



301 W. Main St.  
Town Hall  
Carrboro, NC 27510

## **Town of Carrboro**

### **Meeting Minutes Board of Aldermen**

**Tuesday, April 9, 2019**

**7:00 PM**

**Board Chambers - Room 110**

**Present:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

**Also Present:** David Andrews, Town Manager; Chris Milner, Deputy Town Clerk; Robert Hornik, Town Attorney

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#### **POETRY READING, RESOLUTIONS, PROCLAMATIONS, AND ACKNOWLEDGEMENTS**

Fred Joiner read a poem he wrote, titled "Half Note."

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#### **PROCLAMATION – POETRY MONTH**

Mayor Lavelle noted that she had earlier issued a Poetry Month proclamation and reviewed upcoming Poetry Month events in the Town.

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#### **PROCLAMATION – SEXUAL ASSAULT AWARENESS MONTH**

Mayor Lavelle proclaimed April 2019 as Sexual Assault Awareness Month and presented the proclamation to Rachel Valentine, Executive Director of the Orange County Rape Crisis Center.

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#### **PROCLAMATION – FREDERICK LEWIS BATTLE DAY**

Mayor Lavelle proclaimed April 8, 2019 as Frederick Lewis Battle Day and presented the proclamation to Mr. Battle's daughter, Jacqueline.

**APPROVAL OF A RESOLUTION IN RESPONSE TO RECENT ACTS OF RACIAL INTIMIDATION ON THE CAMPUS OF UNC-CHAPEL HILL**

Alderman Seils was joined by Anna Richards, President of the Chapel Hill-Carrboro Branch of the NAACP, and James Williams, 1<sup>st</sup> Vice President of the Chapel Hill-Carrboro Branch of the NAACP, as he read the following resolution.

**A motion was made by Alderman Seils, seconded by Alderman Gist, that the following resolution be approved:**

**A RESOLUTION IN RESPONSE TO RECENT ACTS OF RACIAL INTIMIDATION ON THE CAMPUS OF UNC-CHAPEL HILL**

WHEREAS, Carrboro is home to many students, employees, and alumnae/-i of the University of North Carolina at Chapel Hill, including an estimated 3500 undergraduate, graduate, and professional students, or approximately 1 in 6 town residents, and the life of our community is intertwined with the life of the University; and

WHEREAS, on March 31, 2019, two persons desecrated the Unsung Founders Memorial in McCorkle Place on the UNC-Chapel Hill campus by defacing it with racist graffiti and with urine; and someone vandalized an installation outside Hanes Art Center with racist language; and

WHEREAS, on March 16, 2019, persons associated with a white supremacist group carried firearms and other weapons onto the UNC-Chapel Hill campus in violation of the North Carolina General Statutes and campus policy; and an Alert Carolina emergency notification was not issued; and no arrests were made and no citations or trespass notices were issued; and

WHEREAS, student antiracist activists have been prohibited indefinitely from entering certain areas of the campus, including McCorkle Place, despite having been found not guilty of the criminal charges related to their trespass notices or having had those charges dismissed; and

WHEREAS, the Chapel Hill-Carrboro branch of the NAACP, the Carolina Black Caucus, and others have called on UNC-Chapel Hill to take bolder action in response to acts of racial intimidation and threats by white supremacists to the safety of the community; and

WHEREAS, the Board of Aldermen appreciates Interim Chancellor Kevin Guskiewicz's statement that "we must nurture an environment where all people in our community can live, learn and work without fear"; and the Board is encouraged by the arrests on April 8 of the persons believed to have desecrated the Unsung Founders Memorial;

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen that the Town of Carrboro, NC, urges its neighbor and partner UNC-Chapel Hill to rescind trespass warnings against student antiracist activists; to press charges and issue trespass warnings against persons who on March 16 carried firearms onto the campus; to clarify when the community may expect the presence of an armed person on or near the campus to trigger an Alert Carolina emergency notification; and to invite community members not necessarily affiliated with the University to participate in the campus safety commission being convened by the interim chancellor.

