



CITY OF EAGLE POINT

"Gateway to the Lakes"

OREGON

EAGLE POINT CITY COUNCIL
17 BUCHANAN AVE. SOUTH, EAGLE POINT, OREGON

OCTOBER 13, 2015

REGULAR MEETING MINUTES

1. CALL TO ORDER – 7:00 P.M.

Mayor Russell called the meeting to order at 7:00 p.m.

Council Members Present: Bob Russell, Jonathan Bilden, Wayne Brown, Bill Fierke, Ruth Jenks, and Kathy Sell.

Council Members Absent: Aaron Prunty.

Staff Members Present: Henry Lawrence, City Administrator; Joe Kellerman, City Attorney; Robert Miller, Public Works Director; Melissa Owens, Finance Officer; Vern Thompson, Police Chief; Mike Upston, Planning Director; and Cindy Hughes, City Recorder.

Guests: James Parmenter, Civil West Engineering, LLC; Suzi Collins, Planning Commissioner; Millie Wewerka, Budget Committee Member and Planning Commissioner; Jerry Zieman, Budget Committee Member; and members of the public and press.

2. FLAG SALUTE AND INVOCATION

Mayor Russell led the Pledge of Allegiance and Jerry Zieman offered an invocation.

3. AUDIENCE QUESTIONS OR COMMENTS CONCERNING ITEMS NOT ON THE AGENDA

There were no audience questions or comments concerning items not on the agenda.

4. PRESENTATIONS

4.1 Presentation by Pauly, Rogers, and Co., P.C., regarding 2014-2015 Annual Comprehensive Financial Report (CAFR) and Audit Report.

Mayor Russell reported Pauly, Rogers, and Co., P.C., had sent their apologies as the presentation would be made later in the year due to unforeseen staffing changes within the audit firm.

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5. PUBLIC HEARINGS

- 5.1 Public Hearing in the matter of declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.

Mayor Russell explained that in addition to a presentation from Staff explaining the details of the proposal, all persons interested in offering testimony would be allowed to do so. Next, Mayor Russell opened the public hearing at 7:03 p.m. to consider declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers; referring Ordinance to the voters; and declaring an emergency.

Joe Kellerman, City Attorney, explained that House Bill 3400 allows cities to adopt an ordinance to refer to voters that would prohibit medical marijuana processors, medical marijuana dispensaries, recreational marijuana producers, processors, wholesalers, and retailers. If the ordinance is adopted, the State will not license any marijuana businesses until the next statewide General Election (Fall 2016). Adoption of the ordinance is effectively a moratorium on state registration (medical) and licensing (recreational), which is a prerequisite to operation. If the voters reject the ordinance, then the State will resume registration and licensing. If the voters ratify the ordinance, then marijuana businesses are prohibited locally and the State will not issue registrations or licenses. Such a referral would place a moratorium on commercial marijuana activities until the General Election in November, 2016. Additionally, Attorney Kellerman reported Eagle Point's precincts resulted in "no" votes of 57% and 58%.

Attorney Kellerman explained the other voter initiative is to approve a tax in the event the first initiative fails. Attorney Kellerman forewarned the Council about the potential of voter misunderstanding with two initiatives on the same ballot. The alternative would be to let the voters decide on the first initiative and then follow with an initiative for taxing if it passed. However, it would be necessary to wait until the next General Election to vote on the tax. Council discussed clarifying the initiatives to avoid confusion to the voters. There was Council discussion in support of putting both initiatives on the same ballot.

Councilors Sell and Fierke discussed the language with Attorney Kellerman to ensure the items included medical and recreational marijuana producers.

Mayor Russell invited public testimony in favor of the proposal and the following individuals offered testimony:

- Karen Carpenter spoke in favor of the proposal; however, she stated she was not sure if it would be confusing to voters or not. Attorney Kellerman explained

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about having two separate ballot measures. Ms. Carpenter's final comment was "pot stinks".

- Millie Wewerka thought it was appropriate to refer the initiative to the voters considering the percentage of 57% of voters opposed.
- Randy Sell asked the Council to consider zoning ordinances, and whether or not marijuana is a commercial crop. Attorney Kellerman explained this measure would prohibit all but personal backyard grows. Mr. Sell also discussed addressing the issue of odor and depreciation of real estate values for cities with marijuana grows. On a personal side, Mr. Sell pointed out that individuals using marijuana could have an impact on law enforcement.
- Jerry Zieman inquired about the possibility of whether or not his property zoned light commercial could be sold to grow marijuana indoors. Attorney Kellerman responded that it was unknown.

