

REGULAR MEETING MINUTES
SISTERS CITY COUNCIL
520 E. CASCADE AVENUE
JULY 23, 2009

MEMBERS PRESENT:

Lon Kellstrom	Mayor
Bill Merrill	Council President
Sharlene Weed	Councilor
Pat Thompson	Councilor
Jerry Bogart	Councilor

STAFF PRESENT:

Eileen Stein	City Manager
Steve Bryant	City Attorney
Eric Porter	Comm. Devel. Director
Lisa Young	Finance Director
Brad Grimm	PW Director
Kathy Nelson	City Recorder

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE

The meeting was called to order by Mayor Kellstrom at 7:03 p.m.

II. VISITOR COMMUNICATIONS

Ken Merrill 310 N. Cedar, Sisters, OR 97759

Mr. Merrill stated he was the owner of Canyon Creek Pottery located on Cedar Street and off the beaten path usually followed by tourists visiting Sisters. He stated he has been working with Community Development Director Porter to receive permission for a directional sign in the public right of way on Cascade Avenue to lead tourists to his business. He stated he has had a great deal of trouble getting permission and is further frustrated by the number of illegal signs he sees throughout Sisters. He stated he was advised by Director Porter to seek approval from the Council to place such a sign on a temporary basis until the Development Code update is completed and regulations related to directional signage are addressed.

Mayor Kellstrom requested City staff to work with Mr. Merrill to provide additional information and a recommendation for a possible solution to the Council. **Director Porter** stated he will work with Mr. Merrill and provide additional information including an aerial photo of the area in question to the Council.

Dave Marlowe 70010 Running Horse Court, Sisters, OR 97759

Mr. Marlowe complimented the recent clean up on the triangular piece of property where E. Jefferson, S. Locust and Highway 20 intersect. He stated the property now provides an improved and inviting entrance to the City. He suggested the City and Sisters Park and Recreation District (SPRD) combine efforts to purchase the piece of property and expand Creekside Park for additional picnic and play areas.

III. CONSENT AGENDA

- A. Minutes
 - 1. June 4, 2009 – Workshop
 - 2. July 9, 2009 - Workshop
 - 3. July 9, 2009 – Regular Meeting

- B. Bills to Approve
 - 1. July Accounts Payable

Councilor Merrill moved to approve the consent agenda. Councilor Weed seconded the motion. The motion carried unanimously.

IV. ACCOUNTS PAYABLE NOT ON THE CONSENT AGENDA

There were no items on the accounts payable not on the consent agenda.

V. STAFF REPORTS

A. Brad Grimm, Public Works Director

Public Works Director Grimm asked for questions regarding his staff report.

Councilor Weed asked why the intersection of Hood Avenue and Pine Street was chosen to be converted to a four way stop as it did not seem an obvious intersection to need one. **Director Grimm** explained that the City has received complaint calls about that intersection and the other two intersections that will become four way stops. He stated in determining where stop signs would be appropriate, he worked with the Fire Department regarding which intersections are in need of stop signs and the Fire District agreed with the City's assessment. He stated the Hood Avenue/Pine Street intersection seems especially confusing to tourists and the City is looking to make it a safer intersection.

Director Grimm stated the first scoping meeting for the Cascade Avenue project will be held on July 28th and invited interested Council members to attend.

B. Eric Porter, Community Development Director

Director Porter asked for questions regarding his staff report.

Councilor Weed asked if the Council will be deciding the criteria for A-frame temporary signs. **Director Porter** stated he was planning on making the decision regarding the A-frame signs administratively but he would be happy to workshop the topic for the Council or

meet one on one with Council members to discuss the matter. **Councilor Merrill** stated the Development Code update technical advisory committee (TAC) had discussed the matter and solicited input from business owners. He stated that information will be incorporated into the update. **Manager Stein** noted that if there is a recommendation to charge a fee for yearly stickers for A-frame signs the Council will make that decision.

C. Captain Tim Edwards, Deschutes County Sheriff's Department

Captain Edwards reported on the number of patrol hours provided, incidents, citations, warnings and business checks for June. He reported there were foot patrols in Sisters both Friday and Saturday night of Rodeo weekend and a number of DUII arrest during that same timeframe. **Captain Edwards** reported there was one alarming case of arson in June when a transient set two separate fires in the nearby forest before being arrested.