BE IT FURTHER RESOLVED that the Town wishes to partner with UNC-Chapel Hill in a shared commitment to helping students feel safe in Carrboro through better communications, education about the Carrboro Police Department, opportunities to participate in Town programming and advisory committees, continued participation in the Good Neighbor Initiative, and other efforts.

BE IT FURTHER RESOLVED that the Board asks the clerk to share this resolution with the interim chancellor of UNC-Chapel Hill and the members of the Chapel Hill Town Council, the Hillsborough Board of Commissioners, and the Orange County Board of Commissioners.

This the 9th day of April, 2019.

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

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**REQUESTS FOR VISITORS AND SPEAKERS FROM THE FLOOR**

Amber Mathwig, Carrboro resident, spoke about the racial intimidation issues at UNC-Chapel Hill and the University's response to that.

Delores Bailey, Executive Director of Empowerment Inc., spoke about her organization being chosen by the United Way of the Greater Triangle as one of "10 to Watch." She specifically addressed a property at 205 Sunset in Carrboro. This house is currently being rented by Empowerment Inc. to provide affordable housing, but the house will need to be moved in June. She has a plan to move the house from the current lot to a new lot in Chapel Hill and noted that this is an opportunity for collaboration between Empowerment Inc. and the Town of Carrboro.

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**APPROVAL OF MARCH 26, 2019 MEETING MINUTES**

This item was postponed until the next meeting.

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**ECONOMIC DEVELOPMENT REPORT FOR THE MONTH OF APRIL**

**A MOTION WAS MADE BY ALDERMAN SEILS, SECONDED BY ALDERMAN SLADE, THAT THIS ITEM BE ACCEPTED. VOTE: AFFIRMATIVE ALL.**

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**REQUEST FOR A MINOR MODIFICATION TO THE CUP FOR 300 EAST MAIN STREET FOR ROOF CANOPY**

The purpose of this agenda item was for the Board of Aldermen to consider approving a Minor Modification request for the 300 East Main CUP to allow for the addition of a roof canopy above a portion of the outdoor seating at Amante Pizza.

Alderman Foushee asked how many exceptions to this ordinance there have been and whether the current limit of 200 square feet should be reconsidered.

Marty Roupe, Development Review Administrator, could not specify the total number of exceptions. He said that the exceptions are handled on a case-by-case basis but if property owners would like to ask for a change to the ordinance the staff would be glad to consider it.

Alderman Slade asked whether the limit applies to individual tenants or the overall property.

Marty Roupe said that this applies to individual tenants.

**A motion was made by Alderman Foushee, seconded by Alderman Haven-O'Donnell, that the following resolution be approved:**

A RESOLUTION APPROVING A MINOR MODIFICATION TO THE 300 EAST MAIN  
CONDITIONAL USE PERMIT AUTHORIZING INSTALLATION OF A 350 SQUARE FOOT  
OUTDOOR PATIO COVER AT AMANTE PIZZA

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for 300 East Main; and

WHEREAS, Town Staff has determined that this request constitutes a Minor Modification to the Conditional Use Permit; and

WHEREAS, the applicant has met the criteria in the Town's Land Use Ordinance related to Minor Modifications.

NOW, THEREFORE BE IT RESOLVED that the Carrboro Board of Aldermen approve the Minor Modification authorizing installation of a 350 square foot patio cover in front of Amante Pizza.

This the 9<sup>th</sup> day of April 2019.

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist Alderman, Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

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### **PUBLIC HEARING FOR JONES CREEK GREENWAY (C-5181) 15% DESIGN**

The purpose of this agenda item was to provide an update on the status of the Jones Creek Greenway at 15% design and to receive comments from the Board and members of the public.

