

**MINUTES OF A REGULAR MEETING OF THE CITY COUNCIL**  
**November 28, 2011**  
**City of Richardson, Texas**

A Regular Meeting of the City Council was held at 7:30 p.m., Monday, November 28, 2011 with a quorum of said Council present, to-wit:

Bob Townsend	Mayor
Laura Maczka	Mayor Pro Tem
Mark Solomon	Council member
Scott Dunn	Council member
Kendal Hartley	Council member
Steve Mitchell	Council member
Amir Omar	Council member

City staff present:

Bill Keffler ( <i>absent</i> )	City Manager
Dan Johnson	Deputy City Manager
Michelle Thames	Assistant City Manager Administrative Services
David Morgan	Assistant City Manager Community Services
Cliff Miller	Assistant City Manager Development Services
Samantha Woodmancy	Management Analyst
Pamela Schmidt	City Secretary

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1. **INVOCATION – AMIR OMAR**
2. **PLEDGE OF ALLEGIANCE: U.S. AND TEXAS FLAGS – Jack Roberts and Clint Cruise, Troop 1001, Trinity Bible Church**
3. **MINUTES OF THE NOVEMBER 14, 2011 MEETING**

ACTION TAKEN: Mr. Omar moved approval of the minutes; second by Ms. Maczka and the motion was approved with a unanimous vote.

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4. **VISITORS.** *(THE CITY COUNCIL INVITES CITIZENS TO ADDRESS THE COUNCIL ON ANY TOPIC NOT ALREADY SCHEDULED FOR PUBLIC HEARING. PRIOR TO THE MEETING, PLEASE COMPLETE A "CITY COUNCIL APPEARANCE CARD" AND PRESENT IT TO THE CITY SECRETARY. THE TIME LIMIT IS FIVE MINUTES PER SPEAKER.)*

Marilyn Frederick, 201 Wooded Canyon Court, spoke in opposition to the proposed rental registration program. She advised that the Texas Association of Realtors oppose rental registration. She felt it penalizes good citizens and investors in the community. She suggested that the City focus on repeat offenders and not penalize those property owners who abide by the laws and do not disregard what is expected. She felt that code enforcement consequences need to be stronger and spoke highly of the work performed by Don Magner and his staff. She felt the proposed scoring system was fair, but vague. She felt the fee was a tax and that it would discourage continued investment in the city and in single family homes.

Maitri Smithhisler, 2201 Victoria Lane, addressed the Council on behalf of the Neighborhood Protection Alliance of Richardson (NPAR), Owens Park Neighborhood and concerned citizens,

about the Lookout Transfer Station. She stated that NPAR interpret the filing of the application to TCEQ by NTMWD as a breach of the approved Memorandum of Understanding (MOU). She stated that the filing does not reflect the MOU. She asked that the Council request a public meeting with TCEQ to take place in Richardson and she provided a letter that Council could submit.

Rick Wilder, 1614 Villanova Drive, addressed the Council with regard to the Lookout Transfer Station and asked for the Council's help to insure that the citizens of Richardson get the best possible Transfer Station that will reflect on the city as a forward looking city.

Ken Robinson, 2507 Springpark, wanted to address the Council with regard to the proposed drainage utility fee and Mayor Townsend asked him to hold his comments until the public hearing items.

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**5. CONSIDER APPOINTMENTS TO THE ENVIRONMENTAL ADVISORY COMMISSION, LIBRARY BOARD, PARKS AND RECREATION COMMISSION, SIGN CONTROL BOARD, AND TAX INCREMENT FINANCE ZONE #2 AND #3 BOARD OF DIRECTORS.**

ACTION TAKEN: Mr. Mitchell moved approval of the following appointments and reappointments; second by Mr. Omar and the motion was approved with a unanimous vote.

