

**CITY OF SOLANA BEACH**  
SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT  
AGENCY, PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY

# MINUTES

JOINT **REGULAR** MEETING  
Wednesday, October 9, 2013  
06:00 P.M.

Minutes contain a summary of the discussions and actions taken by the City Council during a meeting. City Council meetings are video recorded and archived as a permanent record. The video recordings capture the complete proceedings of the meeting and are available for viewing on the City's website.

**CALL TO ORDER AND ROLL CALL:**

**Present:** Nichols, Campbell, Heebner, Zito, and Zahn.

**Absent:** None.

**Also Present:** David Ott, City Manager  
Johanna Canlas, City Attorney  
Angela Ivey, City Clerk  
Wende Protzman, Community Development Dir.  
Mo Sammak, City Engineer/Public Works Dir.  
Marie Berkuti, Finance Manager  
Dan King, Sr. Management Analyst

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

**CLOSED SESSION REPORT: (when applicable)**

Johanna Canlas, City Attorney, stated there was not reportable action.

**FLAG SALUTE:**

**APPROVAL OF AGENDA:**

**MOTION:** Moved by Zahn and seconded by Zito. **Motion carried unanimously.**

**PRESENTATIONS:**

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

1. Highway 101 Project Westside Improvement Project Update

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

**ORAL COMMUNICATIONS: None**

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.

**COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:**

**A. CONSENT CALENDAR: (Action Items) (A.1. - A.2.)**

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. Register Of Demands. (File 0300-30)**

Recommendation: That the City Council

1. Ratify the list of demands for August 31, 2013 through September 20, 2013.

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

**A.2. General Fund Adopted Budget for Fiscal Year 2013-14 Changes. (File 0330-30)**

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2013-2014 General Fund Adopted Budget.

**MOTION:** Moved by Heebner and seconded by Campbell. **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: (B.1. - B.4.)**

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.

**B.1. Development Review Permit (DRP) and Structure Development Permit (SDP) for 330 S. Rios Ave, Applicant: David and Kathy Jacobs, Case # 17-12-36. (File 0600-40)**

Recommendation: That the City Council

1. Continue the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2013-087 conditionally approving a DRP and an administrative SDP to allow for the construction of a new multi-level, single-family residence with a subterranean basement and an attached garage at 330 South Rios Avenue.

David Ott, City Manager, introduced the item.

Corey Johnson, Assistant Planner, presented a PowerPoint (on file) reviewing the project.

Mayor Nichols opened the public hearing.

Council disclosed their familiarity with the project.

John Beery, architect, reviewed changes made based on the last hearing and revised landscape plans based on neighbor's requests.

**MOTION:** Moved by Heebner and seconded by Campbell to close the public hearing. **Motion carried unanimously.**

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

**B.2. Development Review Permit (DRP) for 418 N. Granados Avenue, Applicant: Joseph P. Gabbert, Case # 17-13-09 (File 0600-40)**

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2013-120 conditionally approving a DRP to allow for the construction of a new two-level, single-family residence with a subterranean basement and an attached garage at 418 North Granados Avenue.

Mayor Nichols recused himself due to the proposed project being location within 500 feet of his residence.

David Ott, City Manager, introduced the item.

Patricia Bluman, Principal Planner, presented a PowerPoint (on file) reviewing the project.

Council and Staff discussed street parking that would be available on the north end of driveway.

Councilmember Campbell opened the public hearing.

Council disclosed their familiarity with the project.

John Beery, architect, stated that this project was reduced from two story project to one story project based on neighbors' input.

**MOTION:** Moved by Heebner and seconded by Zito to close the public hearing. **Motion carried 4/0/1** (Recuse: Nichols.)

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

**B.3. Development Review Permit (DRP) and Structure Development Permit (SDP) for 1118 Highland Drive, Applicant: Chris Dryden and Kymberly Nelson, Case # 17-13-11 (File 0600-40)**

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15301 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2013-119 conditionally approving a DRP and an administrative SDP for an interior remodel and a square footage addition of 777 square feet for a total residence of 3,771 square feet and an attached garage of 475 square feet at 1118 Highland Drive.

David Ott, City Manager, introduced the item.

