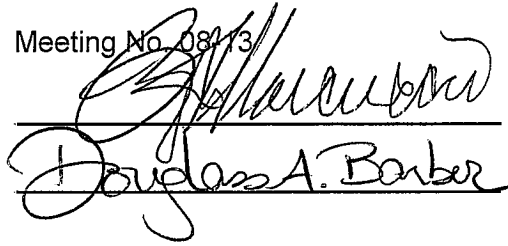


APPROVED: Meeting No. 08/13

ATTEST:



Douglas A. Barber

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
November 5, 2012
7:00 p.m.
Meeting No. 36-12

Re: Executive Session pursuant to Section 10-508 (a)(7) of the State Government Article of the Annotated Code of Maryland to consult with council to obtain legal advice regarding Rockville Housing Enterprise's (RHE) acquisition of Fireside Park Apartments

The Mayor and Council met in Executive Session on November 5, 2012, at 6:01 p.m. in the Diamond Back Terrapin Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland

Councilmember Pierzchala made the motion to convene in Executive Session seconded by Councilmember Moore and unanimously passed.

Present at the Executive Session were Mayor Phyllis Marcuccio; Councilmember John F. Hall, Jr.; Councilmember Tom Moore, Councilmember Bridget Donnell Newton; and Councilmember Mark Pierzchala. Also present were City Manager Barbara Matthews, Assistant City Manager Jenny Kimball, City Clerk/Treasurer Doug Barber, City Attorney Debra Daniel, Director of Community Planning and Development Services (CPDS) Susan Swift, and City Planner Erin Wilson.

The topic of discussion was Rockville Housing Enterprise's (RHE) acquisition of Fireside Park Apartments.

The Mayor and Council adjourned the Executive Session at 6:30 p.m.

PRESENT:

Mayor Phyllis Marcuccio; Councilmember John F. Hall, Jr.; Councilmember Tom Moore; Councilmember Bridget Donnell Newton; and Councilmember Mark Pierzchala

STAFF PRESENT:

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:02 p.m. on Monday, November 5, 2012, in City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Barber advised that there were no changes to the agenda.

4. City Manager's Report

City Manager Matthews noted the closing of City Hall for Election Day on Tuesday, November 6, 2012, and Monday, November 12, 2012, in recognition of Veterans' Day. Ms. Matthews also noted the City's event for Veterans' Day will be held on Sunday, November 11, 2012.

5. Appointments/Reappointments and Announcements of Vacancies

Mayor Marcuccio announced the re-appointment of Peter Mork as a member of the Board of Appeals until November 1, 2015.

Motion: To re-appoint Peter Mork to the Board of Appeals as a member until November 1, 2015.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala, and unanimously approved.

Mayor Marcuccio announced the appointment of Clark Reed as Chair for one-year to the Environment Commission until November 1, 2013.

Motion: To re-appoint Clark Reed to the Environment Commission as Chair for one-year until November 1, 2013.

Moved by Councilmember Pierzchala, seconded by Councilmember Hall, and unanimously approved.

Mayor Marcuccio announced the re-appointment of Craig Moloney as a member of the Historic District Commission until November 1, 2015.

Motion: To re-appoint Craig Moloney to the Historic District Commission as a member until November 1, 2015.

Moved by Councilmember Pierzchala, seconded by Councilmember Hall, and unanimously approved.

Mayor Marcuccio announced the re-appointment of Jeffrey Billington as a member of the Historic District Commission until November 1, 2015, and the appointment of David Smith as chair of the Historic District Commission until November 1, 2013.

Motion: To re-appoint Jeffrey Billington to the Human Rights Commission a member until November 1, 2015.

Moved by Councilmember Newton, seconded by Councilmember Moore, and unanimously approved

Motion: To appoint David Smith to the Human Rights Commission as a Chair for one year until November 1, 2013.

Moved by Councilmember Pierzchala, seconded by Councilmember Newton, and unanimously approved

Mayor Marcuccio read the vacancies for the following Board and Commissions: Human Services Advisory Commission, Planning Commission, Sign Review Board and the Traffic and Transportation Commission. Mayor Marcuccio closed by encouraging residents to visit the City's website for information on how to apply.

