

**RIO DELL CITY COUNCIL  
REGULAR MEETING  
FEBRUARY 7, 2017  
MINUTES**

The regular meeting of the Rio Dell City Council was called to order at 6:30 p.m. by Mayor Wilson.

ROLL CALL: Present: Mayor Wilson, Mayor Pro Tem Johnson, Councilmembers  
Garnes and Strahan

Absent: Councilmember Marks (excused)

Others Present: City Manager Knopp, Chief of Police Hill, Community  
Development Director Caldwell, City Clerk Dunham, and  
City Attorney Gans

Absent: Finance Director Woodcox, Water/Roadways  
Superintendent Jensen and Wastewater Superintendent  
Trainee Yapple (excused)

**CEREMONIAL MATTERS**

Proclamation in Recognition of Engineer's Week February 19<sup>th</sup>-25<sup>th</sup>, 2017

Mayor Wilson read a proclamation in recognition of Engineer's Week February 19-25, 2017. Nicholas Cordtz, Treasurer of the North Coast Branch ASCE was present to accept the proclamation.

**PUBLIC PRESENTATIONS**

**Nick Angeloff** addressed the Council on behalf of the Rio Dell-Scotia Chamber of Commerce and said he wanted to take the opportunity to publically thank Dennis Wendt for his contribution of Christmas lights for the City.

He also announced that the Chamber discussed the idea of inviting new business owners to speak at the monthly Chamber luncheons to help find a way to horizontally and vertically integrate their business into the community so there is a much smoother path in moving forward.

Councilmember Garnes asked about this year's Little League schedule; Nick responded that those activities normally start up in March or April.

**CONSENT CALENDAR**

Councilmember Strahan asked that item number 3, Resolution No. 1321-2017, be removed from the consent calendar for separate discussion.

Motion was made by Johnson/Garnes to approve the consent calendar including approval of minutes of the January 10, 2017 study session; approval of minutes if the January 17, 2017 regular meeting; and approval of the 2017 dues for the League of California Cities. Motion carried 4-0.

### **ITEMS REMOVED FROM THE CONSENT CALENDAR**

#### Adopt Resolution No. 1321-2017 Approving Program Supplemental Agreement for Active Transportation Program Grant Authorizing the City Manager to Execute

Councilmember Strahan asked if this resolution basically allows the release of funds for the project.

City Manager Knopp explained the resolution allows the City to be reimbursed by the grant for the first phase of the project and is basically just a formality.

Motion was made by Strahan/Johnson to approve Resolution No.1321-2017 and authorizing the City Manager to execute the agreement. Motion carried 4-0.

### **SPECIAL CALL ITEMS/COMMUNITY AFFAIRS**

#### Discussion and Possible Action Related to Drainage on and Around May Avenue

City Manager Knopp provided a staff report and said Sean Molyneaux from 1013 Pine St. had expressed concern regarding a drainage problem on his property and at the request of the Council, the item was agendaized for further discussion. He noted that Mr. Molyneaux was present to further address the issue and City Attorney Gans to field any legal questions.

He provided handouts of visual maps representing two (2) potential solutions to the drainage problem that have been discussed over time. He said one option would be to install a French drain or open swale from Painter St. heading north to prevent runoff going to the back yards of the homes on Pine St. The other option would be to install a Drainage Inlet (DI) box and underground drain line from May St. to Pine St., connecting it to the existing Drainage Inlet at the corner of May and Pine St.

Mr. Molyneaux then addressed the Council and presented a packet of photos showing flooding to his back and side yard. He said he purchased the property in 2009 and has experienced drainage problems ever since noting that there was nothing in the disclosures related to the drainage problem. He said one of the biggest problems is that there is a culvert on the southeast side at the corner of Painter and May Ave. and the water from their yards doesn't reach that culvert because the easement that takes the water out onto May Ave. eventually has to run uphill as opposed to going underground. He noted that he had to trench both sides of his yard to keep water away from his foundation.

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He referred to minutes of the Rio Dell Planning Commission when the lot line adjustment was approved and said Commissioner Thompson asked about the onsite drainage and it was noted there was an existing 18 inch culvert that connects to a large Caltrans culvert by the freeway that would handle the water. He said unfortunately his water doesn't reach that culvert and just sits in his yard. He said at that meeting, Planning Consultant Miller explained the lot line adjustment area was mostly flat and contained a drainage swale and not subject to slope or flood related hazards. He said obviously that is not the case when he and the neighbors have 6 to 10 inches of standing water in their yards.

