

CITY OF MILFORD  
REGULAR MEETING  
NOVEMBER 3, 2009  
MINUTES

A regular meeting of the Mayor and Council of the City of Milford, Nebraska was held at the Webermeier Library Building in said City on the 3<sup>rd</sup> day of November 2009 at 7:30 pm. Present were: Mayor Dean Bruha; Council members: Jeff Baker, Rick Fortune, Jeff Heckman, Dan Kral; Attorney Robert Blevens; Chief of Police Forrest Siebken and City Clerk Jeanne Hoggins. Also present: Tim Erickson, Nancy McGill, John Melena and Joe Troyer.

Notice of the meeting was given in advance thereof by publishing in the Milford Times; a designated method for giving notice, as shown by the Affidavit of Publication attached to these minutes. Notice of the meeting was given to the Mayor and all members of the Council and a copy of their acknowledgement of receipt of notice and the agenda is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public.

**CALL TO ORDER:** Mayor Bruha called the meeting to order at 7:32 p.m. Mayor Bruha publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act is available for review and is posted on the east wall of the Webermeier Community Meeting Room.

**MINUTES:** A motion was made by Baker and seconded by Kral to approve the minutes of the October 6, 2009 meeting. Roll call vote: Baker yes, Kral yes, Fortune yes, Heckman yes. Motion carried.

**PAYMENT OF BILLS:** A motion was made by Heckman and seconded by Kral that the following bills in the amount of \$76,925.91 and payroll in the amount of \$26,390.70 approved by the Auditing Committee be approved for payment. Roll call vote: Heckman yes, Kral yes, Baker yes, Fortune yes. Motion carried.

**SALARIES:**

48697	Mark Frey	1473.80
48698	Forrest K Siebken	1386.67
48699	Mavis Lynn Ferris	73.65
48700	Jeanne M Hoggins	1366.90
48701	Gary Lee TeSelle	866.05
48702	Robert L Hull	915.59
48703	Beverly J Wehrs	579.31

48704	David R Dahle	1036.85
48705	Philip Winkelmann	1011.21
48706	George A Matzen	600.47
48707	Tracy L Yeackley	693.08
48708	Julia M Wang	169.30
48709	Josh Steven TeSelle	294.59
48710	Courtney L Bashore	113.82
48711	Anna E Tremmel	113.82
48712	Tiffany Fougeron	307.23
48713	Benjamin L Rediger	791.66
48714	Josh James Urbanec	204.01
48715	Craig A Corder	1196.91
48770	Mark Frey	1473.80
48771	Forrest K Siebken	1386.67
48772	Mavis Lynn Ferris	60.25
48773	Jeanne M Hoggins	1366.90
48774	Gary Lee TeSelle	846.52
48775	Robert L Hull	913.76
48776	Beverly J Wehrs	607.93
48777	David R Dahle	1054.34
48778	Philip Winkelmann	1011.21
48779	George A Matzen	600.47
48780	Tracy L Yeackley	479.87
48781	Julia M Wang	206.14
48782	Courtney L Bashore	140.60
48783	Anna E Tremmel	87.04
48784	Tiffany Fougeron	338.45
48785	Benjamin L Rediger	796.47
48786	Craig A Corder	1026.58
48795	Ricky G Fortune	138.52
48796	Dean A Bruha	184.70
48797	Jeffrey M Baker	138.52
48798	Jeff L Heckman	138.52
48799	Dan V Kral	138.52
<b>GENERAL FUND:</b>		
48694	Kyle Schramm – WA/SW Deposit Refund	43.94
48695	Angela Swartzentruber – WA/SW Deposit Refund	33.09
48696	U.S. Postmaster – Utility Billing Postage	168.80
48716	Ameritas Group – Pension, Pension X	1563.78
48717	Alamar Uniforms – Bike Patrol Shirts	151.09
48718	Alltel – Cellular Phone	128.50