Tina Moon, Planning Administrator, introduced the topic. She discussed community outreach efforts

regarding this project. She also emphasized the fact that this project is funded primarily with Congestion Mitigation Air Quality Improvement (CMAQ) funds.

Jonathan Hefner, Project Engineer at Wetherhill Engineering, provided an overview of the plan.

Alderman Gist expressed a preference that there be the least amount of disturbance to the creek bank.

Alderman Haven-O'Donnell asked about the length of the span for one of the bridge proposals.

Jonathan Hefner said it would be approximately 110 feet but has not been finalized.

Alderman Haven-O'Donnell expressed her concern that the bridge would be so large that it would detract from the natural beauty of the area and asked if there could be an alternative.

Jonathan Hefner said that this would require further study.

Alderman Seils sought clarification that the length of the bridge would be determined by the flood plain; while there is a desire to minimize the impact of the bridge, the regulatory requirements regarding flooding will determine the length.

Jonathan Hefner confirmed that this is the case.

Alderman Gist asked how wide the greenway will be.

Jonathan Hefner said it would match what is already there, approximately ten feet wide.

Mayor Lavelle asked about the timeline for breaking ground.

Jonathan Hefner said the project would be bid in the September or October timeframe.

Alderman Slade asked if there was an opportunity for the Board to be presented with feedback that has been received from the public to help inform their decisions about this project.

Jonathan Hefner said the public comments will be incorporated into the design. At the next meeting on this topic, the Board will be presented with the public feedback and told how the design addresses those concerns.

Mayor Lavelle stated that public comments will be allowed at the meetings for the 15%, 30% and 60% designs.

Alderman Chaney recommended having the community outreach "drop in" sessions closer to the project's area.

**MAYOR LAVELLE OPENED THE PUBLIC HEARING.**

Anahid Vrana, Carrboro resident, said she regularly uses this property and wants to make sure that the development accommodates bikes and people walking with their dogs.

Sonia Desai, Carrboro resident, mentioned that there is some flooding in the area but likes the primitive style of the property; she felt that an additional bridge might not be necessary.

There were no further comments from the public.

MAYOR LAVELLE CLOSED THE PUBLIC HEARING.

**A motion was made by Alderman Seils, seconded by Alderman Chaney, that the following resolution be approved:**

A RESOLUTION RECEIVING PUBLIC COMMENT ON THE JONES CREEK  
GREENWAY AT 15% DESIGN

WHEREAS, the Board of Aldermen has made it a policy to hold public hearings on Town projects; and

WHEREAS, the Board of Aldermen has received a presentation on the 15% design for the Jones Creek Greenway; and

WHEREAS, the Board has held a public hearing to receive public comment on the Jones Creek Greenway at this milestone.

NOW, THEREFORE, BE IT RESOLVED by the Carrboro Board of Aldermen that the Board makes the following comment:

The plan should minimize the impact of the development in terms of size while also meeting regulatory requirements.

This the 9th day of April in 2019.

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

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**REVIEW OF REQUEST FOR PERMISSION TO CONDUCT CONCRETE POURS OUTSIDE OF NOISE ORDINANCE PROVISIONS**

The purpose of this agenda item was for the Board of Aldermen to review and discuss a request from the Inter-Faith Council (IFC) regarding the need to conduct nighttime concrete pours associated with construction of a new building at 110 West Main Street.

Marty Roupe, Development Review Administrator, provided an overview of the issue.

Alderman Gist expressed concern for the residents of the apartments behind Club Nova. She also asked for clarification on how loud this will be and questioned why the plan calls for the concrete pours to occur between 3 AM and 6 AM rather than another time during the night.

Peter Campbell, IFC Construction Manager, spoke about the reasons for conducting the concrete pour at night. He said it is primarily due to the need to close Main Street during the process and doing it late at night will minimize the impact on traffic.

Alderman Gist again asked why the pour is planned for 3 AM to 6 AM rather than earlier in the night, maybe starting at 9 PM or 10 PM.