Captain Edwards reported there were a number of car break-ins last Saturday night. In one case the owner of the car confronted the individual in the midst of the break-in and was subsequently assaulted. An arrest was made on Tuesday for the break-ins. He reported that last Sunday night there were two burglaries and one attempted burglary. He stated the Sheriff's Department is still investigating to see if there is any connection to the Saturday night car break-ins.

VI. COUNCIL BUSINESS

A. Discussion and Consideration of Ordinance No. 387: AN ORDINANCE OF THE CITY OF SISTERS OREGON ADOPTING CHANGES TO THE URBAN AREA COMPREHENSIVE PLAN AFFECTING THE FOUR ACRE PROPERTY KNOWN AS THE FUTURE FIRE TRAINING FACILITY PROPERTY

Director Porter stated that Ordinance No. 387 was one of the necessary steps to bring four acres into the urban growth boundary for a fire training facility. He stated an agreement between the City and Sisters Fire District allowed the City to built its recycling center on Fire District Land with the understanding that the City would provide four acres of alternate land the Fire District could use for its training facility. He stated other steps that remain include adoption of the Comprehensive Plan draft map and draft zone map, holding a vote of the people in November to annex the property and a zone change after annexation. He stated after those steps the Fire District will be able to apply for land use permission which will be a two phase development.

Councilor Bogart asked if the City had received any comments from citizens residing in the Coyote Springs neighborhood. **Director Porter** stated he had received no written or verbal comments from anyone regarding the proposed annexation.

***Councilor Merrill** moved for the first and second reading, by title only, of Ordinance No. 387. **Councilor Weed** seconded the motion. The motion carried unanimously.*

City Attorney Bryant read Ordinance No. 387, by title only, twice.

***Councilor Merrill** moved to approve Ordinance No. 387, an ordinance affecting the four acre property known as the future fire training facility property. **Councilor Weed** seconded the motion. The motion carried unanimously.*

**B. Public Comment and Consideration of Ordinance No. 388: AN
ORDINANCE OF THE CITY OF SISTERS IMPOSING A BUSINESS
LICENSE TAX ON MOTOR VEHICLE FUEL DEALERS**

Mayor Kellstrom informed the public that a community meeting relative to the proposed fuel tax will take place on Tuesday, July 28th at City Hall. He stated an assessment of Sisters road conditions, a discussion on the need for the fuel tax to maintain the roads, a handout of frequently asked questions and an opportunity to ask questions and voice concerns will occur at the presentation. He invited everyone to attend.

Mayor Kellstrom opened the public comment period to anyone wishing to address the Council on Ordinance No. 388.

Kurt Kallberg, 69981 Camp Polk Road, Sisters, OR 97759

Mr. Kallberg stated a fuel tax is a tough issue. He stated that if the City had not given up \$6,000 to \$7,000 in income each month in refuse fees when it gave up the garbage franchise, the City would not be in this situation today. He stated the City has the same number of personnel, everyone has received a new garbage can and expenses have not changed. He stated the State still provides \$70,000 to \$80,000 to the City for roadwork and with the current economic downturn everyone has to get by with a little less. He stated the City can't impose another tax on folks because it is not managing its money right. He stated the City should have seen this coming.

Mayor Kellstrom closed the public comment period.

Councilor Merrill moved for the first reading, by title only, of Ordinance No. 388 imposing a business license tax on motor vehicle dealers. **Councilor Bogart** seconded the motion. The motion carried unanimously.

City Attorney Bryant gave the first reading of Ordinance No. 388 by title only.

C. Discussion and Consideration of a Motion to Endorse Liquor License Renewals for Fiscal Year 2009-10

Manager Stein stated this item relates to the annual endorsement of liquor license renewals that the Oregon Liquor Control Commission (OLCC) seeks. She stated as always, the City requested a check by the Deschutes County Sheriff's Department to inform the City of any liquor related violations or infractions that had occurred in the last year. She stated this report resulted in serious concerns being raised about one establishment. She referenced the letter from the Deschutes County Sheriff's Department advising the Council to not endorse the renewal of Scoots Bar and Grill liquor license. She stated that although the OLCC makes the final decision on whether to renew a liquor license they do depend on the local community to bring businesses of concern to the agency's attention. She stated that OLCC maintains that a City has a better understanding of businesses than the agency does.

