



MINUTES REGULAR MEETING  
CITY COUNCIL CHAMBERS  
448 E. 1<sup>st</sup> Street

Salida, Colorado

December 21, 2010

6:00 p.m.

The meeting was called to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE** –

Led by Mayor Chuck Rose.

**ROLL CALL** -

Present at roll call were Mayor Chuck Rose and Council Members Keith Baker, Tom Yerkey, Scott Damman, Jim McCormick, Jay Moore, and Steven Stewart. Also present were City Treasurer Eileen Rogers, City Clerk Betty Schwitzer, City Administrator Jack Lewis, Deputy City Clerk Janella Martinez and City Attorney Karl Hanlon.

**CITIZEN PARTICIPATION** -

Mayor Rose said those wishing to speak would be limited to 3 minutes.

**PRESENTATION** –

Dwight Cocovinus, 325 G St., having missed a couple of meetings he wanted to know about the deadline for asbestos abatement for SalCat, the owner of the Unique Theater. There was a December 20 deadline for the asbestos abatement for SalCat. He wondered if anything has happened.

City Administrator, Jack Lewis, gave an update on the Unique Theater. The asbestos abatement has commenced. We have had some good meetings today with representatives for the Unique. City Attorney, Karl Hanlon, met with SalCat's legal representative, Bill Smith. Mr. Lewis has confidence SalCat will be demolishing the back half as soon as the asbestos abatement is completed. Mr. Lewis noted that the 20<sup>th</sup> was yesterday and that there are crews working at the theater.

Mr. Cocovinus is concerned and disappointed that demolition of the back of the theater is happening. With the rear demolished that property might not be as palatable to a developer. He understands that this is the property owners issue, but wants to make sure that the City is updated on continued progress at this site. Mayor Rose told Mr. Cocovinus that he is always welcome to contact the City Administrator to get current updates.

No one else came forward to speak.

**SCHEDULED ITEMS-**

1. **Consent Agenda** –
  - a. Approval of Agenda

- b. Approval of Minutes: September 2, 2008, December 7, 2010
- c. City Property requests: None

A motion was made by Damman to combine and approve the items on the consent agenda. The motion was seconded by Yerkey. With all in consensus, THE MOTION CARRIED.

## 2. 1141 E. Hwy. 50 pre-annexation Agreement –

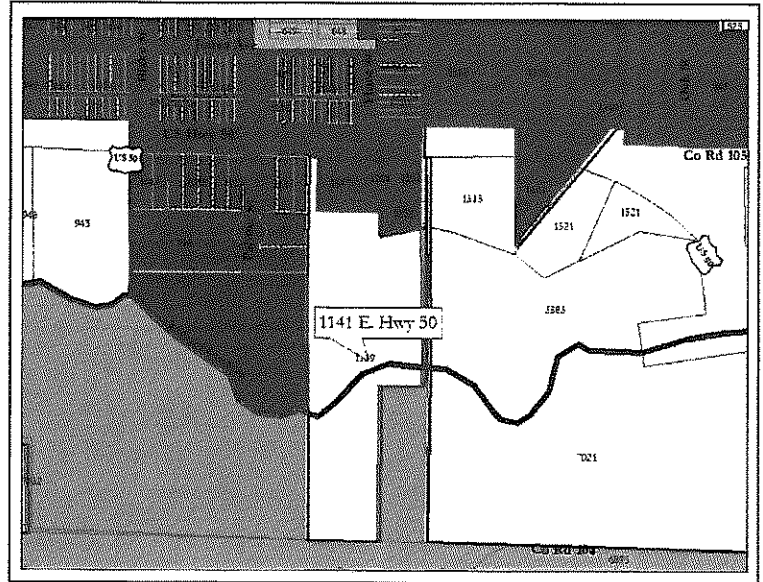
Resolution 2010-71 approving a pre-annexation agreement for 1141 E. Hwy. 50

Dara MacDonald, Community Development Director presented written materials that are included in the packet for the record. The request is for approval of a pre-annexation agreement between the City of Salida and Jodie and Barry Snyder, owners of the property located at 1141 E. Hwy 50.

The applicants are Jodie and Barry Snyder.