**Environmental Advisory Board**

Reappoint Aaron Santos (Dist 1) – term expiring September 22, 2013;  
Reappoint Chuck Riehm (Dist 2) – term expiring September 22, 2013;  
Reappoint Christine Halicki (Dist 3) – term expiring September 22, 2013  
Reappoint Sam Watkins, (Dist 4) – term expiring September 22, 2013  
Appoint Andrew Laska (Dist 3) - term expiring September 22, 2013

**Parks & Recreation Commission**

Reappoint Bob Dubey, Chair (Dist 1) – term expiring December 1, 2013;  
Reappoint Jeff Wright (Dist 4) – term expiring December 1, 2013  
Reappoint Kenan Brandes, Vice Chair (Dist 1) – term expiring December 1 2013  
Appoint Pam Krause (Dist 3) – term expiring December 1, 2013  
Appoint Monica Weinman (Dist 1) – term expiring December 1, 2013

**Sign Control Board**

Reappoint Dorthy McKearin, Chair (Dist 1) – term expiring December 1, 2013  
Reappoint Sandra Moudy, Vice Chair (Dist 2)– term expiring December 1, 2013;  
Appoint Muhammad Ikram (Dist 1) – term expiring December 1, 2013;  
Appoint Alicia Marshall (Dist 1) Alternate – term expiring December 1, 2013  
Appoint Scott Petty (Dist 3) Alternate – term expiring December 1, 2012.

**Library Board**

Appoint Carol Adams (Dist 1) – Chair for remainder of term.  
Reappoint Alyson Murphy (Dist 2) – term expiring January 1, 2014;  
Reappoint Helene Lee (Dist 3) – term expiring January 1, 2014;  
Reappoint Doris Benner (Dist 4) Vice Chair – term expiring January 1, 2014  
Appoint William McCalpin (Dist 3) – term expiring January 1, 2014.

**Hospital Board**

Reappoint John Tanner – term expiring December 2013

Reappoint Joe Snayd – term expiring December 2013

**\*TIF Board #2 and TIF Board #3**

Appoint Richard Ramey, Chair, (PI 1) – term expiring November 28, 2013

Appoint Kimberly Aaron (PI 2) – term expiring November 28, 2013

Appoint Charles Bissell (PI 3) – term expiring November 28, 2013

Appoint Tony Reynolds (PI 4) – term expiring November 28, 2013

Appoint Hank Mulvihill (PI 5) – term expiring November 28, 2013

Appoint Paul Peck (PI 6) – term expiring November 28, 2013

Appoint Erik Wyse (PI 7) – term expiring November 28, 2013

*\* Chair appointment made each calendar year*

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**PUBLIC HEARING ITEMS:**

Mayor Townsend announced that public input for Items 6 and 7 would be held simultaneously but there would be separate action.

**6. PUBLIC HEARING AND CONSIDER ORDINANCE NO. 3843, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 23, TO ADD ARTICLE VIII MUNICIPAL DRAINAGE UTILITY SYSTEM, TO ESTABLISH A MUNICIPAL DRAINAGE UTILITY SYSTEM; PROVIDING FOR DRAINAGE SERVICE, BILLING, EXEMPTIONS, DRAINAGE CHARGES AND APPEALS.**

Mr. Johnson stated the public hearing pertains to the adoption of a Storm Water Drainage Utility and related rate structure for properties in Richardson and follows considerable review since 2008 involving periodic work sessions, news articles, web information and notices. The utility system approach responds to ongoing maintenance and improvement obligations of the City's 12 drainage basins and imposed requirements of the US EPA on cities. He advised that supplemental engineering services have been provided by Freese & Nichols Engineers, which is a recognized consulting service in this field. He provided an overview of the item noting that the drainage utility fee pertains to storm water management and reviewed a variety of terms that are used in the ordinance. He advised that there are 12 drainage basins, 8,500 storm drain inlets, 295 miles of storm drain lines, 1,041 storm drain outfalls and 44.5 miles of creeks in the City of Richardson. He explained that storm water management practices have evolved since the early 1970's and continuously challenge local governments throughout the United States to minimize pollution and other impacts to lakes and streams. More recent attention has now moved to "non-point" sources. He reviewed the regulatory obligations that include things such as pollution prevention, erosion management and construction site management. The initial Richardson compliance period began in 2007-08 and the next permit application must be made in 2012. He advised that the Storm Water Management Plan has impacted the City's operating budgets over the last several years as monitoring, maintenance and enforcement practices were put in place. He noted Richardson's attention to prior drainage support such as General Obligation bond debt and use of general fund operating funds. He noted the four key motivations for action and talked about the utility creation process following guidance from Local Government Code Chapter 552. He stated that storm water utility rates are typically based on runoff contributed by an average residential home and lot size is a typical proxy for residential criteria. Non-residential rates are based on an equivalent residential rate through the use of a scaling factor based on the amount of impervious area for each property. Mr. Johnson reviewed