Mr. Molyneaux then referred to the proposed dedications and improvements of the project which stated to "construct improvements to extend wastewater, water and drainage facilities to serve the project site, where appropriate oversize facilities to serve future development within the project site." He said this may have been done but it doesn't work. He said he doesn't have a problem fixing his own drainage if the City agrees to fix their problem and he is not sure where the responsibility lies at this point but would really like to find a solution to the problem.

Discussion continued regarding legal responsibility.

City Manager Knopp said from a City perspective, one of the things the Council needs to keep in mind is where the water comes from and whether it's a City issue or not. He noted that the water does flow off of private property and he would assume a portion from the roof drains. He said one of the concerns is the City's involvement in any remediation since it does involve private property; everything from funding the project at 100%, nothing, or something in between. He said the next question is what the City's involvement would be as far as construction and pointed out the City is held to certain construction standards, the most costly being prevailing wage requirements and the competitive bidding process which can often double the cost of a project. He noted that if the project is done privately they could select their own contractor and do the project significantly cheaper and the City could then assume responsibility for maintenance of this particular drainage facility. He indicated it would be up to the property owners to share the cost but they could draw up a proposal for a shared cost by the City as there would be a public benefit.

He pointed out that there are a lot of other drainage issues in the City that staff has been trying to find ways to fund and this is a private drainage issue but if the Council wants the City involved in the remediation, staff would like direction from the Council on how to proceed. He said staff can return to the Council with potential options or perhaps create an adhoc committee to investigate the issue further and come back to the Council with a recommended approach.

City Attorney Gans stated that he is not comfortable discussing the City's legal obligation in this matter in open session and there doesn't seem to be any obvious City component that is aggravating the situation. With that said, the City Council obviously has discretion over public works projects within the City and if there is some municipal benefit to sponsoring or

participating in the project the City has that option. He noted the City would need to get private property owner consent to make any contemplated improvements and create a facility that is not currently within the City right-of-way or existing utility corridor.

Discussion continued regarding Local Improvement Districts (LID's), shared costs, how the City's participation may affect other areas in the City with drainage issues and potential solutions to the problem.

Mr. Molyneaux questioned why the City would not be responsible if they signed off on a drainage system that doesn't work.

City Attorney Gans commented that the City certainly doesn't warrant the suitability of everything constructed pursuant to a permit in the city of Rio Dell as the City's liability would be limitless. He said in this context there doesn't seem to be any active City involvement in causing this seasonal ponding issue and there doesn't seem to be any conduit from any other discharge that is causing the ponding. He stated that the plan check scenario the property owner has raised should be raised with his own legal counsel as his responsibility is to protect the interest of the City.

Mayor Pro Tem Johnson suggested the issue be turned back to the property owner to see if they can come up with a plan as the City Manager suggested.

Mayor Wilson called for public comment on the issue.

**Sharon Wolff** addressed the Council and said this particular "non-subdivision" was very contentious at the time and the development occurred through a series of lot line adjustments with no real improvements. She said it was a huge problem and it was approved by the City's Building Official, Arnie Kemp all along. She said she has all the media footage if anyone would like to view it. She commented that the City chose to approve the development and basically ignore the improvements and now the homeowners are suffering because of those decisions.

**Sean Anderson**, 1009 Pine St. addressed the issue and said when he moved into his home there was 4 inches of standing water in the yard whereas Sean Molyneaux at 1013 Pine St. had probably 6 to 8 inches at the time. He said he brought in a Skidster and soil and managed to get the water away from his house. He said the drain pipes in the back yard were only 2 inches deep so consequently hit them with the equipment. He said the rear gutters on the houses on Painter St. are tied into the rear gutters on Pine St. which he doesn't think is even legal. He expressed the need for a drainage inlet (DI) and a French drain and said putting in a French drain alone won't solve the problem.

Consensus of the Council was to put the issue back in the hands of the property owners to get together with a contractor then formulate a proposal and bring it back to the Council for consideration of a shared cost agreement.

