

**SOLANA BEACH CITY COUNCIL  
REDEVELOPMENT AGENCY AND PUBLIC FINANCING AUTHORITY**

JOINT **REGULAR** MEETING

**MINUTES**

**6:00 P.M.  
WEDNESDAY, FEBRUARY 25, 2009**

CITY COUNCIL CHAMBERS  
635 S. HIGHWAY 101,  
SOLANA BEACH, CALIFORNIA

The City Council acts as the City of Solana Beach Redevelopment Agency and the Public Financing Authority.

**CALL TO ORDER AND ROLL CALL:**

**Present:** Nichols, Campbell, Heebner, Kellejian, and Roberts.

**Absent:** None.

**Also Present:** David Ott, City Manager  
Johanna Canlas, City Attorney  
Leticia Fallone, Deputy City Clerk  
Angela Ivey, City Clerk  
Dennis Coleman, Finance Director  
Wende Protzman, Dir. Admin. Serv./Deputy City Mgr  
Tina Christiansen, Community Dev. Dir.  
Mo Sammak, City Engineer/Public Works Dir.

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

**FLAG SALUTE:**

Sgt. Casteneda led the flag salute.

**APPROVAL OF AGENDA:**

**MOTION:** Moved by Roberts and seconded by Kellejian. **Motion carried**

**unanimously.**

**PROCLAMATIONS:**

1. Sgt. Roy Castaneda

Mayor Nichols presented a proclamation to Sgt Castaneda for his retirement from the San Deigo County Sheriff's Department.

Sgt. Castaneda thanked the City, fellow crew from Solana Beach, Encinitas, and family.

2. Annual Turf Bocce Ball & Family Day

Mayor Nichols presented a proclamation to the rotary club for the 13th annual Bocce Ball and Family Day.

**PRESENTATIONS: None**

(Ceremonial items that do not contain in-depth discussion and no action/direction.)

**ORAL COMMUNICATIONS:**

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

Cheryl Smitt requested that the City correct information on a permit, that a non-conforming structure on 318 Corto St. which was on her shared property line was torn down and a new structure was built, and that she had filed a complaint and did not receive a response from the City. She stated that she heard that the City and a Councilmember had met with the property owner, that the outcome of the meeting was that only repairs had been done on the structure, and that a permit could be obtained after the structure had already been built. She stated that she requested that a Councilmember review the property, that the Councilmember stated that non-conforming structures could be torn down and re-built according to the City's code, that she requested that the permit be modified to reflect that the structure was a new building and not just repairs to the old structure, and wanted the new high pitched roof to be converted back to the original flat roof.

Mayor Nichols stated that he reviewed the property and clarified what he had told her regarding roof maintenance on non-conforming structures.

David Ott, City Manager, stated that the City had responded to the speaker, that the work on the building was considered maintenance, that there were pictures of the previous structure and the work performed, that the property owner should have had a permit, that the project and new roof complied with City codes, and that the case had been closed.

### **COMMUNITY ANNOUNCEMENTS:**

Council reported community announcements.

### **COMMENTARY:**

#### **A. CONSENT CALENDAR: (Action Items)**

Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

##### **A.1. Waive the reading of Ordinances.**

Recommendation: That the City Council

1. Approve waiving the text reading of ordinances on this agenda pursuant to Solana Beach Municipal Code Section 2.04.460.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

##### **A.2. Register Of Demands. (File 0300-30)**

Recommendation: That the City Council

1. Ratify the list of demands for January 2 - 31, 2009.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**A.3. Contract with the County of San Diego for the Solana Beach Cities Readiness Initiative (CRI) and Strategic National Stockpile (SNS). (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2009-023 authorizing the City Manager to sign the Contract with the County of San Diego.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**A.5. Professional Services Agreement Amendment with Helix Environmental Planning, Inc. for a City-Wide Biological Resources Mapping Project. (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2009-018 authorizing the City Manager to execute Amendment No. 1 to the Agreement with Helix Environmental Planning, Inc. not to exceed \$7,250.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**A.6. Professional Services Agreement with Coastal Frontiers Corporation for Shoreline Profile Monitoring Project. (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2009-019:
  - a. Authorizing the City Manager to execute an Agreement with Coastal Frontiers Corporation.
  - b. Appropriate \$7,735 in FY 2008/2009 to the Transit Occupancy Tax (T.O.T.) Sand Replenishment Fund's professional services account.
  - c. Authorize the City Treasurer to amend the FY 2008/2009 adopted budget accordingly.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**A.7. Status Report on Major FY 2008/09 Capital Improvement Projects. (File 0810-05)**