Mayor Russell invited public testimony in opposition of the proposal and the following individuals offered testimony:

- Jerry Richardson asked if the City were to be sued and lost, would they lose tax revenues. Attorney Kellerman explained that the Ordinance and referral process was authorized by the State to refer to the voters and he did not believe it was subject to suit. Mr. Richardson asked if banned by the voters and the City was later sued, would the City be able to tax. Attorney Kellerman responded that if the voters passed the measure, the City would not be able to collect any tax revenue. Attorney Kellerman further explained that the agenda statement with those details was available online at the City's website.
- Diane Schock asked for clarification to understand if the ban is implemented would it mean that people would not be able to buy land in the City of Eagle Point for the purpose of growing marijuana. Ms. Schock spoke about an article in *Mail Tribune* and wanted to know if the ban would preclude buying land for the purpose of growing marijuana. Attorney Kellerman responded that the ban would not preclude buying property but cultivation of marijuana that would require a license, basically anything other than the personal use exception, would be banned if the measure passes. Councilor Sell added that the Oregon Health Authority requires any commercial grower to be a resident of the State of Oregon. Attorney Kellerman concurred.

There being no further public testimony, Mayor Russell closed the public hearing at 7:25 p.m.

Next, Mayor Russell explained that Ordinance No. 2015-06 and Resolution No. 2015-52, regarding the subject of the Public Hearing, were scheduled later in the Agenda as Item Numbers 10.1 and 10.2 under the "New Business" section of the Agenda. Mayor Russell requested and received the consent of the Council to change

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the order of business to deliberate Ordinance No. 2015-06, followed by Resolution No. 2015-52.

Next, Attorney Kellerman explained Item No. 10.1 was an action item to the Public Hearing. Attorney Kellerman clarified the language of the Ordinance should read as marijuana producers instead of recreational marijuana producers, refer to voters, and declaring an emergency in the interest of the health, safety, and welfare of the community.

Mayor Russell asked for a motion to adopt Ordinance No. 2015-06. Councilor Fierke motioned and modified a motion to adopt Ordinance No. 2015-06, an Ordinance of the City of Eagle Point declaring a ban on marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers; referring Ordinance; and declaring an emergency; and amending the title of the Ordinance as stated. Councilor Jenks seconded the motion. There was no discussion. Roll call: Bill Fierke, aye; Ruth Jenks, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bob Russell, aye; and Aaron Prunty, absent. The motion passed unanimously by those present.

Regarding Item No. 10.2, Attorney Kellerman explained the title to Resolution No. 2015-52 would also require revisions to match the language in the Ordinance.

Councilor Jenks offered a motion to approve Resolution No. 2015-52, a Resolution approving referral to the electors of the City of Eagle Point the question of banning marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers within the City of Eagle Point. Councilor Sell seconded the motion. There was no discussion. Roll call: Ruth Jenks, aye; Kathy Sell, aye; Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Bob Russell, aye; and Aaron Prunty, absent. The motion passed unanimously by those present.

- 5.2 Public Hearing in the matter of referral to the Electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

Mayor Russell explained that in addition to a presentation from Staff explaining the details of the proposal, all persons interested in offering testimony would be allowed to do so. Next, Mayor Russell opened the public hearing at 7:37 p.m. to consider referral to the Electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

Joe Kellerman, City Attorney, explained that House Bill 3400 allows a city council to adopt an ordinance to refer to the voters the question of a three percent tax or fee on the sale of marijuana items by a marijuana retailer in the City of Eagle Point. Attorney Kellerman explained that if the Ordinance was adopted, the City would impose a three percent tax. The Resolution is the companion document that sends

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the Ordinance to the voters at the next General Election. There was no Council discussion.

Mayor Russell invited public testimony in favor of the proposal and the following individuals offered testimony:

- Karen Carpenter asked about where the tax amount of three percent came from, and Attorney Kellerman responded that it was established by the State. There was a brief discussion about how much the State can tax.

Mayor Russell invited public testimony in opposition of the proposal and the following individuals offered testimony:

- Millie Wewerka stated her endorsement of Attorney Kellerman's position that putting both items on the ballot was confusing. Ms. Wewerka also thought that if we wanted voters to vote in favor of the first item that it was a disservice to put the second initiative on the same ballot. Ms. Wewerka also asked if there was a requirement to put both items on the ballot at the same time. Attorney Kellerman clarified that it was not his position that it would be confusing to have both items on the ballot but rather wanted the Council to consider the possible confusion of putting both items on the ballot. He further responded that he originally thought both measures had to go together on the next General Election but it could be sequentially in a later General Election. Ms. Wewerka was in support of putting the first initiative on the ballot.