The subject property is 8.14 acres in size, located at 1141 E. Hwy 50. It is generally located south (or behind) the Salida Vineyard Church and extends to the south across the South Arkansas River. The property is located outside of the municipal boundary, but is completely surrounded by the City of Salida. A complete legal description is attached to the agreement.

The applicants recently purchased the subject property which includes a residence, commercial building and unoccupied barn. The commercial building is a City sewer customer while the residence is connected to a septic system. Both buildings are served by one well. The septic system is failing and the applicants have requested to connect the residence to the City's sewer system.



Section 13-2-80(b) of the Salida Municipal Code addresses 'Nonresident users' of the water and sewer system. The relevant subparagraphs are included below:

(b) Conditions for use approval. Upon new application to the Public Works Director of any nonresident to use the water and sewer service of the City, the following will be required before any application is approved:

(1) If the nonresident consumer is located within an urban service area identified in an intergovernmental agreement with the County, or within four hundred (400) feet of the existing City boundaries, the consumer must agree to annex into the City in order to connect to water and/or sewer services and meet all other annexation requirements as defined in the Land Use Code.

(3) The nonresident consumer must pay all required fees at out-of-City rates if annexation or an agreement to annex within twelve (12) months is not agreed upon.

(4) The nonresident agrees that any unpaid water and/or sewer bills shall be a lien upon the respective lots or parcels of land where said water/sewer is used from the time when due, and

shall be a perpetual charge against said lots or parcels of land until paid. In the event said charges are not paid when due, the Utility Billing Department shall certify such delinquent bills to the County Treasurer, and said bills shall be collected in the same manner as though they were part of the taxes.

(6) The nonresident consumer agrees to conform to all other requirements for service and for water line extensions as an in-City water customer as long as service is provided.

In this case, staff recommends that the City Council not require annexation at this time. Rather, the Council can enter into a pre-annexation agreement that would allow the utility connection at in-City rates and require annexation at the time of significant further development of the property. This agreement to annex in the future allows for the desired connection to municipal sewer while still reserving the ability to negotiate annexation at the time when development plans are known.

The applicants have no plans for further development of the property at this time with the possible exception of reuse of the barn for a business office for residents of the property. The proposed agreement will allow the applicants to complete work necessary for limited reuse of the existing barn without requiring annexation. As an enclave, the City may move to unilaterally annex the property at any time, for any reason. While the City would agree to certain annexation triggers in the pre-annexation agreement, the City would not waive their statutory rights as to enclave annexation.

A motion was made by Yerkey to approve RESOLUTION NO. 71, 2010, A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING THE PRE-ANNEXATION AGREEMENT FOR 1141 EAST HIGHWAY 50. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

### **3. SteamPlant Boundary Line Agreement –**

Dara MacDonald, Community Development Director presented written materials that are included in the packet for the record. The request is for approval of an agreement between the City of Salida and ZDS, LLC to recognize a common property boundary between the SteamPlant Theater and Event Center and the adjacent commercial property housing The Salida Café and Absolute Bikes and to provide an easement for maintenance of the retaining wall between the properties.

Within the last few years there were conflicting surveys produced by Landmark Surveying and Bear Surveying regarding the location of the shared boundary. There was 3 ½ feet of difference between the two surveys that was unaccounted for. After further review by Chaffee Title and Landmark Survey, it was determined that the legal description for the SteamPlant should be reduced by 3 ½ feet which was subsequently corrected. This was done in accordance with a quit claim deed recorded in the 1950s. However, the description for the Absolute Bikes property has not yet been corrected.

In essence, the SteamPlant description will remain as it has been for the last 60 years and the Absolute Bikes description will be revised to include that change that was memorialized with the quit claim deed in the 1950s.

In addition to recognizing the shared boundary, this agreement addresses the maintenance of the retaining wall and tie-backs that are located along the shared boundary. The easement will allow for the City to maintain the retaining wall.

The City financed a portion of the construction costs for the recent expansion of the SteamPlant through a lease purchase agreement with Collegiate Peaks Bank. As the investor in the property, the

bank has reviewed the agreement and has expressed their willingness to participate in recognizing the common boundary and easement. A brief discussion followed.