48719	American Chemicals Inc. – Soil Sterilant Barren	482.55
48720	American Fence Co. – Latch	71.86
48721	Ameritas Group – Dental & Vision	956.60
48722	Aramark Uniform Services – Pants & Rags	404.25
48723	Black Hills Utility Holdings – Service for September	480.68
48724	Chief Supply Corp. – Flash Light Equipment	74.90
48725	Collinson Enterprises – 9-11 Replacement Bars	27.00
48726	Constellation New Energy – Service for September	22.39
48727	Culligan Water Conditioning – Soft Water	20.00
48728	D & M Building Systems – Storm Sewer Box	3423.52
48729	Deep Rock – Drinking Water	35.60
48730	Diode Communications – Service for September	54.16
48731	Eakes Office Plus – Binders, Date Stamper	162.47
48732	Electronic Engineering – Siren Cut off Module	52.72
48733	Emergency Medical Products – Pillowcases	39.95
48734	Farm Plan – Boot, Clamp	12.82
48735	Farmer’s Cooperative – Gas/Diesel, Tire Repair	723.13
48736	Fire Programs – Service for 1 Year	435.00
48737	Galaxy Cablevision – Internet Service for 1 Year	419.88
48738	Great Plains-One Call Service – Locate Requests	22.87
48739	Heyen Tax & Accounting – W-2’s & Envelopes	93.02
48740	IIMC – Membership Fee	200.00
48741	IKON Office Solutions – Lease Rental	529.20
48742	InsureNebraska – Crime Bond	171.00
48743	Interstate All Battery Center – Cell for Pagers	22.50
48744	King Environmental Products – Ice Melt	347.50
48745	Kremer Electric – New Panel (Park Restroom)	1000.00
48746	League of NE Municipalities – Membership Dues	557.00
48747	League of NE Municipalities – Membership Dues	2475.00
48748	Meyer Ford – Maintenance on Cruisers	99.15
48749	Milford Supermarket – Dog Food	15.01
48750	Milford Fire & Rescue – Nipple, Coupling	1355.00
48751	Mrs. Wayne Roth – Birthday Cake	16.00
48752	NE Dept of Revenue – Sales Tax for September	2050.74
48753	Nebraska Motor Parts – Ladder Truck Equip, Seal	751.78
48754	Nebraska Public Health – Blood Analysis	84.00
48755	NPPD – Service for September	5805.14
48756	Nebraska Tech & Telecomm. – Service for Sept.	435.51
48757	Pizza Kitchen – Catered Meal	82.50
48758	Plains Power & Equip. – Gator	16440.00
48759	Police Officers’ Assoc of NE – 5 Memberships	50.00

48760	Ramada Inn – NELEIN Conference (Hull)	130.00
48761	Roxanne Roth – Cleaning Services	250.00
48762	Sam’s Club – Paper towels, toilet paper, bags	166.68
48763	Seward Co PPD – Wells 1 & 2	286.78
48764	Seward County Independent – Notices, Minutes, Ad	375.30
48765	Sunrise Country Manor – September Meals	832.00
48766	Terry Buchli – Blades, Padlocks, Cabinet	251.90
48767	The Garbage Company – Service for September	139.35
48768	Tools Plus Industries – Safety Vest	202.00
48769	Windstream Nebraska – Local/Internet, Phone	325.09
48787	Ameritas Group – Pension, Pensionx	1563.78
48788	Aflac – Disability, Cancer, Acc, Suppl.	463.96
48789	American Building Inspectors – August & Sept. Fees	475.00
48790	Coventry Health Care – Health Insurance	7506.83
48791	EMC – Insurance (Gator)	97.00
48792	Fort Dearborn Life Insurance – Life Insurance	116.96
48793	Mutual of Omaha – Disability	23.94
48794	Shell Fleet Plus – Fuel for September	604.10
48800	Alamar Uniforms – Shirts, Pants, Ties	887.72
48801	American Girl – Subscription	37.00
48802	Atco International – Protecto-cote	640.00
48803	Baker & Taylor – Books	21.75
48804	Barco Municipal – Valve Cleaner	239.95
48805	Berry – Directory Advertising	15.20
48806	Blevens Law Office – Legal Services for Oct	350.00
48807	CBS – Reporting Service	60.00
48808	CCP Industries – Ear Plugs	44.58
48809	Chief Supply Corp – Flashlight- Rechargeable	99.99
48810	Consumer Reports – Subscription	44.00
48811	Country Living – Subscription	72.00
48812	D& D Communications	99.00
48813	EMP – Gloves, Tape, Defib Pads	292.12
48814	Family Circle Magazine – Subscription	19.98
48815	Gale – Large Print Books	99.56
48816	Gene Voigt – Head Stone Repair	295.00
48817	George Matzen – Bar Code Scanners	86.64
48818	Great American Leasing – Meter Rental	80.00
48819	Hawkins – Chlo-Tablet for Tester	162.08
48820	Merle’s Garden Center – 2 Trees	280.00
48821	Milford School Dist – Parking Tickets	15.00
48822	Momar – Towels X-Lo Box	274.75