Discussion followed about whether the existing tax on the books would be effective in the event the first measure passed; however, Attorney Kellerman responded he was unsure but felt confident that the second measure could go before the voters at a later General Election. Additional discussion indicated future strengthening of the language in the Explanatory Statement to ensure clarity to the voters.

There being no further public testimony, Mayor Russell closed the public hearing at 7:47 p.m.

Next, Mayor Russell explained that Ordinance No. 2015-07 and Resolution No. 2015-53, regarding the subject of the Public Hearing, were scheduled later in the Agenda as Item Numbers 10.3 and 10.4 under the "New Business" section of the Agenda. Mayor Russell requested and received the consent of the Council to change the order of business to deliberate Ordinance No. 2015-07, followed by Resolution No. 2015-53.

Regarding Item No. 10.3, Attorney Kellerman explained Ordinance No. 2015-07 imposes a tax of three percent on the sale of marijuana items by a marijuana retailer and it would be referred by companion Resolution No. 2015-53 to the voters to establish a three percent tax.

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Mayor Russell asked for a motion to adopt Ordinance No. 2015-07. Councilor Fierke motioned to adopt Ordinance No. 2015-07, an Ordinance of the City of Eagle Point imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point. Councilor Jenks seconded the motion. Council President Bilden asked and received Attorney Kellerman's pledge of confidence that the measures did not have to be on the same ballot. There was no further discussion. Roll call: Kathy Sell, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Bob Russell, aye; Jonathan Bilden, nay; and Aaron Prunty, absent. The motion passed with five ayes and one nay.

Regarding Item No. 10.4, Attorney Kellerman explained Resolution No. 2015-53 is the Resolution to refer the Ordinance to the voters. The City Council and Attorney Kellerman discussed amending and strengthening the Ballot Title summary language as follows:

Resolution No. 2015-53 – Exhibit 2: Deleting the last sentence.

Resolution No. 2015-53 – Exhibit 2: Inserting the following sentence as the first sentence “This measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails.”

Attorney Kellerman called out Resolution No. 2015-53, a Resolution approving referral to the electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point; and amending the Ballot Title to delete the last sentence in the summary and to insert in the first sentence of the summary, the following verbiage: This measure will become operative only if the ballot measure prohibiting the establishment of certain marijuana registrants and licensees fails.

Councilor Sell motioned to approve Resolution No. 2015-53 as stated by Attorney Kellerman and Councilor Jenks seconded the motion. Council President Bilden stated he was not comfortable having both measures on the ballot. There was no further discussion. Roll call: Kathy Sell, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Bob Russell, aye; Jonathan Bilden, nay; and Aaron Prunty, absent. The motion passed with five ayes and one nay.

- 5.3 Public Hearing in the matter of amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

Mayor Russell opened the public hearing at 8:00 p.m. to consider amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

Joe Kellerman, City Attorney, explained that the City Council passed a tax last year to establish a tax on the sale of marijuana and marijuana-infused products before

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House Bill 3400. Attorney Kellerman explained the Ordinance could protect the City in the event of litigation while authorizing the City to tax as previously approved by Ordinance No. 2014-06 or at the maximum amount allowed by law. Discussion ensued about whether or not cities that imposed taxes prior to House Bill 3400 could still tax; however, it was unknown at this time.

Mayor Russell invited public testimony. There being no testimony, Mayor Russell closed the Public Hearing at 8:05 p.m.

Next, Mayor Russell explained that Ordinance No. 2015-08, regarding the subject of the Public Hearing, was scheduled later in the Agenda as Item No. 10.5 under the "New Business" section of the Agenda. Mayor Russell requested and received the consent of the Council to change the order of business to deliberate Ordinance No. 2015-08.

Regarding Item No. 10.5, Ordinance No. 2015-08, Attorney Kellerman explained this item is the enacting Ordinance for the previous Public Hearing. There was no further discussion.

Mayor Russell asked for a motion to adopt Ordinance No. 2015-08. Council President Bilden motioned to adopt Ordinance No. 2015-08, amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point. Councilor Fierke seconded the motion. There was no discussion. Roll call: Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Bob Russell, aye; Kathy Sell, aye; and Aaron Prunty, absent. The motion passed unanimously by those present.