Councilor Bogart asked Captain Edwards why he is recommending the Council not endorse the renewal of Scoot's liquor license. **Captain Edwards** stated that Scoot's stands out as a business with many alcohol related incidents not only in Sisters but within the entire County. He provided an overview of 15 alcohol related incidents noted by the Sheriff's Department in his letter which included:

- 4 alcohol induced fights
- A warning for serving visibly intoxicated persons
- 1 Minor in Possession who was not asked for any ID
- 9 DUII arrests including a fatal accident where the occupant had been drinking at Scoot's prior to the accident
- Numerous complaints regarding unruly patrons harassing women outside the bar, consuming alcohol in the parking lot and front sidewalk, beer cans strewn about the property and damage to fences and nearby properties

Captain Edwards reported that since he had written the letter there had been three additional incidents involving patrons of Scoots.

Councilor Bogart asked Captain Edwards if he thinks incidents of this nature will decline if Scoot's closes and **Captain Edwards** stated he did think they would. **Councilor Bogart**

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asked if perhaps the troublemakers might just move elsewhere and **Captain Edwards** stated that was a possibility.

Councilor Weed asked what expectation the Sheriff's Department has of a bar owner and its employees. **Captain Edwards** stated the expectation is to not over serve alcohol to a customer and to have control over the behavior of the bar patrons. He stated a bar should forbid anyone that has caused trouble to be allowed back into the bar again. **Manager Stein** stated that in her seven years as City Manager this is the highest number of incidents for one establishment and the first real concern the Sheriff's Department has ever brought to the City's attention.

Councilor Thompson asked whether overall there has been a rise in alcohol related incidents throughout the County considering the high number of people that have lost employment. **Captain Edwards** stated there has been a rise in suicides and attempted suicides which are often alcohol related. He stated that Scoot's and one other establishment (which he is also recommending not be endorsed for renewal) in the county have an unusually high number of incidents.

Mayor Kellstrom asked City Attorney Bryant if he has seen a situation like this in Redmond and if so, how it was handled. **City Attorney Bryant** stated that Redmond has never had a case of an establishment with the number and significance of incidents within its city limits. He stated that typically an interaction with the local police has provided enough incentive for there to be an immediate decline in incidents.

Brian Witt, Attorney for Lentz Enterprises, LLC

Mr. Witt, legal representative for Lentz Enterprises, LLC and David Lentz stated he was in attendance to speak on behalf of David Lentz and support of the endorsement of a liquor license for Scoots. He stated that Scoots is a relatively new business that has only been open for 14 months. He stated that Scoots employs 12 people, all of whom are Sisters residents. He stated as part of the business, Scoots serves lunch, dinner and alcohol. He stated that he wanted to speak about the relationship Scoots has with the OLCC, respond to the letter from Captains Edwards and share the value of Scoots as a business in Sisters.

Mr. Witt stated that since Scoots opened for business it has only had four incidents with the OLCC which resulted in only one citation and that Scoots is in good standing with the OLCC. He reminded the Council that the OLCC is the sole licensing authority for Scoots.

Mr. Witt stated the letter from Captain Edwards identifies three other businesses but Scoots is singled out by the Sheriff's Department. He stated the letter is misleading, damaging, has limited information and leaves out important facts related to the 15

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incidents. He stated the letter does not contain any names or dates to substantiate the allegations. He stated that Ruth Raizin, owner of Three Sisters Floral and immediate neighbor of Scoots, has written a letter in support of Scoots stating she has had no adverse events or damage attributable to Scoots. He stated she writes that her business is safer because Scoots operates its business after her business closes and as such provides a more secure environment in the neighborhood. Ms. Raizin states in her letter she finds David and Chris Lentz to be considerate neighbors.

Mr. Witt stated that with regard to the alleged nine DUII's, Captain Edwards has failed to provide much support documentation and detail on how many of those resulted in a conviction. He stated one incident involved a driver on their way to Scoots, one where the driver was shown to be below the legal alcohol limit when a breathalyzer test was administered and another where the individual drank one beer and two shots over the course of the evening and left Scoots at midnight. He stated that person was not stopped until two hours later and the Sheriff's Department still pointed its finger at Scoots. He stated one case was a bicyclist who drank only two beers, was arrested and subsequently was let off.