Corey Johnson, Assistant Planner, presented a PowerPoint (on file) reviewing the proposed project.

Mayor Nichols opened the public hearing.

Council disclosed their familiarity with the project.

Tyler Van Stright, JLC Architecture, said that he did not have a presentation and was available for questions.

**MOTION:** Moved by Heebner and seconded by Zahn to close the public hearing. **Motion carried unanimously.**

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

**B.4. Fiscal Year 2014-2015 Community Development Block Grant Funds - ADA Pedestrian Ramp Improvements. (File 0390-30)**

Recommendation: That the City Council

- 1.

Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.

2. Adopt Resolution 2013-112:

- a. Finding that the funding request and project implementation are exempt from the California Environmental Quality Act pursuant to the State CEQA Guidelines.
- b. Approving the list of public street ADA Ramp Locations.
- c. Requesting Fiscal Year 2014-15 Community Development Block Grant Funds for ADA pedestrian ramp improvements at various public street intersections listed in Attachment, Exhibit A.
- d. Finding that all of Fiscal Year 2014-15 CDBG funds, presently estimated at a total of \$40,000, are designated to be used for ADA pedestrian ramp improvements.
- e. Requesting to reallocate Fiscal Year 2012-13 Community Development Block Grant Funds in the amount of \$29,185.49 for ADA pedestrian ramp improvements at various public street intersections listed in Attachment 1, Exhibit A.

David Ott, City Manager, introduced the item.

Mayor Nichols opened the public hearing.

**MOTION:** Moved by Campbell and seconded by Zahn to close the public hearing. **Motion carried unanimously.**

**MOTION:** Moved by Campbell and seconded by Zito. **Motion carried unanimously.**

C. **STAFF REPORTS: (C.1.)**  
*Submit speaker slips to the City Clerk*

C.1. **Citizen's Initiative Petition for Proposed Ordinance 443 - Special Event Permit for Fletcher Cove Community Center. (File 0430-20)**

Recommendation: That the City Council

1. Provide direction on Council's course of action regarding a qualified petition proposing Ordinance 443:
  - a. Adopt Ordinance 443 relating to special use permits at the Fletcher Cove Community Center. OR
  - b.

Submit Ordinance 443 to the voters at a Special Municipal Election and adopt Resolutions:

1. Resolution 2013-115 Calling an Election & Requesting Registrar of Voters (ROV) Services for a January 14, 2014 election.
  2. Resolution 2013-116 Authorizing Written Arguments.
  3. Resolution 2013-117 Authorizing Rebuttal Arguments. OR
- c. Order a report and return within 30 days to a City Council meeting.

David Ott, City Manager, introduced the item.

Angela Ivey, City Clerk, presented a powerpoint (on file) reviewing the history and procedures of this initiative process.

Virginia Garland stated that they were concerned that the public may have thought the initiative issue originated with the Civic and Historical Society, that the Society had not formally taken a position on the issue, and that they had benefited from the use of the Community Center. She stated that if members from the Society spoke out on the issue they would do so as individuals and not on behalf of the Society.

Margaret Schlesinger stated that she wanted to encourage Council to take action to avoid the expense of a special election, that that the initiative was necessary to open up the use of the Community Center for special events but she did not agree with some aspect of the initiative including the return to the ballot and that she did not sign the petition, that she was not a believer in legislation by initiative at any level, and that trust between Council and the community had been lost and that initiative signers felt it was the only way to obtain use of the center. She stated that Council could consider adopting the ordinance with a condition that in 6 months there would be a review and that if there were major issues that needed to be addressed that Council could submit an ordinance to a regular election, and that every side of the issue was operating within a vacuum. She thanked Council for their hard work and that they were placed in a very difficult position.