A motion was made by Damman to approve RESOLUTION 2010-74 A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING THE BOUNDARY LINE AGREEMENT WITH ZDS, LLC. The motion was seconded by Stewart. With all in consensus, THE MOTION CARRIED.

#### **4. Open Record Policy-**

City Administrator Jack Lewis presented written materials to Council that are included in the packet for the record.

C.R.S. §24-72-201 *provides that all public records are open for inspection by any person at reasonable times unless otherwise provided by the act itself or other law.* Public records include all writings made, maintained, or kept by the City of Salida. It has been a goal of Deputy City Clerk, Janella Martinez, to put an Open Records Policy in place for the past few years. With adoption of the Records Retention Model the city continues to improve records management.

Public records include all writings made, maintained, or kept by the City of Salida. The City doesn't currently charge a fee for staff time when requests for documents come in. In the past large records requests have been submitted and have to be filled by staff, some of these taking hours, even days, of staff time. The City is held to charging \$.25 per page by CRS. By adopting this policy the City will have standards and be able to charge fees for retrieval of requested documents. Staff time is a valuable asset and with this policy in place we will be able to recoup fees at an hourly rate for employee time spent gathering requested documents.

It has been a goal of the City to remove any fees from the Salida Municipal Code. The policy includes a fee schedule (Attachment A) that can be changed by adopting a Resolution when Council feels fees should be increased from time to time. Staff recommends Council's approve this Resolution.

A motion was made by Damman to approve Resolution 2010-72 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA ADOPTING A POLICY REGARDING ACCESS TO PUBLIC RECORDS AND ADOPTING FEES IN ASSOCIATION THEREWITH. The motion was seconded by Baker. With all in consensus, THE MOTION CARRIED.

#### **5. Wastewater Treatment Plant Interim Financing– final loan documents** 2<sup>nd</sup> reading - Public Hearing

Jan Schmidt, Finance Director, presented written materials that are included in the permanent record. The request is to approve another ordinance related to the interim financing of the wastewater treatment plant with updated terms and the final loan document, which was not available at the time the original ordinance was approved.

Council was asked to approve an ordinance for the interim in September, which was earlier than we would have normally sought this action. This was due to the potential that Amendment 61 might have passed in November and we would have needed to fast track the closing into 2010.

The City has now selected BBVA Compass as the interim lender through a competitive process. The USDA/Rural Development program requires a separate interim loan, which they will refinance with a 40-

year loan in 2012 or 2103. Although the terms and conditions with BBVA Compass are not significantly different than what was already approved, we would like council to review and approve the final documents. The interest rate for the interim loan is 2.0% + 65% of 30-day LIBOR with a floor of 2.6%. If the loan remains outstanding beyond 24 months, the rate will increase to 4.5% + 65% of 30-day LIBOR. We plan to close the loan on January 5, 2011. We are asking council to pass this ordinance as an emergency due to the timeframe for locking in interest rates, terms and completing the closing. This ordinance was passed on first reading December 7, 2010.

Staff would suggest passing both of the ordinances.

Mayor Rose opened the public hearing and asked if anyone present wished to speak about this ordinance. No one came forward to speak. Mayor Rose closed the hearing.

Mayor Rose asked if there were any comments by Council.

A motion was made by Damman to approve ORDINANCE 2010-20, AN ORDINANCE OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT AND NOTE BY THE CITY OF SALIDA, COLORADO, ACTING BY AND THROUGH ITS WATER ACTIVITY ENTERPRISE, TO COMPASS MORTGAGE CORPORATION, SUCH NOTE TO BE IN A PRINCIPAL AMOUNT NOT EXCEEDING \$12,500,000, FOR THE PURPOSE OF FINANCING EXTENSIONS AND IMPROVEMENTS TO THE SEWER SYSTEM OPERATED BY SUCH ENTERPRISE; PROVIDING FOR APPLICATION OF THE NET REVENUE OF THE WATER AND SEWER SYSTEMS OF THE CITY TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SUCH NOTE AND PROVIDING OTHER DETAILS IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY; and ordering the ordinance to be published by title only, and becoming effective upon passage. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

Mayor Rose thanked Administrator Lewis and Jan Schmidt for all of the work put into the Wastewater Treatment Plant. Administrator Lewis noted that Ms. Schmidt had done the bulk of the work.