48823	Municipal Supply – Water meters, Gaskets	1995.24
48824	NE Public Health – Nitrate/Nitrite	36.00
48825	Plains Power & Equip – Mower	11750.00
48826	Quilter’s Newsletter – Subscription	43.99
48827	Rocan Industrial Products – Blue Thunder Degreaser	522.00
48828	Roxanne Roth – Cleaning Services	305.00
48829	Sack Lumber – Weather Strip, Tape	48.46
48830	Sam’s Club – Membership Renewal	35.00
48831	Servi-Tech Inc – Nitrogen, Analysis Package	72.70
48832	Seventeen – Subscription	24.97
48833	Shell Fleet Plus – Fuel	181.53
48834	Taste of Home – Book	10.00
48835	Union Bank – Gary TeSelle Acct, Medicare Part D	442.20
48836	Walmart – Story Time Supplies	10.08

**REPORTS OF OFFICERS, BOARDS AND COMMITTEES:** Written reports received were Housing Authority minutes for October 8, 2009; Fire Dept. minutes for September 8, 2009; Library Board Minutes for October 15, 2009; Milford Aging Services Minutes for October 27, 2009; Planning & Zoning Board Minutes for October 27, 2009; Pool Board Minutes for October 20, 2009; Milford Fire report for October 2009 and Milford Rescue NARSIS report for October 2009. Fortune – there will be a water project coming up in the next 18 months or so and Fortune would like to have the Council think about designating an engineering firm to represent Milford on a regular basis, rather than bidding for an engineer each time we have a project. Mayor Bruha mentioned that there are pros and cons in doing it this way. Council member Kral asked how the drainage study is coming along? Bruha noted that NRD has been out measuring manholes and he will contact them for an update. Heckman – Pool Board will be updating the operations manual and start the process of advertising for a manager in December. The classes available for certification are held early in the year so we need to get a head start certifying potential staff. Fundraising efforts are geared towards bringing back the basketball team that performed last year sometime in January or February. Dan Troyer arrived. Chief Siebken reported that officer Jay Stoll started training on October 20<sup>th</sup> and officer Corder is doing well. The Dept. has been busy with a motor vehicle theft and sexual assault cases. Baker – a compliance check will be held at the Sr. Center regarding handling food. The Sr. Center has purchased new chairs. The old playground equipment at Welch Park has been removed and discussion has been held regarding placement of new equipment. If new equipment is placed in the same location as the old equipment than higher fencing will be purchased between field one and two. Baker has been working with

Kiwanis on a 1,5,10 and 15 year plan for the parks. He has also talked with the American Legion about the memorial water fountain in the park. It was decided to move the marker closer to the historical marker in the park and construct a new water fountain. Bruha will be meeting with Kathi Schildt to look at updates on the City website. Bruha also had Maintenance Supt. Mark Frey check on the repairs to the curve on Hwy 6; the State ran out of material and will be back to complete the repairs when material is available.