Mr. Witt stated that with regard to the alcohol related incident that resulted in a fatality, the three patrons involved drank at a variety of establishments over the course of the evening. He stated they came into Scoots about 9:30 and left between 10:30 and 11:00 after being refused service for being visibly intoxicated. The individuals, as a part of the investigation, also admitted taking alcohol into Scoots by way of a backpack. He stated that five hours after leaving Scoots the Sheriff's Department was dispatched to an accident scene involving the three individuals where one died and where alcohol was also found in the vehicle. He stated the OLCC concluded that Scoots was not responsible since the parties involved had consumed alcohol at a number of locations.

Mr. Witt stated that Scoots is a responsible bar. He stated they provide free shuttle service for anyone that requests it Thursday through Sunday. He stated this is a valuable service and shows Scoots commitment to the community. He stated that ironically, the shuttle driver has been pulled over and harassed by law enforcement. He stated that Scoots is a strong and viable business in Sisters. He stated they employ 12 Sisters residents, pay over \$5,000 in property tax and over \$60,000 in payroll taxes and make a valuable contribution to the community. He stated Scoots does not deserve to be run out of business and have 12 jobs lost on false information.

Mr. Witt stated that Scoots has provided community support by contributing over \$15,000 to events such as Sisters Rodeo, Quilt Show and Bend's School of Music. He urged the Council to endorse the renewal of Scoots liquor license.

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David Lentz, 69372 Camp Polk Road, Sisters, OR 97759

Mr. Lentz stated he has a list of customers that he does not serve to and feels that Scoots has a reputation as a place that bars individuals that cause trouble from returning. He stated he has hired outside security several times to help out in keeping things under control and cuts people off that have had too much to drink. He stated he feels the Sheriff's Department has a vendetta against his bar and invited Council members to come in and see how he operates the bar. He stated the outside patio is licensed and he monitors it almost every night.

Kimberly Warren, 14747 Bluegrass Loop, Sisters, OR 97759

Ms. Warren stated she has worked at Scoots since the first day it opened and has held an OLCC card for the past 14 ½ years. She stated that since she began she has not witnessed one incident. She stated that bartending is a babysitting service as you must be responsible for anyone that comes in that might have been drinking somewhere else before arriving. She stated the Sheriff Department deputies set outside the bar and target Scoots' customers. She stated she and other employees try to insure that friends and neighbors do not get hurt or in fights and are responsible. She stated she feels Scoots and law enforcement need to be a team and have a friendlier coexistence like the City had with its own police department a number of years ago. She stated that Scoots creates a place where people can have fun. She asked the Council to seriously consider helping to keep Scoots open.

Jennifer Lake, 69170 Barclay Drive

Ms. Lake stated she is a neighbor of Scoots with a business adjacent to the establishment. She stated when Scoots initially opened she was concerned with all the Harley Davidson and other motorcycle riders. She stated she has found the motorcycle riders to be pretty terrific people overall and they are not the patrons that cause her concern. She stated that last summer while walking to her car that was parked in a back parking lot she discovered one man leaning on her car and another standing to its left. She stated they made harassing statements. She stated she jumped in her car, locked the doors and left as quickly as possible while the men continued with their harassing remarks. She states she was quite upset when she arrived home which in turn upset her husband. At that time she called Captain Edwards to file a complaint.

Ms. Lake stated that since that time she has had a constant problem with numerous people parking in her private back parking lot. She stated that two other individuals that share the parking lot with her typically arrive at 7:00 a.m. and have complained about intoxicated people still asleep in their cars in the private lot. She stated there is a constant problem with beer cans in her parking lot and repeated cases of the fence being kicked or knocked

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down. She stated there are men urinating in broad daylight in the alley that separates the two buildings and it is the type of individual that shows up at Scoots that needs to be controlled. She stated she and her three female employees no longer park in the back parking lot in the winter since it gets dark early and they do not feel safe. She stated she no longer uses her back door under any circumstances. She stated the other two merchants that share her building are also concerned but were unable to attend the meeting. She stated she would recommend serious review of Scoots liquor license.