the objectives and acknowledged that there would still be need for General Obligation debt for very large projects. He reviewed key service and project elements that would be funded with the fee and noted the rate making expense elements. He stated that eleven of the twelve comparison cities have activated a drainage utility fee with varying rates of \$2.00 to \$19.00 per month resulting in an average rate of \$3.82 per month. He noted that the City's proposed rate is \$3.75. He referred to information provided Freese & Nichols and talked about their work particularly in reviewing the rate structure. He noted that 50% of the impervious land in Richardson is residential and 50% is non-residential. He referred to Council's previous direction to exempt RISD and PISD property and church property, and noted that UTD property is already exempt by state statute. He reviewed the proposed rate structure. The monthly charge would be placed on the water/sewer accounts identified with a separate line description on each statement. The average annual impact for residents would be \$45. He explained that a new drainage utility fund would be established at rate adoption and all rate revenue will be deposited in the fund. He stated that all revenue would be tracked and noted the various expenses that would be allocated to the fund. The annual revenue generated by the utility fee is expected to be \$2,500,000 and he provided a list of possible projects. He stated there would be a very active public awareness program and reviewed the notices and briefings that have occurred. Upon adoption, staff would complete the preparation steps for a February 1, 2012 billing start and prepare the TPDES Renewal Permit materials due by August 2012.

Mr. Mitchell voiced a concern that schools and churches would be exempted since those institutions have a lot of impervious land. He said that he was not advocating that it be applied to non-taxable property but was concerned about the burden being shouldered by the residents and commercial property. Mr. Johnson noted that some of the larger churches that have been built more recently have developed onsite detention accommodations. In addition he referred to previous partnerships and allowances provided in State law. Mr. Mitchell underscored the need to communicate to the entities the importance of their cooperation with the City as they develop. Mr. Johnson also explained that the Council could revisit the exemption in the future if there was a need to do so long as State law did not provide for the exemption such as in the case of UT Dallas.

Mr. Omar asked if other cities had any provisions in place that would incent individuals or organizations that have facilities in place to capture water that would minimize the impact of storm water. Mr. Johnson replied that the order of magnitude on residential properties is pretty limited and the topic was studied to be sure the ordinance wasn't in conflict with recent action taken. He stated that commercial property must meet requirements for detention and retention on site. He noted the importance of vegetation management and keeping debris and litter out of storm drains, lakes and streams on the part of the citizens as well as the City. He stated the system includes a heightened responsibility and felt there would be inroads made across a lot of areas as capital work plans are brought to the Council's attention. Mr. Johnson stated staff would continue to explore mitigating factors.

Mr. Dunn asked for confirmation that many of the regulations were implemented by the EPA and Mr. Johnson replied affirmatively and noted that the staff has worked many years to fund the needs through the general fund and the regulations have grown such that it has become important to institute a drainage utility fee as provided for in State law. With regard to a flat fee, he explained in the review of other practices, many cities had just one tier. He stated that staff has tried to find a balance between that an some equitability that would acknowledge various lot types and previous Council provided direction to use a three tier structure.

Mr. Mitchell asked staff to comment about what the City can do to foster more open space that will perhaps lessen the impact of runoff. Mr. Johnson stated the City has become more

aggressive by moving to 100 year storm water requirements, but there are decades of development that adhered to regional practices at the time. He felt it is a balancing act and current regulations include detention and open space requirements.

Mayor Townsend opened the public hearing.

Jake Kons, 710 West Shore Drive, stated he lives on a creek lot and that more than 80% of the drainage water flows into the creek. Therefore he felt his property should not be in the R3 tier. He asked that the Council be fair and equitable.