Rob Brisley, Project Manager for CT Wilson Construction, said the starting time is not important, but the total time for the process will be approximately 12 hours.

Mayor Lavelle asked for confirmation that the concrete cannot be brought in from the back of the building.

Rob Brisley confirmed that the driveway is not wide enough to accommodate the trucks.

Alderman Chaney asked about how loud the post pour finishing work would be and also whether there was a workforce issue that should be considered in the timing of this process.

Rob Brisley said that it does not matter from a personnel perspective, and the noise of the finishing work would be less than the noise during the pour.

Peter Campbell stated that two of the five planned pours would not require finishing work that would be noisy or disruptive.

Mayor Lavelle asked whether the finishing needed to be accomplished immediately after the pour.

Rob Brisley said that it did.

Alderman Foushee asked how many hours total would there be noise issues.

Peter Campbell stated that there would be a need to “mill” Main Street and Weaver Street which would require the closure of one lane of traffic which would be about an hour and a half of work. There might also be a need for night work to connect the project to the water main.

Mayor Lavelle wanted to know about the overall timeframe to accomplish all five concrete pours.

Rob Brisley said it would happen over the course of five to six months.

Walter Horton, Carrboro Chief of Police, reviewed the noise complaints he received from a previous concrete pour, and provided his perspective on this instance.

Alderman Seils emphasized the need for communication to let residents know about the noise in advance.

Peter Campbell said they would notify local residents.

Alderman Chaney noted that the Club Nova apartments are not owned by Club Nova so CASA must be notified.

There was further discussion about the relative merits of starting at 3 AM or earlier in the night.

**A MOTION WAS MADE BY ALDERMAN CHANEY, SECONDED BY ALDERMAN FOUSHEE, TO APPROVE A START TIME OF 3 AM FOR THE FIRST CONCRETE POUR,**

**THEN THE BOARD WILL REASSESS WHETHER THE NEXT POURS SHOULD HAPPEN AT THAT TIME OR EARLIER. VOTE: AFFIRMATIVE FOUR (LAVELLE, FOUSHEE, SEILS, CHANEY), NOES THREE (SLADE, HAVEN-O'DONNELL, GIST)**

Mayor Lavelle re-emphasized the need to ensure the public is aware of this concrete pour in advance.

Alderman Seils re-emphasized that the Club Nova apartments are not owned by Club Nova, but those residents need to be notified.

Marty Roupe noted that the second pour might happen while the Board is on summer break and asked that staff have permission to determine how to proceed based on the results of the first pour. He said that the Board will be notified of the feedback they receive from the residents.

There was general concurrence from the Board that staff will be authorized to make the decision on the timing of the second pour, with the provision that the Board is made aware of the feedback about the first one.

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**REVIEW OF PRELIMINARY DRAFT ORDINANCE AND MASTER PLAN TO REZONE PROPERTY AT OLD NC 86 AND EUBANKS ROAD TO A SITE SPECIFIC, FLEXIBLE ZONING (FLX) DISTRICT**

The purpose of this agenda item was to provide the Board with an opportunity to review in more detail the preliminary draft ordinance and graphic illustrations prepared as part of the application to rezone the property to a FLX district, and to consider the first round of advisory board comments on the draft ordinance provisions.

Tina Moon, Planning Administrator, presented the staff report.

Sonia Desai, Carrboro resident, stated that this site is in an area that is designated by the North Carolina Natural Heritage Program as a natural area. She stated that the long-term ecological impact of development on this site to areas downstream is unknown. One natural area downstream is Meadow Flats, an area that is home to rare species. She noted some resources that could be used to help determine the impacts such as the Green Growth Toolbox and the Conservation Toolbox. She also mentioned a cost-sharing program that will reimburse \$20,000 and 80 hours of technical assistance. She recommends that the ordinance include a recognition of measurement of the ecosystem services of this land to include carbon-capture through the trees and wetlands. She also recommends that an ecological assessment be done because there seems to be more wetlands than are depicted on the site map.