Mayor Kellstrom noted that the staff report regarding Scoots separate request for off-premise sales included an option to abstain from providing a recommendation and asked if that option was available with regard to the annual endorsements also. **Manager Stein** stated that is also an option but will have the effect of no action at all.

Mayor Kellstrom stated this is the first time the City has had to deal with a situation such as this and asked City Attorney Bryant if the City of Redmond has ever not given an endorsement for a business. He asked if the OLCC still granted the renewal of the liquor license or did the OLCC follow the Council recommendation and not renew the license. **City Attorney Bryant** stated he did not recall any incident of this nature occurring in Redmond but stressed that the OLCC is the deciding agency in the matter and is looking to the Council for information. **Manager Stein** recalled that a few years ago there was concern regarding a particular establishment and the Council did not endorse a renewal for the business and that establishment is still in business. **Councilor Weed** stated that in that case the OLCC scrutinized the business more than it normally would, worked with the business and the business was able to comply and stay open.

Councilor Merrill suggested the Council renew the complete list with the exception of Scoots and then discuss Scoots as a separate item. **Councilor Bogart** stated he had a conflict of interest with regard to the vote as he is a partial owner of Three Creeks Brewing Company and suggested it be voted on as a separate item also.

***Councilor Merrill** moved to endorse liquor license renewals for all businesses with the exception of Scoots and Three Creeks Brewing Company. **Councilor Weed** seconded the motion. The motion carried unanimously.*

***Councilor Merrill** moved to endorse a liquor license renewal for Three Creeks Brewing Company. **Councilor Weed** seconded the motion.*

Councilor Bogart stated he would refrain from voting due to a direct conflict of interest.

The motion carried unanimously.

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*Councilor Bogart moved to endorse a liquor license renewal for Scoots Bar and Grill.
Councilor Thompson seconded the motion.*

Councilor Thompson stated that the Council is not the governing body for this decision but understands that the Council's recommendation may have an impact on the OLCC's decision. He stated he does not feel the Council has enough information to make a decision and stated he is concerned that if you close down one business establishment the problems may just migrate to some other location. He stated he doesn't feel the Council can make the decision of whether this business should be open or closed.

Councilor Merrill stated the Council is not making the decision of whether this business should be open or closed but rather making a decision to endorse or not endorse a liquor license renewal. He stated he feels the Council does have sufficient information.

Councilor Merrill stated that in good conscience he cannot recommend an endorsement for Scoots. He stated he feels the Council has an obligation to the citizens to ensure that a business conducts itself in a professional, safe manner which clearly is not occurring at present. He stated he doesn't think anyone wants to put anyone out of business and there is potential for Scoots to turn things around. He stated the number of incidents is horrendous and he has great confidence in the Sheriff's Department. He stated the Council and Scoots owes the community something better.

Councilor Weed stated she has serious concerns with the way Scoots is operating and the only way to voice that concern is to not endorse Scoots for license renewal. She stated she doesn't believe OLCC will close the business but will work with Scoots to alleviate its problems. She stated there are also neighborhood issues to be resolved so everyone feels safe.

Councilor Thompson stated he agrees there are neighborhood issues but doesn't feel it is a Council matter.

Councilor Bogart stated he feels there is a lot of hearsay going on and that a lack of endorsement would be cutting the legs out from under the business. He stated he feels that Mr. Lentz will strive to make Scoots a better place.

Councilor Bogart amended his motion to abstain from endorsing Scoot's for renewal of its liquor license. Councilor Thompson seconded the amended motion.

Councilor Weed stated this would result in not reporting any concerns to OLCC.

Manager Stein stated that when an establishment is not endorsed for renewal the matter moves to a higher level of review within the OLCC but was uncertain about the process if the Council abstains.

Mayor Kellstrom stated he had never run across a situation like this before and it is a difficult situation as the Council is receiving conflicting information from the business owner and Sheriff's Department. He stated he agrees that the Council has a duty to the community. He stated there have been bars in Sisters a long time and he's never seen anything like this before. He stated he is very disturbed by the comments of neighboring businesses.

Mayor Kellstrom called for the vote.