6. CONSENT CALENDAR

6.1 Presentation of Regular Meeting Minutes of September 22, 2015.

Mayor Russell announced the Consent Calendar. Cindy Hughes, City Recorder, explained a scrivener's error had been corrected in Item No. 6.1 of the Minutes to reflect Councilor Sell made the motion and Councilor Brown seconded the motion. Council President Bilden moved to approve the Consent Calendar and Councilor Jenks seconded the motion. There was no further discussion regarding the Consent Calendar. Roll call: Jonathan Bilden, aye; Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Kathy Sell, aye; Bob Russell, aye; and Aaron Prunty, absent. The motion passed unanimously by those present.

7. CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR

There were no items considered for removal from the Consent Calendar.

8. PRESENTATION OF BILLS TO BE PAID

Mayor Russell asked if there were questions about the bills to be paid and there were no questions. Next, Council President Bilden moved to approve the Bills to be Paid including

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the Additional Bill List (Submission No. 1) in the amount of \$2,835.61 and Councilor Jenks seconded the motion. There was no discussion. Roll call: Wayne Brown, aye; Bill Fierke, aye; Ruth Jenks, aye; Kathy Sell, aye; Bob Russell, aye; Jonathan Bilden, aye; and Aaron Prunty, absent. The motion passed unanimously by those present.

9. OLD BUSINESS

9.1 Examination of USDA Water Reservoir Alternatives, Part II – (Civil West Engineering).

Robert Miller, Public Works Director, reviewed the Agenda Statement, explaining that at the last City Council meeting, Civil West Engineering presented options for a new tank planned for Radar Ridge. The options included: Steel Bolted Glass-Fused Tank, Welded Steel Tank, or Concrete Tank; with various finishes and profiles.

James Parmenter of Civil West Engineering Services, Inc., discussed the options and recommended a steel bolted glass-fused tank with a low profile dome. Mayor Russell and the Council expressed support for the recommendation. It was agreed that the finish type would be determined at a later date.

10. NEW BUSINESS

10.1 Ordinance No. 2015-06. An Ordinance of the City of Eagle Point declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and recreational marijuana retailers; referring Ordinance; and declaring an emergency.

Discussed and deliberated under Item No. 5.1.

10.2 Resolution No. 2015-52, a Resolution approving referral to the electors of the City of Eagle Point the question of banning marijuana processing sites, medical marijuana dispensaries, marijuana producers, marijuana processors, marijuana wholesalers, and marijuana retailers within the City of Eagle Point.

Discussed and deliberated under Item No. 5.1.

10.3 Ordinance No. 2015-07. An Ordinance of the City of Eagle Point imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

Discussed and deliberated under Item No. 5.2.

10.4 Resolution No. 2015-53. A Resolution approving referral to the electors of the City of Eagle Point the question of imposing a three percent tax on the sale of marijuana items by a marijuana retailer within the City of Eagle Point.

Discussed and deliberated under Item No. 5.2.

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- 10.5 Ordinance No. 2015-08, amending Ordinance No. 2014-06, an Ordinance establishing a tax on the sale of marijuana and marijuana-infused products in the City of Eagle Point.

Discussed and deliberated under Item No. 5.3.

- 10.6 Resolution No. 2015-54. A Resolution authorizing the installation of Eagle Point directional signs on Interstate 5.

Henry Lawrence, City Administrator, reported the Council had discussed signage for nearly four or five years. Mr. Lawrence noted that most people with smart phones would be able to find Eagle Point but there is not signage off of I-5 to indicate the exit for Eagle Point. Mr. Lawrence further reported the Manual on Uniform Traffic Control Devices includes the standard for exit signage and the Oregon Department of Transportation is adhering to those standards regarding Exit 30.

The pros and cons of Option 1 - Exit 33 (Central Point/) and Option 2 - Exit 35 (Central Point/Blackwell Road) were discussed as well as the cost which would be the responsibility of the City. In addition to the options presented, there was Council support of investigating the possibility of I-5 signage at Exit 43, and partnering with the Veteran's Administration to receive I-5 signage for the National Cemetery.

Mr. Lawrence offered to further research and table the item until a later date. Mayor Russell expressed he would like the item brought back before the end of the year.

11. REPORTS FROM CITY COUNCIL AND CITY COMMITTEE REPRESENTATIVES

Councilor Fierke reported the D9 Board meeting would be held on the following day; however, a quarterly communications meeting had been held. Various topics were discussed during that meeting including: recreational programs, YMCA, potential ideas on grants for buildings for the YMCA, and a reader board sign. In regard to the auditor report, Councilor Fierke reported on the auditors' exit interview held earlier in the day. Again, the City received flying colors, an "A" as reported by Roy Rogers of Pauly, Rogers, and Co., P.C. Only about 20% of smaller cities receive an "A" by the audit firm.