Mary Jane Boyd (time donated by Roger Boyd) thanked Council for their hard work to address issues with the community, asked Council to adopt the ordinance and not call for a special election, and stated that the initiative was a way to regulate the use of the Community Center under current City codes which Council probably would have done if nearby neighbors had not complained that they did not want it used for special celebrations. She said that the Community Center had been in the same place for 70 years, many families had raised their children safely in the surrounding area, and that the biggest

change in the area was the conversion of the parking lot to a park which hundreds of people visited everyday. She stated that parking was not an issue, including at the Concerts on the Cove event days, that security would be a good idea for larger events and could be addressed through the permitting process, that alcohol would be regulated through the A.B.C. laws in line with surrounding establishments, and that liability could be addressed by requiring the renter to indemnify the City from responsibility and supplying appropriate insurance coverage, that noise should be regulated by current City regulations, and that the number of events should be limited as well as the hours. She asked Council to adopt the initiative language as provided in order to give it a try, and then return to address issues if the use was not working. She said that they did not misrepresent the facts nor did they coerce anyone to sign the petitions. She stated that Council was correct that they did not tell people that the initiative would force an election, there were 2,000 signatures, and that 50 emails were sent asking Council to not call a special election.

Richard Jacobs (time donated by Marlene Jacobs) stated that residents had first heard of the proposed policy for the Community Center at an April 2012 meeting which was attended by approximately 40 residents. He stated that the neighbors felt that the proposed use provisions were too intense due to the facility being located in a residential community, that the Council asked the neighbors to reach consensus with the the other party regarding the proposed use conditions, and that 8 people met with the intention of finding a compromise on the use of the Center in June 2012 . He stated that compromise had been made on many issues but that alcohol use was not negotiated, that the other group had refused to have another meeting with the neighbors and wanted to take their proposal directly to Council. He stated that Council took no action on the use policy in June, that Council approved a less intensive and more reasonable policy in August which included one party on alternating weekends, a 50 person limit, and moderated alcohol at a limit of 2 drinks per person. He said that the neighborhood agreed with this policy, that the center was available for private usage after Council's adoption of the policy in August , and that the other side was still not satisfied with the provisions. He stated that the proponents used paid representatives to collect signatures, that they could trigger a city wide special election at a cost of 200,000 to the City, that they had sent a brochure to all residents intended to confuse voters, and that collecting signatures would force Council to choose between a special election or adopting their initiative. He stated that the proponents and its supporters would be to blame if the Council decided to call a special election and spend \$200,000.

Carol Childs stated that she was a resident and was speaking as one of the members of the Friends of the Fletcher Cove Community Center. She stated that the Council could be very creative, that they were faced with a vote at a cost versus creativity, and that Council had the opportunity to exercise creativity in this issue. She stated that a newspaper editorial written by Betzy Walcott stated that funds spent on a special election could be used for repairs and projects in the City. She said that Council could avoid the cost in this



issue and demonstrate their creativity.

Gordon Johns stated that he was a resident and thanked the Council for their work. He stated that he felt the Council represented the community excellently, and that they had attempted to create an unbiased point of view to try and do the best for the most people. He said the sponsors had intentionally filed the petition at a time where it would force a special election, that the objective was to take away the power of the City Council, and that he opposed spending \$200,000. He stated that when the City became divisive that good people start pulling away from doing things and that people should not be rewarded for taking a stance of saying it was their way or the highway.

Betsy Walcott stated that Council was in an unfortunate position, that her editorial may had been taken out of context, Council was being forced to make some difficult decisions, and that she was not sure if there was any room for creativity in this situation. She said that she was confused about the mailer that was sent out, she was in support of private use of the center and she was in favor of the Council policy proposal, and that events every weekend at the Center was too excessive. She stated that weekly events would impact parking for beach goers, the mailer made it sound like Council would be at fault for the calling of the special election, that it was the sponsors of the initiative that made the election a possibility, she hoped Council could come up with a creative solution, and encouraged Council to not adopt the ordinance.

Ira Opper stated that he had lived in the City for over 30 years and that he had never heard of such a benign issue receiving so much attention. He said that the City was fortunate to have a group of well educated, professional Councilmembers, that Council was more than capable of coming up with a policy to run a community center, and that issue seemed to be about discrediting the Council and gaining power. He asked who had funded the signature collection, paid for the mailer, why they had not filed a Political Action Committee with the City, and why had they hired one of the states most noted law firms that specialized in hiding campaign funding. He said that he urged the Union Tribune, Coast News, and Solana Beach Sun to use their professional journalism to investigate who was funding this effort, to not be an advertorial platform for the big money campaign, and that he supported Council's decision.