Councilor Merrill – no

Councilor Bogart – yes

Councilor Weed – no

Councilor Thompson – yes

Mayor Kellstrom – yes

The motion carried with a vote of three to two.

D. Discussion and Consideration of a Motion to Endorse an Additional Privilege for the Liquor License at Scoots Bar and Grill

Manager Stein stated this item relates to Scoots request for an endorsement for the additional privilege of off-premise sales.

David Lentz, 69372 Camp Polk Road, Sisters, OR 97759

Mr. Lentz stated the idea behind the expanded license is twofold; 1) it will help with Scoots trouble by sending people home earlier and 2) it will provide some place for people to buy beer later in the evening since the Pump House is no longer open late and people do not have anywhere else to buy alcohol.

Councilor Bogart moved to endorse an additional privilege for Scoots liquor license.

Councilor Thompson seconded the motion.

Councilor Weed stated she feels it is very bold of Mr. Lentz to ask for any additional privilege given all the problems just discussed and there is no way she will support the motion. **Mr. Lentz** stated it was not bold at all as the application for additional privileges was submitted some time ago and was deferred for discussion until now.

Councilor Thompson stated given the previous discussion he felt the Council should follow the same direction as before and abstain from endorsing the expanded privilege. He

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stated the matter is for the OLCC and Mr. Lentz to decide. **Councilor Bogart** was agreeable to that recommendation.

***Councilor Bogart** amended his motion to abstain from endorsing an additional privilege for Scoots liquor license. **Councilor Thompson** seconded the amended motion.*

Mayor Kellstrom called for the vote.

***Councilor Merrill** – no
Councilor Bogart – yes
Councilor Weed – no
Councilor Thompson – yes
Mayor Kellstrom – no*

The motion failed with a vote of three to two.

***Councilor Merrill** moved to deny an endorsement for an additional privilege for Scoots liquor license. **Councilor Weed** seconded the motion.*

Mayor Kellstrom called for the vote.

***Councilor Merrill** – yes
Councilor Bogart – no
Councilor Weed – yes
Councilor Thompson - no
Mayor Kellstrom - yes*

The motion carried with a vote of three to two.

E. Discussion and Consideration of a Motion to Endorse a Liquor License for Bi-Mart Corporation

City Recorder Nelson introduced Jerry Marshall, the manager for the new Bi-Mart that will be opening soon. **Mr. Marshall** asked if he could answer any questions.

Mayor Kellstrom asked when the store expects to open. **Mr. Marshall** stated the store is expected to open between the middle and end of August. **Councilor Thompson** asked how people will be employed. **Mr. Marshall** stated the store will open with 58 employees initially and then pare down to a regular staff of 35. He added that most employees that have been hired are from the immediate Sisters community.

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Mr. Marshall stated he has been with BiMart Corporation for 37 years and a store manager since 1986. He stated he is very proud of the team he has assembled for Sisters and mentioned that BiMart is a member of the *Responsible Vendor Program* with OLCC. He stated meetings are hosted quarterly to reinforce compliant liquor sales. He discussed the store hours and stated the pharmacy will be closed on Sundays.

Councilor Merrill moved to endorse a liquor license for Bi-Mart Corporation. Councilor Weed seconded the motion. The motion carried unanimously.

VII. OTHER BUSINESS

Manager Stein informed the Council there was a legislative update from Central Oregon Cities Organization's (COCO) lobbyist Doug Riggs which she had placed in the Council's mailboxes.

VIII. MAYOR/COUNCILOR BUSINESS

A. Committee Reports

Mayor Kellstrom reported he and Manager Stein attended a COCO meeting where the legislative update Manager Stein had mentioned was discussed as well as water issues.

Councilor Bogart asked for a status report on HB 2699, a bill affecting enterprise zones. **Manager Stein** confirmed it had not passed.

Councilor Merrill brought up the point, specifically with regard to the proposed fuel tax ordinance, that the Council Rules do not permit public comment on the second reading of an ordinance. **City Attorney Bryant** stated the Council can choose to waive that rule. He stated this is not an ordinance that requires a public hearing so the Council can decide to hear additional testimony only if it wants to.

IX. ADJOURN – 8:47 p.m.

Respectfully submitted,

Kathy Nelson, City Recorder

Lon Kellstrom, Mayor