Peter White, Biology Professor at UNC, asked that the Board include an assessment of the Meadow Flats Natural Area and an ecological survey of the wetland.

Alderman Gist asked for recommendations on how to get the assessments and studies completed.

Peter White said he didn't have specific recommendations but there should be lots of people in the community who could do it.

Amy Jeroloman, Chair of the Northern Transitional Area Advisory Committee, spoke about the activities of the committee. She highlighted the potential danger of increased traffic in the area due to



this development. She also recommended a site visit, and to have the next outreach event close to the site with better advertisement. She also stated that the development timeline is too aggressive.

Ahahid Vrana, member of the Northern Transitional Area Advisory Committee, addressed concerns about density as defined in this development plan, and believes that the proposed buildings could be taller than initially expected.

Alderman Chaney expressed appreciation for the efforts of the advisory boards and noted that all of the boards said they needed more information and more time.

Amy Jeroloman expressed appreciation for the participation of the Zinns in this process.

John Gant, resident of Karen Woods, expressed support for using this property to extend the greenway. He also expressed concerns about the development's impact on roads and traffic in the area. He stated that the developer suggested using Fearington as a model for this project and he supports this idea and asked that this be written into the development plan. He noted that previous discussions about this development called for buildings that are two stories with an attic. He expressed concern about having a tavern in the development. He stated that his top priorities are carbon capture, ground water absorption, clean drinking water from his well, and clean trees for his wife's honey bees. He wants a low-impact development, not downtown-like density, and wants to maintain the quality of live in that area.

Omar Zinn, developer and owner of the property, reviewed the history of this project. He said they are doing a traffic impact analysis (TIA) to determine the impact on road traffic. He said this development is intended to be a destination with community gathering space and space where events are held. He said they are not requesting four-story buildings, a 35 foot limit will not be a problem, but he wants a 50 foot limit for multi-family buildings off of Eubanks Road. He provided an overview of the soil analysis and the determination of wetlands on the property. He asked the Board to hold him accountable to the same extent that any other developer would be held accountable.

Alderman Chaney asked whether he got enough feedback from the comments to proceed with the next iteration of the development plan.

Omar Zinn noted the risk associated with development and said that some of the issues could be accommodated but maybe not all.

Alderman Chaney asked whether there is a logical way to start addressing those items that can be accommodated.

Omar Zinn said he could provide a "yes" list.

Alderman Foushee asked whether he has any changes or additions to the proposed timeline.

Omar Zinn said he has a family trip planned in June, but would be available in the early or late part of June. He said that he's not expecting approval in June, just a public hearing in June. He said his goal is to have the project approved while the current Board is still seated, which would be by November.

Alderman Haven-O'Donnell asked whether an ecological assessment could be done prior to the public hearing in June to better understand the vulnerability of the wildlife corridor.

Omar Zinn asked whether this would be required of any other development.

Alderman Haven-O'Donnell said these questions have been asked by some people for all developments in Carrboro and it is necessary in order for the Board to do their duty as stewards of the land. She also said that the wetland on the property could be a good educational opportunity for local students.

Alderman Chaney asked what type of zoning this is.

Marty Roupe replied that the existing zoning is "RR - rural residential" which allows one dwelling unit per acre, changing it to five to 12 units would require a special use permit, 13 and over would require a conditional use permit.

Alderman Chaney said she had never heard of the North Carolina Natural Heritage Program and wondered whether its decisions or analysis are honored by the state.

Robert Hornik, Town Attorney, said he is not aware of any specific regulatory authority tied to the designation of natural heritage areas.

Alderman Chaney wondered whether information would be available from Duke Forest.

Lisa Brown, resident at Karen Woods Road, said she has worked with Duke Forest in the past and that they are aware of this development plan.

Alderman Gist said she wants to ensure that there are no decreases in environmental protections in the Town's ordinances. She also wanted to make sure the public hearing on this issue is properly advertised.