Kelly Harless (time donated by Rob Glatts and Laura Limber) stated that her group was present to hold the sponsors of the party policy initiative responsible for deliberately misleading the public, by not disclosing donations and expenditures, and forcing Council into adopting their policy. She said that the community would vote in a responsible way when given factual information, the sponsors had stated that they were promised big parties if they contributed to the refurbishment of the Community Center, that the sponsors of the initiative claimed that the Community Center was unused which was not true because the Center was used almost daily for community programs by nonprofits, and that it was stated that only a small group of Pacific Ave. residents opposed the initiative, but that various Council meetings had residents from all areas of the City who opposed the initiative. She stated that the

supporters claimed that those who opposed the initiative refused to compromise but that they actually had compromised on all areas of the proposed use conditions, the supporters were still fighting for their original policy with no concessions, and that the sponsors had spent large funds on mailers, political consultants, and an expensive election attorney Steve Sutton, in San Francisco, who had received the biggest ethics fine in San Francisco history. She stated that the sponsors had refused to accept responsibility for the special election but that they had submitted a petition requesting one, Council had reached consensus at the August meeting and adopted a policy, but the sponsors continued to gathered signatures and submitted them in August knowing that a special election would be triggered. She asked the Council to not adopt the initiative ordinance and to set up a committee to discuss a potential competing ordinance.

Marion Dodson stated that she had attended most of the meetings on this issue, and had heard neighbors fears of the use of the Community Center. She stated that the Community Center had little or no rentals in the past due to the deteriorating condition of the building, that other events in the City impacted parking and noise such as Fiesta Del Sol without any issues, and that there were a number of bars and restaurants near Fletcher Cove that created noise and parking issues. She said that lifeguards would address issues at the beach, the Community Center was a public building on public land and located at a beach front area, and that people wanted to sit and enjoy the area, which was why so many people had donated money and time to renovate the building and property, so it would be enjoyable for everyone. She stated that the imitative did not ask for anything new but only what the people had expected to continue, which was the reasonable permitted uses of the Community Center.

Councilmember Zito said that some interesting complexities were raised on this issue, that some years ago he had worked on an initiative known as the Community Protection Act, that they presented it in a responsible way by not choosing to force a special election, that the right thing to do was to let the people be heard by a public vote, that Council was faced with a difficult position of a choice of a costly special election, that he had voted for the recent policy that Council reached consensus which he was not entirely supportive but thought it had to get started and would avoid this issue. He said that it was frustrating now understanding who was supporting the issue financially and that if it was disclosed that more communication could take place to understand the issue and agenda in order to deal with the difficult issues.

Deputy Mayor Campbell said that he read from a blank petition and that it said "an initiative petition to be submitted directly to the voters," that past private party rentals at the Community Center were discontinued many years ago because of the negative impacts to the surrounding neighborhood, that private parties were not a discussion item during the Ad Hoc discussions regarding the renovation of the Community Center, that it was not part of the permit contents submitted to the Coastal Commission, that Council had never promised private rentals, Mr. House and Ms. Childs made significant contributions which were appreciated, contributions were also made by the Civic and Historical Society

and Jim Nelson, that Jim Nelson had stated at a Council meeting that contributors thought that those who made contributions should be given greater consideration than those who did not, that elections were part of the democratic process but that this strategy adopted tactics that included misinformation, that the proponents and their financial backers sent out a mailer without disclosure of who paid for it, that the proponents, signature gatherers and financiers told the public that by signing the petition the matter would go to a vote of the people, they did not tell voters the cost of the special election that would be at least \$200,000, the resulting financial liability to the City due to private usage, that the proponents and supporters now state that they did not want an election, the proponents had up to six months to turn in their signed petitions but that they did it early, if they had waited at least a few weeks this would not be a \$200,000 election but instead a \$10-20,000 general election, that it would have only taken 3-4 weeks, that this \$200,000 cost was bot due to the Council but due to the proponents, that they wanted to go into someone else's neighborhood next to a children's playground and have noisy parties 52 weeks a year, starting in the morning and lasting until 10:00 p.m. every Saturday and Sunday, that they did not seem to care about the havoc that parties could have on the surrounding neighborhood, the initiative was bad law because it could only be modified by an election, and that there would be problems and the City would not be able to address problems without taking it to a vote.