Discussion on Stakeholders Meeting for Eel River Sawmills Site

City Manager Knopp provided a staff report and provided a handout of the Stakeholder meeting agenda from January 25, 2017. He explained the purpose of the meeting was to provide a general broad overview of some of the conditions associated with the Eel River Sawmill area development and to identify areas where developers can perhaps work together to solve some of the issues inherent to any development of this type.

He stated that they talked about owner versus City responsibilities and tried to delineate those areas; gave an overview of the Conditional Use Permit (CUP) process; discussed streets including the traffic study, drainage, lighting, sidewalks/curbs, repairs and bus stops. He said there were also review of building designs; wastewater improvements; water (extension of the main); fire protection; waste disposal/recycling; signage; public relations; track & trace; and stakeholder concerns.

Mayor Pro Tem Johnson asked what the general sense was from the developers.

City Manager Knopp stated that obviously there are a lot of unknowns about the site but they were able to address many of the issues and there was an overall positive attitude among the stakeholders. He said they seem to be onboard with the aesthetics to develop a cohesive development but are interested in having their own unique identity as far as design.

Community Development Director Caldwell noted that he did receive calls from Alex Moore, Honeydew Farms and Glen White regarding cohesive design of the structures and they both indicated that they don't want to be tied to someone's else's design. He said he explained the design review process and the findings the Planning Commission is required to make in approving designs.

Mayor Pro Tem Johnson asked when staff expects renderings to come before the Planning Commission and if staff anticipates the need for additional meetings of the Commission to review the applications.

Community Development Director Caldwell indicated that there are three or four developers that are getting close to submittal of their applications and he would expect plans will go before the Planning Commission in 6-8 weeks. He said there may be the need to have some extra meetings and that the Commission has been very good about accommodating developers and scheduling special meetings when needed.

Mayor Wilson commented that both he and Councilmember Garnes participated in the stakeholders meeting as observers only and asked how much involvement the Council and Planning Commission can have in these meetings.

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City Attorney Gans commented that ideally there should be no more than two councilmembers or two commissioners in attendance and reminded the Council that they as the governing body are the ultimate arbiter in the appeal process of a Conditional Use Permit so they should keep that in mind and be careful not to predispose themselves in any particular project. He explained the Planning Commission is the designated body to review CUP's including Design Review of the projects. He said under the Rio Dell Municipal Code (RDMC) the Council has the authority to designate the City Council as the review authority for design review applications by resolution however; the reason the City has a Planning Commission is to take on that role.

Councilmember Strahan asked for clarification of the review process and asked if the Planning Commission reviews the design and brings it to the Council for approval or if they have full authority to approve the design without Council approval.

City Attorney Gans explained that CUP's/Design Review applications would only come to the Council through the appeal process.

Mayor Wilson asked if the City Council can appeal a CUP decision after it's approved by the Planning Commission.

Community Development Director Caldwell explained that the Council as a whole can ask the City Manager to bring the matter forward but would need to have a valid reason and simply not for some arbitrary reason.

He explained the two main components of Design Review are aesthetics and landscaping and said the Planning Commission has to make certain findings during the review process.

Councilmember Garnes asked if Councilmembers can attend Planning Commission meetings and speak.

City Attorney Gans said the concern is that the City Council would be predisposed to a permit pending and that they are the appeal authority in the event there is a challenge of the Planning Commission's decision on an application. Also, if there is a quorum and members participate and collectively speak at the podium it becomes a serial discussion in a sense and potentially violates the Brown Act. He then reminded Councilmembers about exparte communications and said an applicant has the right like any other citizen, to talk to a councilmember about a project but should that happen, that councilmember needs to reveal the content of the conversation prior to any substantive action on an appeal. He warned the Council to be careful not to formulate an opinion with other councilmembers through an applicant.

Mayor Wilson noted that there are some issues such as drainage, fire hydrants and wastewater that will need to come before the Council and asked if the plan is to bring all the items together at one time.

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Community Development Director Caldwell explained that any issues that have potential financial impact to the City will come back to the Council for a decision and said where staff can tie a nexus to a project, the developer will be required to foot the bill.