#### 6. Amending the 2010 Budget –

Finance Director Jan Schmidt presented written materials that are included in the packet for the record.

Council adopted the 2010 budget on November 3, 2009 and passed two other amendments to reflect changes that have come up throughout the year. The second budget amendment was presented two weeks ago and included, among other items, a request to increase funding for personnel expenses.

The original 2010 budget passed by council included funding for mid-year raises for employees. Raises would have averaged 4% and would been an incremental step toward full implementation of the City's "pay plan" adopted by council at the end of 2008. As a result of many years of salary freezes and/or nominal pay increases, compensation levels for municipal workers in the City had fallen well behind market rates when stacked up against other comparable cities and towns in Colorado.

The implementation of an employee pay plan would begin to close the gap between the City's wages and market comparables had long been a top priority of council and department heads. For several years, the cost of employee insurance and the overall cost of living in our community had exceeded annual pay increases, if any. The adoption of the 2008 pay plan was a step in the right direction and was

very much appreciated by employees.

The last time a pay plan had been developed was in 2001; however, it was abandoned within a year because the Council members at that time felt they could not afford to implement it. Our goal in 2008 was to create a plan that was achievable with the City's resources and that would create equity between workers performing at similar levels across departments. It has been a disappointment to find ourselves back in a situation of abandoning a plan, once again, within a year of its adoption. There will always be more requests for money than funds available. It comes down to a question of the council's priorities.

The funds council originally approved for raises in 2010 were cut from the budget in May. At that time, we were concerned that sales tax revenue would continue to decline for a year and a half. Fortunately, the sales tax trend reversed during the summer months. We now expect the full year to be down less than 2% as opposed to 5%. The City has also received a one-time sales tax distribution in the amount of \$134,151 from the county for an audit settlement. Throughout the year, staff members have found ways to save money by making organizational changes and not replacing employees who resigned. These cost savings combined with the deferral of a number of capital projects means that the City will be adding more than \$200,000 to reserves barring any unforeseen drops in revenue or unexpected expenses.

The suggestion for a one-time "bonus" in lieu of raises addressed the concern that the budget in future years remains uncertain. Raises would affect future budget years, whereas the one-time payment would affect only the current year. Council has asked staff to review the services provided and propose changes within the next six months. Until that exercise has been completed, one might argue that more permanent changes to the City's future operating cost structure should be deferred. We will request that council review the pay plan again in the future and believe its implementation should remain a priority.

We ask that the Council approve funding for one-time employee payments in lieu of raises.

Ms. Schmidt distributed a copy of the pay plan and a handout that Councilor McCormick requested during the morning work session. Mayor Rose asked for any discussion by Council.

Councilor Yerkey said two weeks ago when news of the settlement from the County was brought to Council, he was against taking this windfall and using it up. After meeting with the Finance Director, Jan Schmidt, he reviewed the work already put into the 2010 budget. Staff reduced \$468,200 from the budget so he is now in favor of saying thanks to the employees for what they have done this year.

Baker said we could put it all in reserves, which could then be used throughout the year. He feels staff had done well to control spending.

Councilor Stewart said he is a little reluctant to treat this money like found money. It's been several years our employees have been behind in the pay plan. Perhaps we could do a 2% increase now and then in the Spring relook at the sales tax and if possible get the staff a salary increase that brings them current with the pay plan that performance based.

Councilor Damman said he agrees with Yerkey but personally hopes we wait until the end of the first quarter. A few weeks ago we sat here and told people we don't have the money for community support grants.

Mayor Rose asked how many people present wanted to speak. Several citizens raised thier hands. He reminded them that they need to keep their comments to three minutes.

Maureen Shultz, 327 Ouray Ave., found out about this issue a couple of weeks ago. She thought long and hard about it and has a hard time swallowing bonuses for city employees. We don't know the numbers for 2010 until the end of February so you should look at what those numbers are then, before Council decides this. She understands and has worked for a departments before. One department might have more duties than another and if they are given the same flat rate, some of the employees might feel that this is not a fair distribution of funds.