Recommendation: That the City Council

1. Receive report from staff.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**A.8. Coastal Rail Trail at Cliff St. Bridge, Bid No. 2008-15 Change Order and Notice of Completion. (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2009-020:
  - a. Authorizing the City Council to accept as complete the Completion of the Coastal Rail Trail at the Cliff Street Bridge, Bid No. 2008-15, constructed by RMV Construction.
  - b. Approving an increase of \$11,745 to Change Order No. 1 that compensated the contractor for excavation and removal of excess soil that was inadvertently omitted from the original bid items.
  - c. Authorizing the City Clerk to file a Notice of Completion.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**A.9. 2010 Campaign for Active Transportation. (File 0480-70)**

Recommendation: That the City Council

1. Adopt Resolution 2009-024 in support of San Diego County's involvement in the 2010 Campaign for Active Transportation.

**MOTION:** Moved by Roberts and seconded by Heebner. **Motion carried unanimously.**

**NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)**

**B. PUBLIC HEARINGS:**

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

**C. STAFF REPORTS:**

**Submit speaker slips to the City Clerk.**

*Submit speaker slips to the City Clerk*

**C.1. Professional Services Agreement with Nasland Engineering for Preliminary Engineering of the Highway 101 Streetscape Project. (File 0400-10)**

Recommendation: That the City Council

1. Adopt Resolution 2009-021 authorizing the City Manager to execute a professional services agreement with Nasland Engineering for the preliminary design of the Highway 101 Streetscape project not to exceed \$347,198.

David Ott, City Manager, introduced the item.

Mo Sammak, Public Works Dir., presented a powerpoint (on file).

Council and Staff discussed to make it clear to the consultant that the City would like a typical engineering standard of a 3-day count during the school year and not during the year, that the study area extended beyond Highway 101 and should include Sierra, Cedros, Lomas Santa Fe, Via de La Valle, and all the streets that tie into this network, that a mitigated negative declaration would be done.

Mr. Moser, consultant, and Staff responded to inquiries confirming that the CEQA process was everything except the technical reports themselves, that it would include all the environmental topics within the costs, and that once all the impacts were reviewed and considered it would determine what all was required

to be reviewed.

**MOTION:** Moved by Nichols and seconded by Heebner. **Motion carried unanimously.**

**C.2. Public Art Project - Gull Sculpture. (File 0910-45)**

Recommendation: That the City Council

1. Consider the Public Arts Advisory Commission's (PAAC) recommendation to approve the new gull sculpture design and modified installation site.

David Ott, City Manager, introduced the item.

Steve Didier, Assistant to the City Manager, presented a powerpoint.

Council and Staff discussed the base and that it did not appear to be only 8 ft. on some sides, whether there was going to be a demonstration garden or a community garden, the timeline for placement of the art, and consideration of different locations.

Allen Moffson (time donated by Tara Gordon), Chair of the Public Arts Advisory Commission (PAAC), and President of the North County Repertory Theatre, said that they had worked on the MAP (Master Arts Policy) since he was on the PAAC and that the bird sculpture was the first piece of art to apply the plan, that receiving art in these economic times was a benefit and not a burden to the City, that once the City accepted this piece the PAAC was tasked with finding it a home, that there would not be one place that would satisfy everyone, that everyone on the Commission was sensitive to this issue, and that the location was a unanimous vote.

Mary Jane Boyd (time donated by Kim Murphy) said that she supported the art, that the MAP speaks to the need for a mix of art, that members were committed to doing the best possible without hidden agendas, that the Council Ad Hoc had recommended the entrance of Fletcher Cove and asked the PAAC to review it, that they had followed the guidelines and direction given to them by the Council, and asked that Council approve the recommendation.

Vicki Cypherd said that she supported temporary rotating art, that there had been conflicts with Betsy Schultz' art, that the scale did not seem to fit the area, it would be more ideal on the east side of the City which would have wide open spaces for this type of art, and that it would be a good idea to rethink the location.

Ali Dixon said that she was a member of the PAAC but was speaking as a resident, that the PAAC solicited feedback and read all comments that were submitted, that the primary concern was the view corridor, and the gull was now set up higher up on the hill and not conflicting with the view corridor.

Tracy Weiss said that she thought that the gull should be temporary and should be placed on the east side of the City, that Ed Siegel's song was made official only because he was head of the PAAC at the time and no one wanted to tell him no, that the art did not have to be accepted or placed where the donor wanted it placed, that it should be temporary, and that the location should be reconsidered.