Mayor Wilson commented that he has full confidence in the Planning Commission and staff and is not trying to under estimate that ability but this is probably the biggest thing that has ever happened to the City and will change who we are. He said the more that can be resolved in an open dialog, the quicker it will be.

Community Development Director stated that there has been some discussion regarding the possibility of constructing a new substation at the Eel River Sawmill site and he sent out a message to the stakeholders to see if they wanted to get together with PG&E so issues can be identified early on.

Mayor Wilson commented that Michael Martino had indicated that he would be requesting 3 MW of power and he believes it takes 6 MW before PG&E will approve a new substation. He also noted that the entire city of Rio Dell currently only uses 2 MW of power.

Community Development Director Caldwell noted that Mr. Martino has reduced his proposal from 88,000 sq. ft. of cultivation to 44,000 sq. ft.

Councilmember Strahan stated that it seems that the Council is on the outside and getting the information as an afterthought when it comes to the stakeholders and asked if it would be possible for staff to bring the agenda for the stakeholder meetings to the Council prior to the meeting so the Council knows what is going to be discussed.

Community Development Director Caldwell said they will only be discussing what is on the agenda but the exact dialog that takes place is unknown until after the meeting in which staff will report back to the Council what discussion occurred, what issues were raised and hopefully how those issues are going to be addressed.

Councilmember Strahan said on the overview of the stakeholder meeting topics one item was discussion of developer versus City responsibilities and asked what that conversation entailed.

Community Development Director Caldwell explained that there is a section of Northwestern Avenue near the Whitlow parcel that has a dip and currently there are some flooding problems there. He said the hope is to address that problem and if the City can get the developers to contribute in some way that would be great. He said other than that; staff sees no other City obligations at the site that need to be addressed.

City Manager Knopp said a major point made regarding that particular section was that it will benefit the stakeholders as a group to work together on things like this as well as water and

sewer and that the City can't really take the lead; they need to work together and come up with viable solutions.

Mayor Wilson called for public comment on the issue.

**Nick Angeloff** asked for clarification as a Planning Commissioner and said what he was hearing is that planning commissioners shouldn't attend stakeholder meetings because they review the applications, or would it be acceptable for a couple of planning commissioners to attend and educate themselves about the machinations behind what the Planning Commission will be presented.

City Attorney Gans pointed out that the Planning Commission is subject to provisions of the Brown Act like the City Council so they have to be concerned to not create a serial meeting or participate in discussion or predisposition related to a pending application. He said gathering information is permitted and also the planning commissioners can certainly request information from staff at any time.

**Nick Angeloff** said he thinks it's good to be as informed as possible and said the other point he wanted to make is related to the uniformity of buildings. He said he personally doesn't want to see something that resembles a strip mall and thinks it's great that the City Council is leaning toward allowing individual designs. He noted that the real issues to him are landscaping, curb and gutter and perhaps fencing.

#### Annual Police Report for 2016

Chief of Police Hill provided an overview of the Annual Police Report and said during 2016 the police department took a total of 1834 calls for service and explained for clarification the difference between an incident and a call for service. He explained a call for service is documentation of just about anything they do and an incident requires a greater investigation or something that requires more thorough documentation. He provided an example and said if they assist the Fire Department on a medical call it's a call for service whereas; if they discover a crime while on that call for service it is an incident.

He further reported in 2016 there were 691 incident reports; 544 of which were crimes so there are other types of incident reports besides crimes such as a mental health evaluation or death investigation. For comparison, in 2015 there were 531 incidents reports; 386 of which were crimes. He said although it appears there was a huge increase in crime this year, in reality there wasn't. What they did have was a huge increase in staffing in 2016 and more officers on the street equals to more enforcement.

He continued with review of a beat map which shows where calls are coming from; a total of calls for service by the day of the week; a three-year comparison by type of incident; a month-to-month comparison of incident offense totals; incident totals by time of day and day of the week; and arrest totals by violation.



Mayor Pro Tem Johnson commented that the police department continues to do a good job and expressed gratitude for having a strong police force in the City.

Mayor Wilson pointed out that both Blue Land and Trinidad have abolished their police departments and that he was told that one of the reasons Rio Dell became a City was to have its own police protection. He said he too appreciates the police department.

Mayor Wilson called for public comment on the Annual Police Report.