**COMMUNICATIONS:** \*Sales tax received for the month of August 2009 was \$11,745.60.

**PUBLIC HEARING:**

**Request change of setback in TA District for Accessory Buildings:**

Mayor Bruha opened the public hearing at 7:51 pm. Fortune opened the discussion by stating the Planning and Zoning dropped the ball on this issue. It is their job to research the request and make an informed recommendation to the City Council. Information was provided to the P & Z by research that City Clerk Hoggins made available. Bruha commented that the P & Z wasn't comfortable making a decision on the matter since it was an after the fact recommendation and feels the City Council should act on the situation. P & Z offered a two part recommendation: to consider forming our zoning setbacks closer to our neighboring communities and also to form a committee to study setback requirements. Fortune noted that they are the committee to study setback requirements. Kral questioned the logical basis behind the 100' setback. If livestock or a stable can be built with a 50' setback than why can't a nice \$60,000.00 building be constructed at a 50' setback? This has been an issue for close to 6 months and a decision needs to be made tonight. Council member Heckman was hesitant to mention a suggestion of rezoning the property to Light Industrial which allows a 25' front yard setback for permitted uses, and which lists a construction and contractor storage yard. At this point Dan Troyer approached the Council and stated that he was sorry he didn't get a building permit but he has been to four different meetings and nobody can seem to make a decision on the matter. He is done coming to meetings and stated that he has changed his address to 595 252<sup>nd</sup> causing his front yard to now face east. This changes the front yard to a side yard, which in TA District stipulates a 25' side yard setback requirement. He stated he was done with this and left the meeting. After complete silence John Melena stated, "That didn't go very well". John agreed that this item needs to be put to rest. The Council needs to make a decision on this issue. Attorney Blevens noted that changing the address will not address the situation. When you own property on a corner lot you have 2 frontages. Joe Troyer stated, "Maybe in town, but I live in the county". Heckman addressed Troyer and Melena noting that they are just

trying to find a way to resolve this problem. The Council has agreed that they didn't want to see Dan to have to tear down the building, but rules and regulations are written and must be followed. We cannot set a precedent by changing these rules for one person after they have ignored or violated them. If you do that, then you end up having to do it for everyone. Kral mentioned again that there is no logical basis to leave the setback at 100'. "Just because it is written doesn't mean it's correct". Bruha countered that the 100' setback was in place for two reasons: One, that accessory buildings were not to be the dominate structure on the property and two, to allow for enough open right of way area for future widening of the highway. Bruha also mentioned that it doesn't matter who the party or individual is, but rather what really matters is that the rules and regulations be followed and if someone violates these rules, then action should be taken to abate the violation. "We do not want to set a precedent by changing these rules". With no further discussion the public hearing was closed at 8:37 pm.

**Amend Section 4.20.03 of the Zoning Regulations, item #3:** Mayor Bruha opened the public hearing at 8:37 pm. The Planning & Zoning recommended no change. No further discussion the public hearing closed at 8:37 pm.

#### **UNFINISHED BUSINESS:**

**Introduction and Adoption of Ordinance – Water Regulations for Private Wells:** Fortune asked if the Council had a chance to read the ordinance presented last month. He feels the ordinance is pretty cut and dry. No further discussion was held. A motion was made by Fortune and seconded by Kral to introduce the following ordinance:

#### **ORDINANCE NO. 829**

AN ORDINANCE TO REPEAL ARTICLE 6, SECTION 9-601 THROUGH 9-605 OF THE MUNICIPAL CODE; TO ADOPT AMENDED AND REVISED SECTIONS 9-601 THROUGH 9-612 OF THE MUNICIPAL CODE GOVERNING THE REQUIREMENTS FOR A PRIVATE WELL PERMIT; INSURANCE REQUIREMENTS FOR THE DIGGING OF PRIVATE WELLS; ISSUANCE OF PRIVATE WELL PERMIT; AND REGULATIONS OF THE USE AND OPERATION OF PRIVATE WELLS, AND PENALTY FOR VIOLATION OF SAID PROVISIONS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PRESCRIBING THE TIME THIS ORDINANCE SHALL BE IN FORCE AND TAKE EFFECT.