Dwight Cocovinus, said this issue caught his attention. He sees that the economy in Salida is also struggling. Mr. Cocovinus thinks we shouldn't send a message out to the citizens that you are going to take the \$134,000 windfall and hand it out to City personell. He urges council to go out and see what is happening with our local workforce. Construction is only one of the industries that are hurting. We should be in a belt tightneing mode. Mr. Cocovinus suggested that Council see how 2011 plays out. He also feels our streets are in horrible shape. He feels that City personell might consider they have one of the better jobs offered in this community. They even have good benefits. Council should address some of the real issues in the City first.

Merle Baranazyck, a local business owner, said he recently had a discussion with employess about pay raises and salary increases. He wondered how the pay plan was set up if Salida was compared to other cities in the state. Generally local government pays more that local jobs can pay. When voters approved the 1% increase in 2008 for capital improvements and infrastructure. It seems that these funds are being used for operations and salary, but he is not positive of that. He feels that many people are thankful to have jobs, especially jobs with benefits.

Karen Adams, echos what those have previously said. She feels it is definitely sending the wrong message to give a bonus to city employees. She hears Councilor Yerkey who wants to support personell. She wonders how the pay plan was done. What towns were used as comparison. For example they shouldn't use Breckenridge. She is amazed at the payscale that is already out there. Ms. Adams understands that the EMS is paid for by the County, although the City uses EMS services. Chaffee County Dispatch is also funded by the County. Perhaps the City could use this money to support these efforts.

Administrator Lewis noted that the City has a full time Fire Department that serves this County and others, but is only funded through the City. There is always a give and take among the municipalities and the County they reside in.

Councilor Yerkey pointed out that the citizens of the City of Salida are also residents of the County and do pay Chaffee County taxes.

Mayor Rose asked if anyone else wished to speak. No one came forward.

A motion was made by Yerkey to adopt resolution 2010-75 resolution amending and supplementing Resolution No. 2009-54, adopting the 2010 budget to provide for supplemental expenditures, and Resolutions 2010-31 and 2010-73, making certain revisions to the 2010 budget, establishing a one time bonus for employees at 2% of their salary, unless this amount becomes so small that a flat rate is capped for the lowest paid employees. The motion was seconded by Baker. A brief discussion followed.

Councilor Baker noted there has been a lot of discussion already, but feels pretty confident at this point that it has been a tough year for the employees. We did pass a pay plan that has not been implemented for two years since. Hopefully the economy will begin to move forward and we will be able to put more money in reserves. By the time Council gets to this meeting we are all just about talked out,

please understand our day begins at the morning work session. We spent at least an hour on this topic alone just this morning. Councilor Damman noted that this is about the fourth time they have discussed this issue.

Councilor Moore said he would love to abstain from this vote because he feels very torn. He understands Councilor Damman's logic. Money spent is money permanently lost. Finance Director Schmidt said that there are 95 total employees and of those only 26 have an average salary of \$46,000.

Councilor Damman urged Council to wait until the end of February to see the final sales tax income for the City before moving forward with a bonus. He stated that he does support staff and thinks they do a fantastic job, but would like to see the real numbers first.

Mayor Rose noted that there was a motion on the floor and asked if there were any other comments. There were not, so he requested a roll call vote on the motion.

Those voting Yea were Baker, McCormick, Moore, Stewart and Yerkey. Voting Nay was Damman. THE MOTION CARRIED.

#### 7. SteamPlant Commission Code revisions --

Michael Varnum, SteamPlant Director, presented written materials that are included in the packet for the record. The request is to revise Chapter 2, Article XV of the Salida Municipal Code regarding the SteamPlant Commission. Once the SteamPlant was turned over to City these duties became City staff duties.

After working with the SteamPlant Commission governing regulations for several years, staff, with input from the SteamPlant Commission, has suggests certain revisions be made to Chapter 2, Article XV to better reflect the evolving structure and mission of the SteamPlant Commission. Staff suggests approving the revisions.

Councilor Yerkey noted that Michael Varnum has done one heck of a good job at the SteamPlant.