Councilmember Heebner stated that she had reviewed the March 26 meeting, that when the City accepted the art in the permanent collection it was suggested placing it at the Community Center and that the Council concurred. She said that the Fletcher Cove Ad Hoc met and considered Fletcher Cove, that she was a proponent of public art, placing it at Fletcher would conflict with the area due to size alone since the area had a signature and this piece would be awkward. She said that she was appreciative of the donor as well as the sensitivity of the community and that she would not be voting in favor of the recommendation.

Councilmember Roberts said that he needed to review the MAP again, that the process seemed like it was backwards, the City should not be accepting art unless a location was already established for it, that the PAAC had worked hard on his issue, he could not vote for this site at this time and needed a mock-up with actual dimensions to understand the line of site.

Councilmember Kellejian stated that this had been a one year process, that the City had to determine what was best for the community and enlisted the assistance of the Public Arts Advisory Commission (PAAC) for their expertise in art, the City had done its due diligence on reviewing the project by reviewing public comments, and he supported the community comments and PAAC's recommendation for the current location of the art.

Deputy Mayor Campbell stated that he was not at the meeting where the City accepted the art piece, that he had not reviewed other sites for the art, there was a MAP in place that allowed the City to re-locate art in the future, and that he supported the recommendation of the PAAC.

Councilmember Nichols reviewed Council options for this item, he stated that he had an issue with the tallying of the comments, that the opposition comments had a lot more to say than those in support, it was not about the number of votes for or against but about the content of the votes, that art should enhance the location and not take away from it, that a lot of thought had gone into the design of Fletcher Cove Park to keep it natural, and that he would not support the art at



this location since the park was already an art piece in itself and this piece did not fit with the location.

Council and Staff discussed whether an art piece required Coastal Commission approval, the art did not require a permit since it was not over 16 ft. in height, that the Council was split on the location of the art, a mock-up was needed in order for a better idea of the actual height and placement of the art.

**MOTION:** Moved by Kellejian and seconded by Campbell. **Motion failed 2/3** (Noes: Roberts, Heebner, Nichols.)

Council discussion ensued regarding the scale of the piece, that a visualization would assist in the process, the item should be put aside for another 6-12 months to review alternative locations for the piece, that there were other items in the park that were not natural such as the basketball park and playground, that the sculpture would be tucked away towards the cliff, and that visually understanding the location would assist in making a determination.

David Ott, City Manager, stated that the Council Ad Hoc's assistance would be needed in determining where the placement of the story-poles should be placed to mock-up the location.

Councilmember Roberts and Heebner agreed to assist City Staff with the mock up at Fletcher Cove Park.

**MOTION:** Moved by Roberts and seconded by Campbell to work with Councilmembers Roberts and Heebner to storypole and "mock-up" the site to scale to exemplify the project's visual impact . **Motion carried 4/1** (Noes: Kellejian.)

**C.3. Short Building Permit Second Extension Request (Janet Short, 313 San Lucas Drive). (File 0600-43)**

Recommendation: That the City Council

1. Grant the request for a second extension to Building Permit #07-183 through December 7, 2009 (one year from the current permit expiration), including an extension of the requirement for completion of the exterior building construction beyond the 12 month period.

Councilmember Roberts recused himself from the item since he lived within 500 ft. of the project.

David Ott, City Manager, introduced the item.

Rich Whipple, Principle Planner, presented a PowerPoint.

Councilmember Heebner stated that 29 signatures were received by Council in the supplemental items from the HOA members or neighbors and asked whether the HOA rules had any impact on the Council's decision.

Lisa Foster, Deputy City Attorney, stated that the request was for an extension of time, that it was not for approval of the project, and that the applicant should be heard at this meeting.

Council and City Attorney discussion ensued regarding the litigation issues between the owner and the Home Owners Association (HOA) and whether the Council could allow the applicant to return with the project and waive permit fees after the litigation was resolved.

Ruth Ann Parker stated that she lived in the Isla Verde community, that she did not support the extension of the building permit, that the proposed building was not in compliance with the requirements of the Homeowners Association's architectural guidelines, that the plans submitted to the City were not approved by the HOA, and that the HOA guidelines protected the values of its residents. She stated that the regulations were pre-existing rules that the buyer should review prior to purchasing the property, the issue between the HOA and applicant had ensued for over a year, and that she requested that the extension not be granted.

Councilmember Campbell stated that if the extension was granted the owner could not build due to the court injunction, that the dispute did not involve the City, and that the City did not have the authority to protect HOA Conditions Covenants and Restrictions (CC &R's).