(See Ordinance Record)

**Introduction and Adoption of Ordinance – Tree City U.S.A.:** Baker suggested using the ordinance with Mark Frey designated as the "Tree Commissioner". He also questioned the verbiage of section 2.210. Blevens

suggested deleting this section. A motion was made by Baker and seconded by Fortune to introduce the following ordinance deleting section 2.210:

ORDINANCE NO. 830

AN ORDINANCE TO CREATE A MUNICIPAL TREE COMMISSIONER TO DEVELOP A WRITTEN REPLANTING, REMOVAL AND DISPOSITION OF TREE AND SHRUB PLAN IN PUBLIC RIGHTS OF WAY, ON PUBLIC PROPERTY, AND WITHIN THE MUNICIPALITY; TO REGULATE THE PLANTING, RE-PLANTING, REMOVAL AND DISPOSITION OF TREES WITHIN THE MUNICIPALITY; TO PROVIDE A PENALTY FOR VIOLATION HEREOF; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; AND TO PRESCRIBE THE TIME THIS ORDINANCE SHALL BE IN FORCE AND TAKE EFFECT. (See Ordinance Record)

**I.T. Support Purchase:** Baker asked to place this on the agenda to clarify the quote that was presented last month. The quote of \$14,000.00 was for the entire package of calendars, notices etc... The ability to set up .gov e-mails for 15 people would cost \$975.00. Bruha suggested waiting and researching cheaper avenues. He will be checking with Kathi Schildt regarding the website.

**NEW BUSINESS:**

Mayor Bruha moved agenda item (f) to the beginning of new business.

**Workforce Recruitment Grant – Tim Erickson:** AIM Institute is a non-profit organization that started in 1985. Highlights of the program include: \*workforce development & technology \*liaison between business, education, community and government \*online job posting. Scottsbluff & Gering have 70 businesses that post job opportunities on a one stop site that can be accessed by everyone in the State of NE. CareerLink.com assists with job opportunities and placement. The BECA proposal is a marketing tool to alumni and worker shortages for (health & information technology). Milford's participation in the program would only include a letter of support for a worthwhile project. The program could provide Milford with website enhancements including video. A motion was made by Baker and seconded by Heckman to authorize Mayor Bruha to sign a letter of support from the City of Milford. Roll call vote: Baker yes, Heckman yes, Fortune yes, Kral yes. Motion carried.

**Request change of setback in TA District for Accessory Buildings:** A motion was made by Kral and seconded by Fortune to change the 100' to 50' setback and move on. Roll call vote: Kral yes, Fortune yes, Baker yes, Heckman yes. Motion carried. Heckman asked if he could have a bit more discussion on the motion. He asked how this vote will play out for the Troyer's building, can Dan move forward? It was noted that he will have to



apply for a new building permit and comply with all the inspections. Chief Siebken questioned whether the motion was for the TA District. The motion was read a second time by Clerk Hoggins and Attorney Blevens referenced the action being taken is on the TA District for accessory buildings. Motion stood. Mayor Bruha wanted it recorded in the minutes that the City Council has just set a precedent for anyone changing the rules and regulations when they don't apply to a specific situation. It will furthermore make it extremely difficult to enforce the rules & regulations that remain on the books. Fortune stated that's why it should've gone back to the Planning and Zoning! The Council decided to stop discussing this issue and move on to the next agenda item. Blevens informed the Council that an ordinance will need to be passed to change the Comprehensive Plan Book. The Council decided to have a special meeting on Monday, November 9, 2009 at 5:30 pm. Mayor Bruha stated that until the ordinance to change the setback is approved by the Council and is published in the local paper, the current ordinance remains in effect and any additional work performed at the construction sit is done so at the peril of the owners.