**Nick Angeloff** commented that on the east coast, especially New Hampshire, heroin is an extremely pervasive drug among the general population and asked how pervasive it is here. He said also in his travels he tells people he is from northern California and Rio Dell is like Mayberry in that citizens wave to the police officers.

Chief Hill noted that he has interactions with people who use heroin as old as 70 and as young as 13 so he would say it's pretty pervasive here as well.

**Nick Angeloff** asked if the City was issuing good deed tickets for a free ice cream cone as previously suggested, stating for the record that he still thinks it's a great idea.

## **ORDINANCES/SPECIAL RESOLUTIONS**

### Second reading (by title only) and adoption of Ordinance No.353-2017 "Commercial Medical Cannabis Land Use Regulations Section 17.30.195 of the Rio Dell Municipal Code (RDMC)

Community Development Director Caldwell provided a staff report and said this ordinance amendment is in response to the recently adopted fee resolution establishing Cannabis Activity Permit fees. He said based on the fee structure, minor amendments are needed related to Permit Renewals, Changes in Ownership or Modifications to Premises and Inspections. He said at the meeting of January 17, 2017, staff presented some minor text amendments to the CMCLUO regulations regarding permit renewals, changes in ownership or modifications to premises, inspections, cultivation setbacks in the Industrial Commercial zone and the definition of "Indoor" cultivation.

He noted that Mayor Wilson suggested that the definition include language which would prohibit operable vents in the roof due to the concern of cannabis odor emitting through the roof. He said staff doesn't believe this is necessary because the ordinance already contains language requiring carbon filter fans/scrubbers to eliminate odor discharges to neighboring properties from cultivation and processing facilities. He also pointed out that cannabis only emits odors during the final few weeks of flowering growth and the ability to naturally ventilate the facility during non-odor emitting growth cycles is consistent with the California Green Code and the Governor's 2030 Energy Goals.

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As such, staff presented two options for the definition of "indoor." Option 1 was staff's and the Planning Commission's original recommendation and Option 2 includes language suggested by Mayor Wilson.

Mayor Pro Tem Johnson stated that based on staff's description of the requirements, he would support Option 1.

Councilmember Strahan asked for clarification that the facility roofs cannot open.

Community Development Director Caldwell stated that roofs will not be able to be opened because if they were they wouldn't be able to control the odors.

Mayor Wilson stated that he now has no problem with the original language as presented.

Councilmember Strahan questioned the elimination of the 50 foot setback requirement and said she attended a meeting in Fortuna and neighbors were concerned with marijuana grows in the County where those parcels border City of Fortuna parcels. She noted that Supervisor Fennell was present and said that City's should include in their respective ordinances, certain setback requirements creating a buffer zone within a City's sphere of influence.

Community Development Director Caldwell noted that Cities have the ability to comment and make suggestions on the County's ordinance but can't dictate their regulations.

Councilmember Strahan asked staff to contact Supervisor Fennell or Bohn for clarification.

She also asked if buildings will be constructed on the property line and if 4-story construction is allowed.

Community Development Director Caldwell stated that it is unlikely buildings will be constructed on a property line because of landscaping requirements and said the height allowance for structures in the Industrial Commercial (IC) zone is 65 feet or four (4) stories however; the buildings proposed at the Eel River Sawmill site at this time are no more than 2-stories.

Mayor Wilson opened the public hearing to receive public input on the proposed ordinance.

**Mike Strahan** addressed the issue of odor and said in 1984 when they were building the Herrick Ave. interchange, a new sewer plant was being constructed which was supposed to be odor free and that was the guarantee that was given to citizens but wasn't the case. He asked if the carbon filters/scrubbers will provide 100% guarantee that they will eliminate all odors.

Community Development Director Caldwell said that's the idea and said when they toured the Arcata facility they couldn't smell anything until they walked into the building.

**Mike Strahan** commented that when people are being told there will be absolutely no odor and it turns out there are odors; people are going to be upset. He said he wants assurance that this will not happen.

Community Development Director Caldwell noted that carbon filters have improved significantly since 1984.

Mayor Wilson commented that there are provisions in the ordinance that address odors and developers will be held to the regulations.

Mayor Pro Tem Johnson suggested Mr. Strahan take time to tour the Arcata dispensary grow area as it's well worth the time.

