY.**



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b. Discussion/possible action regarding Ordinance No. O-2014-0011, an Ordinance of the City of La Marque, Texas, repealing Chapter 32, Flood Damage Prevention, the Code of Ordinances of the City of La Marque, Texas; and in its place adopting a new Chapter 32, Flood Damage Prevention; and amending Sec. 41-36 to apply the provisions of the new Chapter 32 to apply to Manufactured Homes and to Manufactured Home Parks. **THIS IS THE FIRST READING.**

Director of Development Services, and Certified Flood Plain Manager of the City of La Marque Ana Tims provided a Power Point presentation.

Some of the highlights included: There are currently 20,500 communities that voluntarily adopt and enforce local floodplain management ordinances; Ordinance No. 660, approved in 1972 was when the City of La Marque passed their first floodplain management ordinance. In the 1960's Congress became concerned with flood damage and problems relating to and Federal Disaster Assistance, and soon realized the high cost of flood insurance. In 1968, the National Flood Insurance Act was passed to correct some of the shortcomings of the traditional flood control and flood relief programs. The city's roles and responsibilities include issue/deny floodplain development building permits; inspect all development to ensure compliance with local ordinance, maintain records of floodplain development; assist in preparation and revision of floodplain maps; help residents obtain information. Reforms and Acts have provided increases in coverage limits and total amount of insurance to homeowners and business owners. In 1976, the BFE (Base Flood Elevation) was introduced to the Flood maps. The Hurricane Season of 2005, with Katrina, Rita and Wilma in the same year resulted in 17.7 billion dollars in claims paid far in excess of the programs premiums. The Biggert-Waters Flood Insurance Reform Act of 2012 addresses flood risks and was passed to provide stability in the NFIP. In January 2013, the first change applies to non-primary residents that were built before the first flood map (pre-firm) these were paying artificially low rates that didn't reflect the true flood risk. The premiums began increasing 25% per year until they reflect the true flood risk based on their elevation. In October of 2013, premiums also went up 25% for the following: non-residential properties (which are properties that are not lived in at least 80% of the time in one year); severe repetitive loss properties; and any property where the damage due to flooding costs have exceeded the fair market of the structure. Grimm-Waters Act caps primary residential insurance policies at 18% increase rate, but will get to where the policy holder is paying for the actual flood risk. A surcharge is also applied for primary residential it is \$25.00 for non-primary residential it is \$250.00. By participating in the Community Rating System, communities can earn credit points that determine classification. By participating in the CRS, and with the right amount of points we could decrease the premiums for the citizens up to 45%.

** Councilmember Bell made a motion to adopt Ordinance No. O-2014-0011.

** Councilmember Brown seconded the motion. **MOTION CARRIED WITH A 4 to 1 VOTE, WITH COUNCILMEMBER TRUBE OPPOSING.**

c. Discussion/possible action regarding possible Re-use of Water Project

Councilmember Brown began by referring to an email referred to the amount of time and effort being wasted on projects that do not have all of the Councils' consent, one of which concerned



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the County building, and the City obtaining County property. Mr. Brown said that he thinks that he has notified all of the Councilmembers of this next subject that he has been working on.

He began by stating that in the City of La Marque there is over a million gallons of wastewater a year, so he came up with different ideas of how to move wastewater to rice fields with the help of several cities and other counties that could possibly help out in this project, but hasn't really received offers. He asked for ideas from City Council. Mayor Hocking said that between the five on City Council they can come up some ideas. But there isn't enough information obtained yet on this subject and opened this item up for discussion to see if it is worthy to move forward with.

Councilmember Trube commented that recently it was discussed that the re-use of wastewater cannot be used on food products. The rice farmers would need hundreds of millions gallons of water, which would require several communities. If we drastically changed the used water it could upset the flow going into the bay, which could affect the ecosystem. She also said that if the City were to reuse the wastewater, she would want for it to be used within the city for the watering of trees and other uses. "I'm not in favor in giving it or selling it if we can use it for our benefit to save purchasing more water."