**Amend Section 4.20.03 of the Zoning Regulations, item #3:** Fortune recalled conversation about Sean Kremer moving trailers in of a larger size because he cannot purchase the small trailer anymore. Sean wants to pull out a small trailer in the Riverside Court and put in a bigger one lining the rear of the trailer up with the rest of them. Item #3 states: The placement of trailers shall not encroach closer to the overall property line than exists the time of adoption. He would be encroaching closer to the property line by lining up the rear of the trailer with the rest of them. Sean made a request to the P & Z to change item #3 to read as follows: The placement of Mobile Homes shall not encroach closer to the property line than exists at the time of adoption, unless the stated zoning setbacks allow for it. This is too vague. Chief Siebken questioned whether a building permit has been approved to remove or replace the small trailer in question. A motion was made by Baker and seconded by Fortune to deny the request made by Sean Kremer to change Section 4.20.03, item #3. Roll call vote: Baker yes, Fortune yes, Heckman yes, Kral yes. Motion carried.

**Introduction and Adoption of Resolution – Rural Apprehension Program, R.A.P.:** A motion was made by Heckman and seconded by Kral to authorize Mayor Bruha to sign the R.A.P. Interlocal Agreement. Roll call vote: Heckman yes, Kral yes, Baker yes, Fortune yes. Motion carried.

RESOLUTION NO. 452

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE  
CITY OF MILFORD, NEBRASKA:

WHEREAS, law enforcement agencies within the following counties: Butler, Clay, Fillmore, Hamilton, Jefferson, Merrick, Nuckolls, Saline, Saunders, Seward, Thayer, Webster, and York desire to enter into a cooperative law enforcement effort; and

WHEREAS, the above agencies have submitted a grant application as the RURAL APPREHENSION PROGRAM (hereafter R.A.P.); and

WHEREAS, the R.A.P. project has been funded by the Nebraska Crime Commission; and

WHEREAS, the various counties, agencies and communities within those counties desire to make the most efficient use of the power by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors; and

WHEREAS, an interlocal agreement, consistent with Nebraska Revised Statutes 13-801 et.seq., would be in the best interest of all participating agencies; and

WHEREAS, the agencies desire to enter into a written interlocal agreement for the purpose of carrying out the R.A.P. objectives and grant requirement of the Nebraska Crime Commission.

BE IT RESOLVED THAT:

The City of Milford authorizes R.A.P. to enter City of Milford into an interlocal agreement for joint and cooperative action pursuant to the provisions of Section 13-801 through 13-807. The interlocal agreement shall be for the strict administration of the R.A.P. project and all funds allocated by the Nebraska Crime Commission, and Match dollars allocated by the R.A.P. members. Further, this interlocal agreement shall not establish a separate legal entity, rather as a joint and cooperative undertaking between public agencies i.e. state, county, city and village. (Nebraska Revised Statute 13-801)

Amount of match dollars allocated by the City of Milford for the 2009- 2010 (R.A.P. 11) grant period will be \$1035.00.

Upon roll call vote as follows:

Motion carried.

Dated this 3rd day of November, 2009.

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City Clerk

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Mayor

(SEAL)

**Approve Fire Dept. Membership Roster:** John Melena noted 40 members and 20 EMT's. Baker questioned some of the addresses that need to be updated. A motion was made by Heckman and seconded by Kral to approve the Fire Dept. membership roster as presented. Roll call vote: Heckman yes, Kral yes, Baker yes, Fortune yes. Motion carried.

**Discuss allowing operation of ATV & UTV on public streets:** Blevens noted that the City of Seward is currently discussing repealing their ordinance regarding the use of ATV's on public streets. Fortune questioned why the city maintenance dept. needs permission to be on the public streets with an UTV if they are doing work for the municipality. Chief Siebken handed out a model ordinance for review. A motion was made by Fortune and seconded by Kral to table this item until next month. Roll call vote: Fortune yes, Kral yes, Bruha yes, Heckman yes. Motion carried.

**ADJOURNMENT:** A motion was made by Fortune and seconded by Kral to adjourn the meeting. Roll call vote: Fortune yes, Kral yes, Baker yes, Heckman yes. Motion carried and meeting adjourned at 9:35 pm.

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Jeanne Hoggins, City Clerk

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Dean A. Bruha, Mayor

#### CERTIFICATION

I, the undersigned, City Clerk of the City of Milford, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Council on November 3, 2009 that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

(SEAL)

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Jeanne Hoggins, City Clerk