Councilmember Zahn stated that the situation was bothersome, that the proponents gathered signatures for a purpose but now that message had changed stating that they did not want a special election, that if the proponents had waited a week or two that there would not be such concern about the City's budget, and that it was not prudent to adopt the ordinance or call for an election at this meeting but to order a report.

Councilmember Heebner said that there were postcards and emails sent in to Council requesting that a special election not be called, that she thought that many of them did not understand the implications so she wrote an explanatory email to review the history, that she received responses stating they did not understand when they signed the petition that it could result in a special election that could cost over \$200,000, that Council would not have the ability to alter the ordinance, that the agenda was to gain political power rather than the issue of the Community Center, and that she would recommend that Council called for a report.

Mayor Nichols stated that people seemed to be clear that Council was not responsible for the calling or the cost of a special election, that Council was not seeking a special election, that the people who brought the petition forward were aware of the cost of a special election and were now saying they did not want a special election and to just adopt the ordinance, that 15% of the voters signed a petition but that 85% of voters had not been heard, that a report should be ordered, and to consider establishing an Ad Hoc for discussion regarding a competing initiative.

Deputy Mayor Campbell said that he could not participate on the Ad Hoc, that it would be helpful for an Ad Hoc to hear from the community regarding the content for a reasonable competing initiative, and that he recommended the ordering of a report.

Councilmember Zito stated that an Ad Hoc be identified to be the point contacts with the public so that there would not be a potential Brown Act issue, and that he would be interested in participating in the Ad Hoc.

**MOTION:** Moved by Campbell and seconded by Zito to choose option c. Order a report and return within 30 days to a City Council meeting. **Motion carried unanimously.**

### **WORKPLAN COMMENTS:**

### **COUNCIL COMMITTEE REPORTS:**

#### **Regional Committees: (outside agencies, appointed by this Council)**

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

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

- a. Business Liaison Committee - Campbell, Zahn.
- b. Highway 101 / Cedros Ave. Development Committee - Nichols, Heebner.
- c. I-5 Construction Committee - Heebner, Zito.

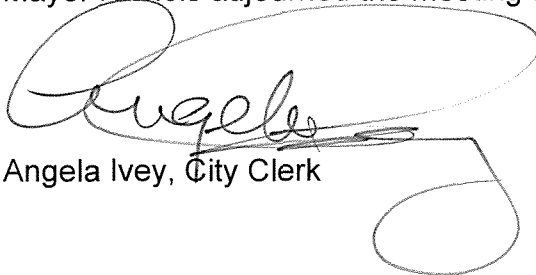
- d. Parks and Recreation Committee - Nichols, Heebner.
- e. Public Arts Committee - Nichols, Zito.
- f. School Relations Committee - Zito, Zahn.

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

- a. Army Corps of Engineers & Regional Beach Nourishment - Nichols, Zito. Expires December 5, 2013.
- b. Development Review - Nichols, Heebner. Expires October 23, 2014.
- c. Environmental Sustainability - Heebner, Zahn. Expires December 5, 2013.
- d. Fire Department Management Governance - Zito, Zahn. Expires July 09, 2014.
- e. Fiscal Sustainability - Campbell, Zito. Expires June 11, 2014.
- f. Gateway Property - Campbell, Heebner. Expires April 9, 2014.
- g. General Plan - Nichols, Zito. Expires July 09, 2014.
- h. La Colonia Park - Nichols, Heebner. Expires June 11, 2014.
- i. Local Coastal Plan Ad-Hoc Committee - Campbell, Nichols. Expires January 22, 2014 or at the California Coastal Commission adoption.
- j. NCTD / Train Station Site Project Ad Hoc Committee - Nichols, Heebner. Expires January 8, 2014.
- k. View Assessment - Heebner, Zito. Expires June 11, 2014.

**ADJOURN:**

Mayor Nichols adjourned the meeting at 8:24 p.m.



Angela Ivey, City Clerk

Approved: November 13, 2013