Michael Hickman (Janet Short donated additional time), represented the applicant, stated that the request by the applicant was to extend the permit, that the applicant could not build due to a court injunction, the injunction would remain until there was resolution between the property owner and the HOA, and that the applicants wanted an extension of time so they could be in compliance with the City code. He stated that there would be a court trial of the case, that the Council should not accept the petition due to statements that were going to the court for resolution, and that there was no hidden agenda by the applicants.

Tina Christiansen, Community Development Director, stated that if the extension was denied the applicant would be required to apply for another permit, that the fee for the permit could be waived if authorized by Council, and that Staff would review the project upon a new permit request to determine whether the project required additional permits and complied with all City codes.

Council and Staff discussion ensued regarding the original 2 year period of the permit, the permit being originally issued in March 2007, the permit expiring March 2009, that the plans submitted by the applicants were in compliance with all City codes, and that the City did not have jurisdiction over HOA regulations.

**MOTION:** Moved by Heebner and seconded by Nichols. **Motion carried 4/0/1** (Recuse: Roberts.)

**C.4. Solana Beach Local Coastal Program (LCP) Land Use Plan (LUP) Status Update. (File0740-80)**

Recommendation: That the City Council

1. Receive the information update.

David Ott, City Manager, introduced the item.

Tina Christiansen, Community Development Dir, presented a powerpoint (on file).

David Winkler said he was one of the 5 on the citizen's committee. that there were significant issues that the City would have to deal with for decades, that they had been meeting constantly, and that they would be back to Staff on Monday with their latest revisions before the Thursday Coastal Commission meeting.

Jim Jaffee said he was on the citizen's committee, that they were working on comments for a Monday review to prepare for Thursday, that they had been reviewing a 135 suggestioned modifications as well as comments, that they proposed to eliminate the shoreline planning commission, the removal of the preferred bluff solutoins, adopting the sand mitigation fee, and cut some fees and do more with less.

Mayor Nichols thanked Mr. Winkler and Mr. Jaffee for their time on the committee. Councilmember Kellejian said that the League's Coastal Issues Group Committee was trying to find ways to work better with Coastal.

David Winkler said he was reasnably confident that they could work out some final issues that were outstanding but that it was their intent that they could all sign off.

Council and Staff discussion ensured regarding the fee study that would be completed in July and another public workshop, that the cost for for the LCP over the years to date is around \$350,000, that \$184,000 was spent this year on a fee study and other efforts, separate costs of \$35,000 was set aside for

a lobbyist and that the majority had not been spent, and that the permit was based on a fee analysis and Staff time, and whether it would be possible to recover any of the \$500,000 from deposit fees.

**C.5. Solana Beach Civic and Historical Society Ceramic Tile Historical Plaque Program and request for City Council Support. (File 0920-30)**

Recommendation: That the City Council

1. Support Solana Beach Civic and Historical Society request to encourage property owners to participate in the Society's Historical Plaque Program.

David Ott, City Manager, introduced the item. He stated that he received a letter from Jim Nelson, Civic and Historic Society President, asking whether the plaques on the buildings would require the property owners to comply with the requirements for historical properties in the City's code, that the requirements for historical properties would not apply to this program due to the fact that only Council could designate historical properties in the City, and that Mr. Nelson also requested that Council support the Civic and Historical Society Plaque program.

Council discussion ensued regarding the streets on which historic buildings would be designated as part of the plaque program.

Jim Nelson, Civic and Historic Society President, stated that they would consider the addition of S. Acacia and the Hideaway Cafe in the historic plaque program as requested by Council.

Council discussion ensued regarding implementing this program and the benefit to the City.

Councilmember Roberts requested an amendment to the motion to direct the City Manager to send a letter to the Civic and Historic Society stating the City's support of the program.

**MOTION:** Moved by Campbell and seconded by Roberts to approve and direct the City Manager to forward a letter to the Civic and Historic Society stating the City's support of the Historical Plaque Program. **Motion carried unanimously.**

Mayor Nichols recessed the meeting for a break at 8:05 p.m. and reconvened at 8:10 p.m.

**A.4. Chamber of Commerce Visitor Center Agreement. (File 0400-10)**

Recommendation: That the City Council

1. Authorize the City Manager to execute the agreement between the City and the Solana Beach Chamber of Commerce on behalf of the City, and
2. Adopt Resolution 2009-022, authorizing funding in the amount of \$15,000 with the Solana Beach Chamber of Commerce for operation of the Visitor Center for one year.

Item A.4. was pulled from Consent by Councilmember Campbell.

David Ott, City Manager, introduced item.