6. Proclamation Declaring November 2012 as Municipal Government Works Month

Councilmember Hall read the Proclamation Declaring November 2012 as Municipal Government Works Month in the City of Rockville, which was accepted by Assistant to the City Manager Linda Moran.

Motion: To approve the proclamation declaring November 2012 as Municipal Government Works Month

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and unanimously approved

7. Proclamation Declaring the Month of November 2012, as Pancreatic Cancer Awareness

Councilmember Moore read the Proclamation Declaring the Month of November 2012, as Pancreatic Cancer Awareness in the City of Rockville, which was accepted by Mr. Barry Gersten of the Pancreatic Cancer Action Network.

Motion: To approve the proclamation declaring the month of November 2012, as Pancreatic Cancer Awareness

Moved by Councilmember Moore, seconded by Councilmember Newton, and unanimously approved

8. Proclamation Declaring "Moving Day" on November 8, 2012, on Behalf of the Parkinson Foundation of the National Capitol Area

Councilmember Newton read the Proclamation Declaring "Moving Day" on November 8, 2012, on behalf of the Parkinson Foundation of the National Capitol Area. The proclamation was presented to Ms. Nancy Tietjen of the Parkinson Foundation of National Capitol Area.

Motion: To approve the proclamation declaring "Moving Day" on November 8, 2012, on behalf of the Parkinson Foundation of the National Capitol Area

Moved by Councilmember Newton, seconded by Councilmember Pierzchala, and unanimously approved

9. Presentation of the Good Neighbor Award Recognition to Mr. Bobby Moore

Mayor Marcuccio presented the Good Neighbor Award Recognition to Mr. Bobby Moore, who was nominated by Mr. Joseph Bradley, for volunteering his time and labor to the maintenance of a park area in East Rockville. Mr. Moore accepted the Award.

10. Presentation of the Bicycle Friendly Community Award

Public Works Transportation Planner Rebecca Torma introduced Ms. Allison Dewey from the League of American Bicyclists who presented the award to the Mayor and Council. Chair of the Bicycle Advisory Committee Nancy Breen said a few words on behalf of the Rockville Bicycle Advisory Committee (RBAC).

11. Citizens' Forum

<i>Citizen</i>	<i>Issue</i>
Thomas Curtis	HOA issues and Question # 7 on the upcoming Election ballot
Ken Sandin	Maryland Dream Act and Marriage Equality Act
Arthur Katz	RHE acquisition of Fireside Park Apartments
Andrea Jolly	Sign Ordinance
Virginia Onley	RHE acquisition of Fireside Park Apartments
Joe Jordan	RHE acquisition of Fireside Park Apartments
Ed Duffy	RHE acquisition of Fireside Park Apartments
Noreen Bryan	RHE acquisition of Fireside Park Apartments
Sarah Dickerson	RHE acquisition of Fireside Park Apartments
Lynn Parker	RHE acquisition of Fireside Park Apartments

Margaret Chao	RHE acquisition of Fireside Park Apartments
James Vital	RHE acquisition of Fireside Park Apartments
Lillian Rosenbaum	RHE acquisition of Fireside Park Apartments
Susan Prince	RHE acquisition of Fireside Park Apartments

12. Mayor and Council's Response to Citizens' Forum and Announcement.

Councilmember Moore	Thanked all for coming out to speak on the Fireside Park Apartments acquisition by Rockville Housing Enterprises issue. Received a great deal of information and a decision will be made this evening.
Councilmember Pierzchala	Commented on Mr. Curtis and agreed that reports should be received from the County. Thanked Andrea Jolly for mentioning the dinner for Jiaying and the Rockville Summit. Stated the RHE issue was very difficult and it was not a done deal. Commented on the lack of documentation from Priderock and expressed his disappointment in their dropping out of pursuing buying Fireside.
Councilmember Hall	Thanked all for their comments, for caring and for communicating.
Councilmember Newton	Thanked all for coming and would save her comments on Fireside Park Apartments acquisition for later in the meeting.
Mayor Marcuccio	Thanked all and would save her comments on Fireside Park Apartments acquisition for later in the meeting. Commented on Mr. Curtis' issue and hoped Andrea Jolly would bring the Sign Board's involvement in on the Sign Ordinance changes.