**Dennis Wendt** stated that regarding the setbacks between the County and the City, the County has to make setbacks on the County side and the City has no jurisdiction whatsoever over those regulations. He said the County made some mistakes and missed some things and is now being sued. He added that this is a big deal and they can't do anything about it until the lawsuit is settled.

**Nick Angeloff** said the real concern is that the facilities don't impact any of the neighbors within the County and said he doesn't think that is an issue here.

Community Development Director Caldwell noted that there is only one residence in the sawmill site area which is behind the Whitlow parcel.

There being no further public comment, the public hearing closed.

Motion was made by Johnson/Garnes to approve the second reading (by title only) and adopt *Ordinance No. 353-2017 Commercial Medical Cannabis Land Use Regulations Section 17.30.195 of the Rio Dell Municipal Code (RDMC)* regarding Permit Renewals, Changes in Ownership or Modifications to Premises, Inspections, Cultivation setbacks in the Industrial Commercial Zone and the definition of "Indoor" cultivation. Motion carried 4-0.

## **REPORTS/STAFF COMMUNICATIONS**

City Manager Knopp distributed a written City Manager update of recent activities and events (Attachment 1 to these minutes), and reiterated that staff held a stakeholders meeting for property owners and developers at the Eel River Sawmills site; said staff is continuing to work on the development of an RFP for the Pavement Project; said he gave a presentation at the Fortuna Rotary on Rio Dell events; he along with staff and Councilmember Garnes attended a LOCC workshop in Ukiah on Prop 64; provided a brief update on the ADA City Hall porch

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project; staff is making progress on the City's new web site with plans to launch in March; and reported on recent damage to Monument Road at the City/County boundary.

Mayor Pro Tem Johnson asked if the repairs to Monument Road are expected to be 100% funded.

City Manager Knopp commented that approximately 100 feet of the road has dropped down due to an uphill slide which will be expensive to repair. He noted that much of the slide area is in the County and the funding mechanism is unknown at this time.

Mayor Wilson asked staff to azenize on February 21<sup>st</sup>, information regarding the difference between placing the Cannabis Tax Measure on the ballot in June versus November 2017.

Chief of Police Hill announced there is a high water flood warning tonight with the river expected to reach 47 feet and commented that the River's Edge RV Park has done an excellent job preparing the park for anticipated emergencies.

Community Development Director Caldwell reported he would be leaving for a 10-day planned vacation and returning on February 24<sup>th</sup>. In his absence, Fortuna has agreed to cover any scheduled building inspections.

Mayor Wilson asked if staff had a date scheduled for the next stakeholders meeting and suggested perhaps two difference Councilmembers be allowed to attend the next meeting.

Community Development Director Caldwell commented that no date had been set but they would be getting together to discuss issues related to PG&E.

Mayor Wilson also commented on the current water rate increase and said there were a lot of comments made on social media and suggested an explanation of the increase be included in the next City Newsletter.

**COUNCIL REPORTS/COMMUNICATIONS**

Mayor Pro Tem Johnson commented on the recent recruitment of Mark Wheatley as Fortuna's City Manager and pointed out that there is now an opening on LAFCo and encouraged Mayor Wilson to throw his name in the hat.

Councilmember Garnes commented on the Prop 64 workshop she attended with staff and said some of the presenters at the workshop actually helped craft the legislation for recreational marijuana and suggested if at all possible, that Councilmembers make an effort to attend the workshops put on by the League of California Cities so when it comes time to adopt an ordinance, everyone will be informed from the State's perspective. She said as a governing body, it is very helpful for the Council to get information straight from the source.

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Mayor Wilson reported on his attendance at the last Redwood Region Economic Development Commission (RREDC) meeting and said there was a presentation by Northern Emerald and it was explained that there are green dots and red dots; green dots embrace the legal side of the cannabis industry whereas the red dots have no intention of embracing it. He said the point was made that there have been lines drawn in the sand and there will be blood.

**ADJOURNMENT**

Motion was made by Johnson/Garnes to adjourn the meeting at 9:00 p.m. to the February 21, 2017 regular meeting. Motion carried 4-0.

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Frank Wilson, Mayor

Attest:

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Karen Dunham, City Clerk