Council President Bilden reported the Economic Development Commission had met last week and discussed: reader boards, possible partnerships with the school district, involvement in efforts of the beautification of Highway 62, and community events. With regard to Southern Oregon Regional Economic Development Inc. (SORED), Council President Bilden reported on entrepreneurial efforts and their new website launch by Paradux Media. Council President Bilden also reported on the Mayor's United event, The Community Action Agency of Jackson County (ACCESS) Board's efforts regarding homeless veterans programs, a grant award of \$5,000 from the Carpenter Foundation to the Eagle Point Parks Foundation, and partnership efforts with the School District and YMCA.

Councilor Brown made a positive report on the League of Oregon Cities (LOC) conference. One workshop focused on different generations and attracting younger people to be involved in local government; and another addressed urban blight.

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Councilor Sell also reported on the League of Oregon Cities (LOC) conference. More specifically, she reported on a field trip to a Medical Marijuana Dispensary. Councilor Sell reported she was impressed by the facility and surprised by the clientele. The security at the dispensary led to the arrest of burglars that had frequented multiple types of businesses in the area. Councilor Sell further reported on homeless people helping to prevent vandalism by camping at construction worksites.

Mayor Russell reported enjoying the Mayors United event and expressed appreciation to Councilor Brown for buying the front row table for next year's event. Mayor Russell also reported on a future increase of water rates. Attorney Kellerman commended the efforts of the small cities coalition in working together to keep the rates down.

12. STAFF REPORTS

Mike Upston, Planning Director, reported on the efforts of the Economic Development Commission and Planning Commission regarding electronic reader boards. Three items remained to be determined: School District partnership with the City and management of the sign; limiting to non-commercial signs; and the final design and cost estimate. Regarding the Planning Commission, its upcoming agenda included a Public Hearing regarding the Idlewood Subdivision, and the final decision requires Council approval. Mr. Upston reported that some neighbors expressed concern about seeing homes instead of wildlife. Other Planning Commission items addressed the staff's authority to extend old planning actions. Addressing marijuana grows and minimizing impacts would also be discussed; and the results would be brought forward to the Council at its November 10th meeting.

Mayor Russell commended Melissa Owens, Finance Officer, for the exceptional audit report. Ms. Owens expressed appreciation for the recognition and extended the auditors' apologies for not being at meeting. The Comprehensive Annual Financial Report is scheduled for completion by the end of November. Ms. Owens further reported on efforts to fill office vacancies and hoped to announce new employees in the next Friday Letter. On the technology front, the City is scheduled for a server upgrade, and system wide upgrades which will also be reported in Friday Letter.

Robert Miller, Public Works Director, announced the 2015 Paving Maintenance Program had been completed. With regard to Stevens Road, the Oregon Department of Transportation (ODOT) is scoping the project and the Request for Proposals will go out to consultant companies soon. Additionally, the bid opening for the Main Street Lighting Project Phase 3 was forthcoming, and plans for the USDA project were approximately 65% complete. On a final note, Mr. Miller was pleased with the results of the meetings with the Medford Water Commission and Eagle Point having the best peak or lowest impact to essentially manage its own system.

Police Chief Thompson reported on the National Drug Take Back event on September 26 with 39 pounds of medications collected. About 200 pounds had been collected over the last year. With regard to staffing, the resignation of one of the newer officers created an opening for an entry level/lateral position.

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Joe Kellerman, City Attorney, reported on the process of the water rates with the other cities and the Medford Water Commission. Attorney Kellerman credited Mayor Russell and staff for their efforts in this process which ultimately saves everyone in the City a lot of money. Attorney Kellerman also commented on the Medford Water Commission's management of the increases.

Henry Lawrence, City Administrator, briefly discussed the water rate increases for Medford consumers, Eagle Point receiving the League of Oregon Cities' Gold Safety Award, and the Friday Letter.

13. INFORMATION

There were no information items to discuss.

14. EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(i), To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

At 9:06 p.m., Mayor Russell opened the Executive Session pursuant to 192.660(2)(i). Following discussion, Mayor Russell closed the Executive Session at 9:20 p.m.

15. ADJOURN

There being no further business, Mayor Russell closed the meeting at 9:21 p.m.

Respectfully submitted,


Cindy Hughes, City Recorder

ATTEST:


Robert E. Russell, Mayor