13. Mayor and Council's Reports

Mayor Marcuccio noted the event with the Chinese visitors and the Rockville Summit, which was well received. She stated it was an outstanding presentation. Councilmember Newton noted the VisArts Gala event celebrating 25 years and the King Farm 5K/10K race. Councilmember Moore thanked the Montgomery County Roadrunners for the 5K/10K race.

14. Consent Agenda

- A. Approval of Rockville's application to Montgomery County for \$211,000 of Community Development Block Grant funding for Year 39 (FY14).
- B. Authorization to File Zoning Text Amendment to amend Site Plan Procedures.
- C. Approval of Agreements Related to the City's Grant of Monetary and Non-Monetary Incentives to Choice Hotels International ("Choice Hotels") for Choice Hotels to Relocate to the City.

Mayor Marcuccio requested that Consent Agenda Item C be removed.

Motion: To approve Consent Agenda items A and B.

Moved by Councilmember Hall, seconded by Councilmember Moore, and unanimously approved.

On Consent Agenda Item C, Mayor Marcuccio questioned the incentives listed and whether they had been agreed to by the Mayor and Council. Councilmember Pierzchala asked if this was a new kind of procedure because the incentives were approved a long time ago and people have acted on them and he did not understand the logic of doing this now. Councilmember Newton seconded Councilmember Pierzchala's remarks and noted her concern about bringing this forward.

Motion: To approve Consent Agenda item C.

~~Moved by Councilmember Moore, seconded by Councilmember Pierzchala.~~

In discussion, Assistant City Manager Kimball stated that in terms of the timing, this is an item that the City is partnering with the State of Maryland and Montgomery County. The process is lengthy and the Mayor and Council in Executive Session did discuss the agreement and it takes the County and the State some time to get to a formal agreement that is signed by all the parties.

Ms. Kimball noted the City is aware of transparency and it is recognized that sometimes decisions that are made in Executive Session might not be brought forward in this scenario where folks can hear and learn about it, so the City would like in the future to be more careful about bringing items that are of interest to the community before the Mayor and Council in a public session.

Councilmember Newton inquired if there was documentation to support that these were the agreements that were made including the Grant for any excess over what the fees were up to \$180,000. Assistant City Manager Kimball responded there was a letter from the Maryland Department of Economic Development to Choice Hotels president with the State, County and City incentives outlined that was signed by the County, the City and the State.

Vote: A vote was taken on Consent Agenda item C. The motion passed with Councilmember Hall, Councilmember Moore, and Councilmember Pierzchala voting for and Mayor Marcuccio and Councilmember Newton abstaining.

15. Discussion of Phase II Revisions to the Sign Regulation (Zoning Ordinance Article 18)

Community Planning and Development Services (CPDS) Director Swift addressed the Mayor and Council with a briefing. She stated there are four different options to the sign ordinance and staff is recommending Option #3. The City staff is looking for instructions from the Mayor and Council. Mayor and Council unanimously supported the staff and the Rockville Chamber of Commerce's recommendations.

16. Discussion of Capital Improvements Program

Budget and Finance Manager Webster provided the staff report to the Mayor and Council with an overview of the CIP (Capital Improvement Program) program and funding sources. Ms. Webster concluded by pointing out there are several more worksessions related to the budget. The assumed two cent tax increase in FY2014 and half cent tax increase in FY2015 was discussed at length. The Mayor stated she would like to see what could be done without the two cent tax raise in 2014. The Mayor and Council continued to discuss the issue at length with staff responding to questions of clarification posed by the Mayor and Council.

Councilmember Pierzchala suggested the City unfund the Stonestreet Bridge project and move the money back to the General Fund. Mayor Marcuccio stated the community has been anticipating the replacement of the bridge and if the cost is so high, the community might agree with Councilmember Pierzchala. But Mayor Marcuccio would like for the community to consider it not being funded.

Councilmember Hall advised he was not in favor of a two cent tax increase and would examine the budget aggressively to try and identify those savings that would help to avoid that increase. On the issue of the Stonestreet Bridge, he is sympathetic to Councilmember Pierzchala's suggestion but feels it is worth giving the community the opportunity to consider it.