Mr. Mitchell noted that many people have lost some of their property along the creek and asked how the City would calculate the square footage of their property. He particularly noted that many people have lost property to erosion. Mr. Johnson stated staff would look at property lines regardless of the usefulness of the property as filed with Collin or Dallas County. He stated that if the plat records are wrong, the City would welcome corrections. Mr. Dunn stated that a flat fee would avoid such issues.

Tom Norman, 714 Laguna Drive, read his statement submitted to the Council addressing the fee allocation and stated he felt that the proposed allocation falls short of achieving the objectives. He requested that a special tier be established with an appropriate fee.

David Darling, 2801 Telecom Parkway, representing Fujitsu and Shiloh Business Park, stated he understands there are costs related to maintaining the storm water system and the need to find a way to distribute the costs. He felt there should be a tax rate savings because some of the expenses would be moving from the general fund to the drainage utility fund. He stated he would like to better understand the exemption process. He stated that 85% of Fujitsu's runoff runs through privately owned storm sewer channels into an adjacent piece of property in a drainage basin that is owned by Fujitsu into Garland and therefore he felt it should be predominately exempt. He stated it was also true for the Shiloh Business Park. He also stated they would be happy to build a retention pond if it would result in some exemption.

Mr. Mitchell asked Mr. Johnson to address the use of funds in the General Fund that would no longer be used for drainage utility items. Mr. Johnson reminded Council that without the drainage utility fee being implemented, more cuts in other areas would be required because local governments are not provided with funds by the Federal government to implement the regulations pertaining to storm water management. He further noted that there would be additional services provided with the fee.

Joyce Patton, 1000 Cedar Lane, asked if the fee would be placed only on creek-side properties and Mr. Johnson replied that the fee would be applicable on all properties. Ms. Patton described what occurs during times of bad storms because the inlets are inadequate to handle the runoff. She felt she should not have to pay extra because of the flooding that occurs on her property and also felt it would be good if the City would fix some of the drainage problems with revenue. Mr. Dunn replied that the fees would be used to provide corrective measures.

Ed Bennett, 1003 Cedar Lane, stated that approximately 2/3 of his property is in the floodway easement and felt he should get credit for the square footage because it provides a service to the city by being used for water runoff. He felt that UTD should have to pay a fee because he didn't have a lot of problems until the campus was developed. Mayor Townsend noted that State law exempts UTD.

Kathy Thomas, 300 West Shore Drive, asked if the trees would be removed from the creek-side to provide for the storm water stating she would prefer that the trees not be lost.

Mark Thomas, 300 West Shore Drive, spoke in favor of considering a flat fee in fairness of considering each lot. He felt the articles in the Richardson Today were vague.

Joan Youngblood, 703 Shadywood Lane, asked if the fee would be capped or if it would go up in the future. She advised that she paid an assessment of \$5,000 in 2003 to address erosion on her property and asked if those that did not participate would now have their property repaired without having to pay the assessment. She said that several of her neighbors feel they should not have to pay a fee because the creek has been used and she felt that the fee for those who paid the assessment in the past should be less.

Mr. Johnson replied that the fee does not have a cap but the revisit of the fee is very infrequent and although an adjustment is not expected soon, regulations could cause the City to review the fee. With regard to the gabion projects, he felt that bond programs would continue to be needed to address those larger projects, and he noted that not many cities address these types of private property improvements.

Ken Robinson, 2507 Springpark, felt the fee is a new tax and spoke in opposition to its implementation. He suggested Richardson be the only city that does not implement the tax. He asked the Council to vote it down.

Mr. Omar moved to close the public hearing; second by Mr. Solomon and the motion was approved with a unanimous vote.

Mr. Omar asked about the average cost for a gabion wall and Mr. Johnson responded approximately \$100,000. Mr. Omar noted that even at the \$5,000 assessment, the project was still a highly subsidized project. He also asked Mr. Johnson to address types of work that would occur with the revenue from the fee. Mr. Johnson stated that regardless if water went directly to the creek or was conveyed through a curb and gutter system, the water still gets to the creek and once in the creek, the City still has the obligation of downstream maintenance and repair. He noted the important aspect of addressing and maintaining vegetation and silt from creek lots and noted the property owner's responsibility for maintaining the private property that often goes directly into the creek. He stated that staff is aware of balancing the need to remove vegetation to allow for proper drainage as well as maintaining vegetation for the aesthetic value. Mr. Johnson also talked about the city's responsibility regarding the quality of the water and the impact of fertilizers. With regard to the Cottonwood drainage area, he stated the city is committed to working with the neighborhood to identify vegetation removal and will be one of the first projects that would be accomplished using the revenue from the fee. He emphasized that UTDallas has been very cooperative and are reserving land to provide for retention areas before it makes impact into the lower parts of the creek way. With regard to large properties, he stated the ordinance provides for key measurements and engineered review of hydrology features.