Alderman Seils asked for clarification from staff about the constraints relating to wetlands.

Tina Moon said she is further clarifying some specifics regarding the constraints related to wetlands.

Alderman Seils noted that there should be reviews of, and references to, previous iterations of the plan to ensure consistency in the vision for what is appropriate in this area. He also stated that the Transportation Advisory Board was expressing frustration with this process and were not clear about the expectations for them. He felt that the advisory boards should be provided with more guidance.

Alderman Slade stated that he feels it is appropriate to establish higher standards with respect to environmentally-related constraints and recommended adopting a policy of identifying certain percentages of the land as a constraint and including that in this ordinance. He also observed that the integration of advisory board inputs needs to be looked at.

Tina Moon said that the advisory boards only need to provide comments; Town staff will craft the language for the ordinance.

Alderman Slade asked for clarification about whether additional standards or constraints can be added to this ordinance.

Robert Hornik said there is leeway to apply additional standards for this project since it is an

ordinance.

Alderman Slade asked staff for a distillation of data from the Durham Area Design (DAD) process in the form of a checklist. He expressed support for getting ecological assessments. He also suggested incorporating requirements for bikeways in this development and future developments.

Alderman Chaney asked about an adjacent property and whether it could ever be a FLX property.

Tina Moon said there needs to be more work to better clarify how additional properties will be handled.

**A motion was made by Alderman Chaney, seconded by Alderman Seils, that the following resolution be approved:**

A RESOLUTION REGARDING THE DRAFT ORDINANCE (DATED FEBRUARY 22)  
ESTABLISHING DEVELOPMENT REQUIREMENTS FOR THE EUBANKS-OLD NC 86  
FLEXIBLE ZONING (FLX) DISTRICT

WHEREAS, the Board of Aldermen has reviewed the draft Eubanks-Old NC 86 FLX ordinance, considered advisory board comments and received public input

NOW, THEREFORE, BE IT RESOLVED that the Board of Aldermen of the Town of Carrboro provides the following direction:

- Staff will incorporate public comments into the next iteration of the plan
- A process will be established to determine, in coordination with the developer, what public requests are feasible
- Advisory boards will be asked whether any of the issues are unclear and whether they need more data
- In order to inform further decisions and to help determine whether additional ecological assessments are required, the Board will be provided with ecological data pertaining to the Flexible Zoning District from the following sources:
  - The North Carolina Natural Heritage Program
  - U.S. Army Corps of Engineers wetlands assessment
  - Duke University Nicholas School of the Environment
- A traffic impact assessment will be accomplished and provided to the Board
- The next community outreach event will be held at a location close to the FLX District
- A checklist format will be used to compare and contrast elements of the current plan with the plan that was recommended through the Durham Area Designers (DAD) workshops

This the 9th day of April in the year 2019.

**The motion carried by the following vote:**

**Aye:** Mayor Lydia Lavelle, Alderman Bethany Chaney, Alderman Barbara Foushee, Alderman Jacquelyn Gist, Alderman Randee Haven-O'Donnell, Alderman Damon Seils, Alderman Sammy Slade

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**REVIEW AND ACCEPTANCE OF THE 2019 ANNUAL REPORT ON THE SCHOOLS  
ADEQUATE PUBLIC FACILITIES ORDINANCE (SAPFO) FROM THE TECHNICAL  
ADVISORY COMMITTEE**

This item was postponed until the April 16, 2019 meeting.

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**CLOSED SESSION PURSUANT TO NCGS 143-318.11 (A)(3) – ATTORNEY-CLIENT  
PRIVILEGE**

This item was postponed until the April 16, 2019 meeting.

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**ADJOURNMENT**

**MOTION WAS MADE BY ALDERMAN SEILS, SECONDED BY ALDERMAN FOUSHEE, TO  
ADJOURN THE MEETING. VOTE: AFFIRMATIVE ALL**