Councilmember Pierzchala would like to see the document imaging system folded into the Enterprise Resource Planning (ERP) system and the amount spent and how it is being paid for needs to be re-examined. Councilmember Pierzchala noted that Rockcrest is a small building and houses one program and it would take a lot of money to rehabilitate the building. Mr. Pierzchala would like for staff to come back and tell the Mayor and Council what it would take to reduce that building to a slab. Councilmember Newton said all the items on the funded and unfunded list need to be looked at as a whole and not individually. Councilmember Moore also agreed that community input is needed and suggested a public hearing. The consensus from the Mayor and Council was to have a public hearing regarding the Stonestreet Bridge and get the word out by any media available to get input from the community before any decision is made.

Discussion was had at length on when the public hearing should be held.

Motion: To hold a public hearing on the Stonestreet Bridge in early January.

Moved by Councilmember Pierzchala and seconded by Councilmember Moore. The motion passed with Mayor Marcuccio, Councilmembers Pierzchala and Councilmember Moore approving. Councilmember Newton opposed. Councilmember Hall abstained.

Note for the Record: The Mayor and Council took a break at 9:33 p.m. The Mayor and Council reconvened at 9:43 p.m.

17. Adoption of a Resolution to Authorize Rockville Housing Enterprises to Acquire Fireside Park Apartments and Undertake Related Actions Necessary to Complete the Acquisition, Including Borrowing and Accepting Money to Undertake a Housing Project, Entering into a Mortgage, and Establishing a Not-For Profit Corporation to Own Fireside Park Apartments

City Manager Matthews addressed the Mayor and Council and provided clarification to the issues raised by the Mayor and Council regarding the Rockville Housing Enterprises (RHE) item noting the requested information was provided in the briefbooks. Ms. Matthews noted there were two items before the Mayor and Council. One was a resolution that would authorize RHE to pursue acquisition of the Fireside Park Apartments irrespective of any City financial contribution. The other item deals with the City's financial support of RHE's acquisition of Fireside Park Apartments.

Councilmember Pierzchala noted that he had sent several documents to his colleagues with a plan that he called Fireside Park Apartments Deal because he wanted to see in one document what RHE was going to pay, where the funds were coming from, and what the City's involvement would be. Councilmember Pierzchala also put in some suggestions of his own. He had requested staff to follow up with RHE, Cornerstone and Montgomery County on some of the details. Staff responded to questions of clarification on the Pilot Waiver from Councilmember Pierzchala.

Mayor Marcuccio requested the Mayor and Council discuss why the City should not do this and expressed her concerns with proceeding with the project. The Mayor cannot see how this plan makes good sense for the City of Rockville. Councilmember Newton stated the Mayor and Council were very underserved by the worksession previously held. It was not a conversation and the City was not very fair to guests present. Councilmember Newton noted that Priderock was not invited to the Public Hearing and noted that Priderock was dumbfounded, embarrassed and very surprised at the way the evening went. Councilmember Newton stated tonight is the night to go back and have a conversation about the possibilities and opportunity that this presents to the City. She requested the record be reopened to include all information that has come in over the last two weeks. Staff responded to further questions of clarification from Councilmember Newton.

Councilmember Hall had some points of preference but stated they had all been picked up by Councilmember Pierzchala's plan provided to the Mayor and Council. One point was to make sure the appraisal came back in at \$36 million or more. RHE Executive Director O'Sullivan provided the response that the appraisal did come back in at \$36 million and Citibank would underwrite the loan for \$32.4 million. Councilmember Hall advised he would like to have the PILOT as the City is demonstrating its good faith by an approval of the resolution, by the agreement to incur limited debt that would support RHE's bid with the grant from the Housing Opportunities Fund and he would like to see that the PILOT is not waived. Councilmember Hall further stated he wants to make sure that the City is not answerable for the failure of this effort, wants to make sure the property is maintained, and noted there were ways to make sure that this happens in the ideas pointed out in Councilmember Pierzchala's plan.