Mr. Mitchell stated that the City has not had a property tax increase for the operational budget in several years, very little growth in sales tax revenue, very little growth in property value and noted the impact of inflation. He felt the Council is very mindful of costs, but will not make cuts at the expense of services desired by the community. Mr. Johnson stated the regulations have been mandated by the Federal government and the State has provided a way to provide for the expense of the regulations with the drainage utility fee. Mr. Mitchell felt that the fee is necessary in order to continue to provide the services the community needs and wants. Mr. Johnson

stated this is a fee structure that better reflects the cost allocation and allows the city to have a more reliable revenue source to take care of increasing external mandated obligations that have been developing over the last several years.

Mr. Townsend asked about the impact of a flat fee of \$3.75. Mr. Johnson replied it would be about the same revenue generation, but the three tiers provides for sensitivity to the extremes of lot sizes. Mr. Mitchell felt a flat rate would eliminate the concern on the lot size.

**ACTION TAKEN:** Mr. Solomon moved approval of Ordinance No. 3843 amending Chapter 23 regarding the drainage utility fee system as presented; second by Ms. Maczka. Mr. Omar asked for an amendment to move to a flat fee. Mr. Solomon felt a flat fee would penalize the really small property owners; felt the three tier structure was more balanced, and stated he was opposed to the request to amend his motion. Discussion was held. Mayor Townsend clarified that the motion is to approve the ordinance creating the system and Item 7, the resolution, establishes the fees. Mr. Johnson agreed that the resolution would be the appropriate mechanism for deciding the fees. The motion was approved with a unanimous vote.

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**7. PUBLIC HEARING AND CONSIDER RESOLUTION NO. 11-33, ADOPTING THE MUNICIPAL DRAINAGE UTILITY SYSTEM SCHEDULE OF CHARGES; AND ESTABLISHING CHARGES FOR MUNICIPAL DRAINAGE UTILITY SYSTEM SERVICES.**

**ACTION TAKEN:** Mr. Omar moved to approve Resolution 11-33 with the adjustment of the fee structure to a flat fee of \$3.75 across the board so as to minimize any confusion or administrative expenses in the future; second by Mr. Dunn. Mr. Mitchell felt a flat fee would reduce the administrative portion and eliminate confusion about usable space. The motion was approved with a unanimous vote.

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ALL ITEMS LISTED UNDER ITEM 8 OF THE CONSENT AGENDA ARE CONSIDERED TO BE ROUTINE BY THE CITY COUNCIL AND WILL BE ENACTED BY ONE MOTION IN THE FORM LISTED BELOW. THERE WILL BE NO SEPARATE DISCUSSIONS OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED SEPARATELY:

**8. CONSENT AGENDA:**

Ms. Maczka requested that the Rental Registration ordinance be removed for separate discussion.

**ACTION TAKEN:** Ms. Maczka moved to approve the remaining items as presented; second by Mr. Hartley and the motion was approved with a unanimous vote.

A. Consider the following Ordinances:

1. Ordinance No. 3846 amending the Comprehensive Zoning Ordinance and Zoning Map to grant a change in zoning for a 1.41-acre tract of land from LR-M(1) Local Retail with Special Conditions, O-M Office with Special Conditions and A-950-M Apartment to LR-M(1) Local Retail with Special Conditions.

2. Ordinance No. 3847 amending Chapter 6 of the Code of Ordinances by amending Article XI by increasing the annual and renewal registration fee for rental units; providing for a re-inspection fee; and providing for habitability scores for rental units.

Removed for separate discussion and consideration.