A motion was made by Stewart to approve ORDINANCE 2010-21 AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO, AMENDING CHAPTER 2, ARTICLE XV OF THE SALIDA MUNICIPAL CODE REGARDING THE STEAMPLANT COMMISSION, setting the public hearing date for January 4, 2011, and ordering the ordinance published in full. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

#### 8. Annual Temporary Water Storage Contract (If and When account)

City Administrator Jack Lewis presented written materials that are included in the packet for the record. Enclosed is a resolution authorizing the City Administrator to execute Temporary Water Storage Contract No. 11XX6C0040 -- City of Salida-Fryingpan-Arkansas Project, Colorado. This is the annual temporary if and when account for 625 acre feet of storage. The cost for 2011 is \$16,118.75 of \$25.79 per acre foot of storage. The storage is located in Pueblo Reservoir. Staff recommends approval of Resolution 2010-76.

A motion was made by Moore to pass RESOLUTION 2010-76 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE TEMPORARY WATER



STORAGE CONTRACT WITH THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT AND THE US BUREAU OF RECLAMATION FOR IF AND WHEN STORAGE SPACE IN THE FRYINGPAN-ARKANSAS PROJECT. The motion was seconded by Baker.

A brief discussion followed.

Baker said that the City of Salida was saved from the 2002 drought by having water storage contracts. Water running on the surface dries out. This is one of the things that allows our community to handle future growth. Councilor Moore noted that this water is managed by our Water Plant Manager, Lonnie Oversole.

Mayor Rose requested a roll call vote for the motion on the table.

With all in consensus, THE MOTION CARRIED.

**9. Administrator/City Attorney/Deputy City Clerk**

a. Administrator's Report –

Administrator Lewis wished everybody a Merry Christmas and Happy New Year.

b. City Attorney Report – Karp, Neu, Hanlon PC

City Attorney Karl Hanlon asked Council if they want him to prepare the proposed ballot language regarding Medical Marijuana Dispensaries in the next packet for your morning work session. If we are not moving forward with an election than he can start looking at some sample regulations put in place by other municipalities. A discussion by Council followed. Attorney Hanlon will return with sample ballot language and review some regulations to bring back to Council.

Hanlon noted that earlier today he had a nice chat with Bill Smith, representing SalCat.

c. Deputy City Clerk -

Deputy Clerk, Janella Martinez had nothing to report.

7. Elected Official Reports -

a. Treasurer-

City Treasurer Eileen Rogers had nothing to report this evening. She said there will be a sales tax report during the next meeting.

b. Mayor –

Mayor Rose wished everybody a wonderful holiday season. He noted that a lot of things are discussed during the 8:30 a.m. morning work session. This morning the work session was recorded and after reviewing the audio these may also be put on channel 10 for public viewing.

As our town gets busier during the holiday season we should be aware that not everyone has a great time during the holidays. Remember to share joy and enjoy family and friends.

c. City Council-

Councilor Moore noted that a neighbor of theirs stepped between the SteamPlant property and fell into the basement of Salida Café and had to be taken to the ER. Moore took the liberty to speak with Mr. Varnum of the SteamPlant who spoke to Mr. Vance to see if he could help take care of this.

Moore noted this Council passed 71 resolutions and 21 Ordinances in 2010. He wished everyone a Happy Solstice which occurred at 4:30 a.m. this morning.

**EXECUTIVE SESSION**

A motion was made by Damman to go into Executive Session For discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: and specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees. AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: Personnel matters. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

Mayor Rose announced the time as 7:44 p.m.

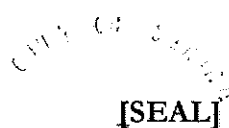
Those present during the executive session were Mayor Chuck Rose and Council Members Keith Baker, Scott Damman, Jim McCormick, Jay Moore, Steven Stewart and Tom Yerkey. Also present were City Administrator Jack Lewis, City Attorney Karl Hanlon and Finance Director Jan Schmidt.

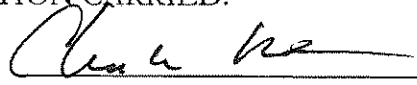
Jan Schmidt left the meeting at 8:15 p.m.


Executive Session concluded at 8:59 p.m. No decisions were made.

**ADJOURNMENT –**

A motion was made by Moore to adjourn the meeting at 9:00 p.m. The motion was seconded by Yerkey. With all in consensus, THE MOTION CARRIED.



  
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Mayor

  
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Deputy City Clerk  
Respectfully submitted by Janella Martinez, Deputy City Clerk