Councilmember Moore cited some of the codes in the Rockville City Code regarding affordable housing and what the City is supposed to do. Councilmember Moore read a prepared statement and in summary cited that little by little over time, the cost and risk to the City has been minimized to almost zero to go ahead with the deal. There is little or no impact on the neighborhood, nothing is being built, no one is moving out, no one is moving in, there is no impact on schools or traffic, the management company may not even change and there is no change in zoning. The entire transaction is designed to keep a good, solid, affordable neighborhood.

Councilmember Newton pointed out that Fireside Park Apartments, as it currently exists, is called "naturally occurring" affordable housing. It has always been there, it's growing older, it meets a need, it has a variety of income levels that was part of what Priderock was interested in. But going forward, a conversation needs to be had by the Mayor and Council to discuss what does affordable housing really mean and how can we put some teeth in our laws so we are not just asking new developments to do 15% but asking more than that.

Mayor Marcuccio read a statement on what affordable housing means, but added that what she has heard in conversations is about subsidized housing. And for this plan, it would cost \$360,000 for each of the 94 units in question at Fireside Park Apartments.

Councilmember Pierzchala stated after reading through all of the materials for the record, what really stood out was the extent to which people did not understand what RHE was going to do and the extent to which people have mischaracterized the transaction. He noted that the City is not going to spend \$36 million for this property. The City is considering a loan that will get paid back and Councilmember Pierzchala sees very little risk of the loan not getting paid back. Councilmember Pierzchala further stated that Priderock made it clear that without the tax credits, they would not be able to do anything affordable.

Councilmember Hall believes this acquisition is best done by the private sector and not by the government. Councilmember Hall also believes this is a once in a lifetime opportunity that has fallen into the City's lap and if there is a responsible way to make it work, then we should all work together to make it possible. However, there are sound, fiscally based and priority based reservations regarding such a course of action which are worthy of thought, discussion and exploration.

Councilmember Newton wonders what would have happened if Priderock had sat down with the City, County, RHE and the Mayor and Council to come up with a plan that would not have resulted in a plan by RHE that resulted in funding 98.2% of the deal. In Councilmember Newton's opinion, RHE attempting to take on Fireside Park is just too much. Ms. Newton also asked what is going to happen in the future and who is to say what is going to happen with the economy.

The Mayor and Council continued to discuss the issue at length. Staff and representatives from RHE responded to additional questions of clarification posed by the Mayor and Council.

Motion: To approve a grant in the amount of \$200,000 and a loan in the amount of \$1,800,000 to Rockville Housing Enterprises for the purchase of Fireside Park Apartments for the preservation of mixed-income, affordable housing in the City of Rockville.

Moved by Councilmember Moore.

City Attorney Daniel advised that if a motion to approve the Resolution on Item #18 was first, language would need to be added that the monies would be contingent on the approval of the Mayor and Council and Ms. Daniel confirmed that Item #17 would need to be approved first.

Motion: To authorize Rockville Housing Enterprises to acquire Fireside Park Apartments and undertake related actions necessary to complete the acquisition, including borrowing and accepting money to undertake a housing project, entering into a mortgage, and establishing a not-for-profit corporation to own Fireside Park Apartments.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala.

Motion: To amend the resolution as follows: Now, therefore, be it resolved that the Mayor and Council of Rockville, Maryland, as follows:

1. That the Mayor and Council of Rockville approve RHE's acquisition of the Fireside Park Apartments to preserve an important affordable housing resource in the City contingent on Rockville, Maryland, Montgomery County and RHE fully funding the gap.

Moved by Councilmember Pierzchala, seconded by Councilmember Moore.

City Attorney Daniel suggested different language because the gap is not defined nor clear what the gap would be. Ms. Daniel suggested a paragraph 3 that would make it clear that if the Mayor and Council does not fund what is proposed in Item 18, this approval would be null and void.

Motion: To withdraw the amendment.

Moved by Councilmember Pierzchala and seconded by Councilmember Moore.

Note for the Record: Mayor Marcuccio declared a few moments of recess at 11:19 p.m. The meeting reconvened at 11:27 p.m.

Motion: To authorize Rockville Housing Enterprises to acquire Fireside Park Apartments and undertake related actions necessary to complete the acquisition, including borrowing and accepting money to undertake a housing project, entering into a mortgage, and establishing a not-for-profit corporation to own Fireside Park Apartments.