Councilmember Osteen agreed and added, "Rice-farmers won't be able to use this water anyway, and I am certainly not in favor of any big expense for a pipeline, there wouldn't be enough return on the investment at all."

Councilmember Bell stated, "I am not as educated on this issue, as I didn't attend the conference, but I will say if there is a problem with the rice farmers receiving water, then I would tend to agree with Councilmembers Osteen and Trube, but if not, then I would tend to agree with Mr. Brown. But, more importantly, I believe in recycling and taking care of natural resources that God has given us. And most importantly I have great respect for you and your energy and the various ideas that you have brought to this Council outside of the box, Councilmember Brown, to encourage us to pause and think about things. It is a breath of fresh air to the City and to this Council."

Councilmember Brown continued to say that he has maps of the rice canals from here to Brazoria County.

It was determined, that the first thing that had to be researched is, if it is legal to re-use this water for the rice-farmers use. Then bring back at a later date. Mayor Hocking asked that in the future this be an item at a regular scheduled workshop, after gathering some of these issues including the legality, and environmental issues, this could be pursued.

d. Discussion/possible action regarding three vacancies on the Clean City Commission

City Manager Carol Buttler addressed these vacancies and encouraged citizens to get involved and turn in an application for this Commission or any other Boards or Commissions that may be available.



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e. Discussion/possible action regarding canceling the Regular City Council meeting of May 12, 2014 and schedule a Special Called City Council meeting for May 19, 2014.

** Councilmember Brown made a motion to approve the canceling of the Regular City Council meeting of May 12, 2012 and schedule a Special Called City Council meeting for May 19, 2014.

** Councilmember Trube seconded the motion. **MOTION CARRIED UNANIMOUSLY.**

(10) CITY MANAGER REPORT – No Council Action Necessary

Mayor Hocking recognized Mario Watkins, the husband of Terrie Watkins, the new LMISD Superintendent.

Councilmember Osteen referred to page 531, and questioned the general fund balance discrepancy on page 535, and was explained by the City Manager. The question of whether the City was operating in a deficit in the Utility Fund (page 532); and was explained by the Finance Director, explaining the carry-over fund balance operating versus capital fund balance. Ms. Kou will prepare an analysis for Council so the report is easier to read; debt service fund page 533, involving revenue property taxes, and also explained the Hotel Motel Fund; and Professional Fees.

Councilmember Bell referred to page 534, Hotel Motel Tax audit. They are working on this. Page 531, line item down 189%, due to possible transfers or grants, Ms. Kou will check into and report back to them. Overtime utilization on page 465; requirements to maintain minimum staffing levels, asked who proposed those levels. City Manager would look into.

- **Development Services**
- **Judicial**
- **Police/OEM**
- **Fire/EMS**
- **Public Works**
- **Financials**
-

(11) EXECUTIVE SESSION

There was no Executive Session held.

(12) REQUESTS AND ANNOUNCEMENTS

** Councilmember Trube thanked everyone for attending

** Councilmember Brown sent condolences to Maggie Manuel with the passing of her husband

** Councilmember Osteen appreciated everyone attending and the work of Council

** Echoed the comments of Brown and Trube and sent condolences to the Manuel family, appreciate those in attendance

** Mayor Hocking sent condolences to the Manuel family; proclamation on Saturday on behalf of the City for Sonny Manuels' service on City Council and Mayor-Pro-Tem; thanked Mrs. Ferguson, Mrs. Jeffcoat and Mrs. Johnston for their service on the Clean City Commission; keep those people effected by the recent oil spill in their prayers and thanked those in attendance.

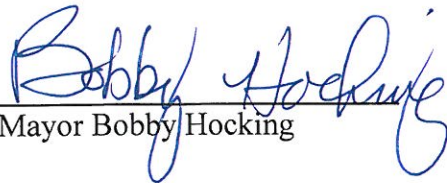


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(13) ADJOURNMENT

** Councilmember Trube made a motion to adjourn at 8:15 p.m.

** Councilmember Osteen seconded the motion. **MOTION CARRIED UNANIMOUSLY**


Mayor Bobby Hocking

ATTEST:


Robin Eldridge, TRMC
City Clerk