- B. Consider advertisement of Competitive Sealed Proposal #901-12 – Floyd Branch Storm Drain Improvements (Greer to Kaufman Outfall & Phillips Bridge Replacement). Competitive Sealed Proposals to be received by Tuesday, January 10, 2012 at 2:00 p.m.
- C. Consider award of Bid #06-12 – award to Jim Bowman Construction Company for the 2012 Annual Requirements Contract for street rehabilitation pursuant to the attached unit prices.

**ITEMS REMOVED FROM THE CONSENT AGENDA:**

**8A2. Ordinance No. 3847 amending Chapter 6 of the Code of Ordinances by amending Article XI by increasing the annual and renewal registration fee for rental units; providing for a re-inspection fee; and providing for habitability scores for rental units.**

Mr. Omar noted that some of the Council's goals are to preserve and increase the value of neighborhoods and doing everything possible to protect the values. He suggested that Richardson look at rental registration as an avenue to build incentives that would create a different attitude in landlords such as an incentive where less than three violations in the course of a year will provide for a discounted registration fee of \$50.

Mr. Solomon stated the existing program is a good program for the City of Richardson. He stated it maintains an inventory of rental property that works and noted that many of the properties are investments by investors who want to make a return on its investment. The program allows staff to know the identity of the property owner and helps staff when problems need to be addressed. He likened it to registering pets. He felt there were other ways to incentivize proper maintenance and stated support for the \$75 fee.

Mr. Mitchell felt there were two issues; code enforcement and rental registration. He felt that the rental registration program ensures health and safety rather than high grass and weeds. He stated he was in favor of moving forward as presented.

Ms. Maczka stated she also would like to look at ways to incentivize property owners who manage their properties well. Mr. Hartley stated he would be in favor of something different than what is proposed.

Mr. Mitchell felt the ordinance takes accountability up to the next level and recognized that the \$75 fee basically covers the cost of the program.

Mr. Omar felt the real question is how to pay for the program and he suggested a tier program be set up to incentivize those property owners and management companies that do the right thing. He reiterated the points made earlier and noted the difference will be the scoring system and the properties will be inspected a little differently than they were before.

Mr. Mitchell asked Mr. Magner to comment on the concerns of basing the fee on violations. Mr. Magner stated to recuperate the amount of funds that were lacking in paying for the program,

the number of violations would have to be set at around 3 or 4, which would result in a lot of "good folks" paying \$200 or \$150 fee versus a \$75 fee. The Council would also have to determine which violations are considered owner violations or tenant violations, because there are a lot of good owners or management companies who cannot control what the tenants do. Violations that are typically thought of as tenant related violations are parking in the grass, junk vehicles or putting trash out early, which trigger more complaints that deteriorated wood on the back of the house. A higher number of violations would not pay for the program. Another issue to determine is the severity of the violation such as lack of working smoke detectors or a makeshift bedroom. He felt it would be harder for residents to understand. He stated the current system has been used with apartment complexes with great success. Lastly he felt that the incentive is maintaining the property so that a re-inspection is not necessary because of the additional expense of the fee and the time involved with a follow-up inspection.

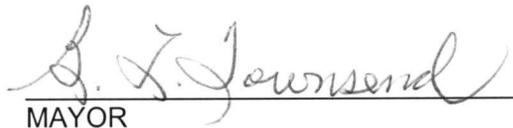
Mr. Omar stated his agreement with everything said but still felt a "good neighbor" incentive was appropriate and spoke in favor of the suggestion. He was in favor of a higher fee for those who have more violations if that was necessary to recuperate the costs of the program.

Mr. Dunn noted that the Council just approved a flat fee for the drainage fee and felt a flat fee in this regard was appropriate as well.

ACTION TAKEN: Mr. Solomon moved to approve Ordinance 3847 amending Chapter 6 of the Code of Ordinance by amending Article XI by increasing the annual and renewal registration fee for rental units; providing for a re-inspection fee and providing for habitability scores for rental units; second by Mr. Dunn and the motion was approved with a 5-2 vote with Mr. Omar and Mr. Hartley voting in opposition.

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Mayor Townsend adjourned the meeting at 10:09 p.m.

  
MAYOR

ATTEST:

  
CITY SECRETARY