With respect to the Resolution in Item # 18, City Attorney Daneil suggested the following: New paragraph 3, renumbering current paragraph 3 to paragraph 4, to be amended to Attachment G Resolution of Tab 18 that would read: In accordance with the amended and restated cooperation agreement between RHE and the City, RHE will annually seek a PILOT waiver in writing no later than February 1 of each fiscal year.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala with Councilmembers Hall, Moore and Pierzchala approving and Mayor Marcuccio and Councilmember Newton opposed.

18. Decision on Financial Support for Rockville Housing Enterprises' (RHE) Acquisition of Fireside Park Apartments

Motion: To approve a grant in the amount of \$200,000 and a loan in the amount of \$1,800,000 to Rockville Housing Enterprises for the purchase of Fireside Park Apartments for the preservation of mixed-income, affordable housing in the City of Rockville and to require RHE to seek an annual PILOT waiver found in Attachment G, Tab 18 as amended by the City Attorney.

Moved by Councilmember Moore and seconded by Councilmember Pierzchala. The motion passed with Councilmember Hall, Councilmember Pierzchala and Councilmember Moore approving and with Mayor Marcuccio and Councilmember Newton opposed.

Councilmember Hall wanted captured into the record for the governing body's approval those items that specifically regard protection of the City treasury from recourse, requirements for fitness assessments of the property and maintenance plans. City Attorney Daniel and staff will keep those concerns in mind when the agreements are put together.

19. Discussion and Instructions of the Proposed Communication Plan for the Montgomery County Council and County Executive

Assistant to the City Manager Linda Moran addressed the Mayor and Council with a proposed Communication plan for the Montgomery County Council and County Executive to work with the City of Rockville on mutual issues of interest. The Mayor and Council discussed the issue at length and staff responded to questions of clarification posed by the Mayor and Council.

20. Discussion and Instructions – Second Annual Leave Buyback

Acting Director of Human Resources Anthony addressed the Mayor and Council regarding adding a second annual leave buyback opportunity in June 2013. Ms. Anthony provided the history of the program and Finance Director Cohen responded to questions posed by the Mayor and Council. Due to funding constraints, staff is not recommending a second annual buyback in FY13. There was general consensus from the Mayor and Council to agree with the staff recommendation to not offer the second annual buyback.

21. Discussion and Instructions – Retirement Plan Design Study

Director of Finance Cohen addressed the Mayor and Council providing the staff report. The Mayor and Council discussed the issue at length and staff responded to questions of clarification posed by the Mayor and Council.

Motion: To proceed with the Retirement Plan Design Study Option C and provide direction accordingly.

Moved by Councilmember Moore, seconded by Councilmember Pierzchala, and unanimously approved.

22. Review and Comment Mayor and Council Action Report

Councilmember Newton requested a copy of the Traffic and Transportation Report on parking on South Van Bureau Street.

23. Review and Comment Future Agenda

Councilmember Newton asked that Item #12 on the draft for Montgomery County Heritage be put on the fast track. Councilmember Newton would like a discussion added perhaps under Community Planning and Development Services (CPDS) since several times it has come before the Mayor and Council in briefbooks that staff does not have time to do due diligence and what could be put aside, short term to alleviate the repeated comments that staff needs outside help.

Councilmember Newton asked staff why the scheduled Board of Supervisors of Elections discussion item was moved to the December 3, 2012, meeting as it was scheduled for the November 5, 2012, meeting. She noted that the discussion needs to take place before the end of the year as we will be going into an election cycle. Councilmember Newton also thinks the discussion of a Financial Advisory Board fits better with the December 3, 2012, agenda.

24. Old/New Business

Councilmember Moore noted he had a meeting with the publisher of the Gazette and members of the East Rockville Civic Association regarding unwanted newspapers. The discussion was productive and everyone left with action items and discussions have been had with the City Manager and Communications Manager to provide some direction in Rockville Reports.

Councilmember Moore read a letter received from the Human Rights Commission in support of question # 4 and question # 6 on the general election ballot and asked for the Mayor and Council's affirmation of support.

25. Adjournment

There being no further business, the Mayor and Council adjourned at 12:29 a.m.

Motion: To adjourn.

Moved by Councilmember Hall, seconded by Councilmember Moore.