Deputy Mayor Campbell and Mr. Carroll, Chamber of Commerce President, discussion ensued regarding the Chamber's responsibility to invoice the City twice a year for \$7,500 a year which was not happening consistently, that invoices were coming in different amounts resulting in an overage of the total contract, and that it needed to get under control.

Council discussed considering granting the \$7,500 for the 1st 6 months for 2009 and then when the City reviews its budget for 2009-10 for the remaining amount, that a recap of the visitors center would be a good idea, that discussion had not happened since 2004, and to extend the agreement through June 2009.

Council, Staff, and Mr. Carroll discussion ensued regarding the whether the City required audited statements, that they were only paid \$8,000 for one fiscal year because they did not invoice the City, that the profit losses were only for the Visitors Center.

**MOTION:** Moved by Campbell and seconded by Nichols to approve payment of the grant \$7500 for the first 6 months of the calendar year of 2009. **Motion carried unanimously.**

Dave Carroll thanked the council for all the staff and all and everything that all the interest can not be denied.

**WORKPLAN COMMENTS:**

(Adopted June 25, 2008)

None

**COMPENSATION & REIMBURSEMENT DISCLOSURE:**

GC: Article 2.3. Compensation: 53232.3. (a) ... Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

None

**COUNCIL COMMITTEE REPORTS:**

None

**Regional Committees: (outside agencies)**

- a. City Selection Committee - Roberts (meets twice a year).
- b. County Service Area 17 - Campbell, Nichols (alternate).
- c. Escondido Creek Watershed Authority - Nichols, Roberts (alternate).
- d. League of Ca. Cities' San Diego County Executive Committee - Roberts, Kellejian (alternate) and any subcommittees.
- e. League of Ca. Cities' Local Legislative Committee - Roberts, Kellejian (alternate).
- f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) - Kellejian, Roberts (alternate).
- g. North County Dispatch JPA - Nichols, Campbell (alternate).
- h. North County Transit District - Roberts, Heebner (alternate).
- i. Regional Solid Waste Association (RSWA) - Nichols, Kellejian (alternate).
- j. SANDAG - Heebner (Primary), Roberts (1st alternate), Nichols (2nd alternate) and any subcommittees.
- k. SANDAG Shoreline Preservation Committee - Kellejian, Roberts (alternate).
- l. San Dieguito River Valley JPA - Roberts, Nichols (alternate).
- m. San Elijo JPA - Campbell, Roberts (both primary members) (no alternates).
- n. 22nd Agricultural District Association Community Relations Committee - Campbell, Roberts.

**Standing Committees: (All Primary Members) (Permanent Committees)**

- a. Business Liaison Committee - Roberts, Campbell.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Roberts.
- d. Public Arts Committee - Roberts, Nichols.

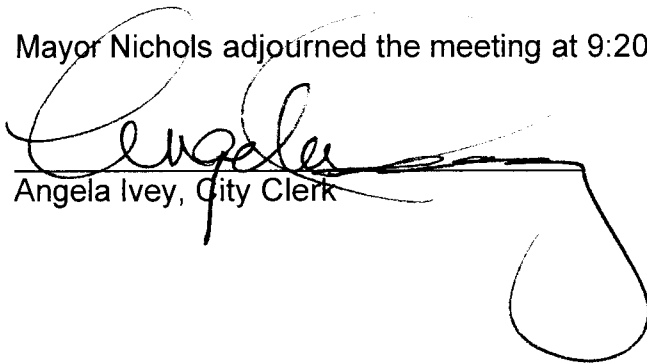
- e. School Relations Committee - Roberts, Campbell.

**Ad Hoc Committees: (All Primary Members) (Temporary Committees)**

- a. Army Corps of Engineers & Regional Beach Nourishment - Kellejian, Campbell. Expires December 9, 2009.
- b. Development Review - Nichols, Heebner. Expires November 18, 2009.
- c. Environmental Sustainability - Roberts, Heebner. Expires December 9, 2009.
- d. Fletcher Cove - Campbell, Heebner. Expires November 18, 2009.
- e. La Colonia Park Needs Assessment - Nichols, Heebner. Expires June 10, 2009.
- f. Local Coastal Plan Ad-Hoc Committee - Roberts, Campbell. Expires February 10, 2010 or at the California Coastal Commission adoption.
- g. NCTD / Train Station Site Project Ad Hoc Committee - Heebner, Nichols. Expires 1-13-2010
- h. View Assessment - Nichols, Heebner. Expires August 26, 2009

**ADJOURN:**

Mayor Nichols adjourned the meeting at 9:20 p.m.

  
Angela Ivey, City Clerk

Approved: October 26, 2011