

# RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 1014E

Held 2-5

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## CITY OF CANAL FULTON CITY COUNCIL MEETING MINUTES February 5, 2013

### CALL TO ORDER

Mayor Richard Harbaugh called the February 5, 2013 City Council Meeting to order at 7:00pm in Council Chambers, City Hall, Canal Fulton, Ohio.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

Mayor Richard Harbaugh, Council Members Nellie Cihon, Paul Bagocius, Sue Mayberry, Scott Svab and Linda Zahirsky and Danny Losch.

Others Present: City Manager Mark Cozy, Fire Chief Ray Durkee, Police Chief Doug Swartz, Finance Director James Goffe, Service Director Dan Mayberry, Engineer Bill Dorman, Law Director Scott Fellmeth and Council Clerk Teresa Dolan.

Others Present: Rochelle Rossi, and Joan Porter, Jim Deans, Earl and Mary Jo Mincks, Jeremy King, Fire Captain Boyd

### REPORTS OF STANDING COMMITTEES

Scott Svab reported on the Finance Committee that met prior to the meeting. Scott was selected Chairman for the committee. He will have minutes typed up to give to Council at the next meeting.

CITIZENS' COMMENTS – AGENDA MATTERS (Five Minutes per Individual – No Yield) – None.

### Fire Department – Oath of Office

Jeremy King – Mayor Harbaugh gave the Oath of Office to Jeremy King to serve on the City's Fire Department.

### CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

January 15, 2013

A motion was made by Linda Zahirsky to approve the January 15, 2013 minutes, second by Scott Svab. All Council Members voted yes. Motion approved.

### REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens No Report

Community Service Coordinator No Report

Fire Chief – The Fire Chief reported on the Fire Department receiving the STEMI award. This week commenced the kickoff for the Women Wear Red Campaign. He commended the fire department employees on their quick response.

Our EMS responded to an incident that involved a woman in Canal Fulton. Mike Wykoff, Ryan Osborne and Paul Hemsley diagnosed that she was having what they call a STEMI (elevated ST segment myocardial infarction). They found out she was having a heart attack and they transmitted to Mercy Hospital. When they arrived then the hospital was ready and took the patient right in. The figure that they look for is called door to balloon. That figure was five minutes and 49 seconds. This is a national record. The department is really proud.

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This past Saturday the department participated in Ice Rescue training at the Chapel Hill pond.

The Chief also reported on the Erie Street fire. Engine three was first in on that. There was a man trapped and he was taken out of the home successfully.

Testing was done for Lieutenants, and probably next meeting the Chief would like to swear in three for the Fire Department.

Chief Durkee would like everyone to know that they are on Facebook under Canal Fulton Fire Department.

Paul Bagogius wanted to know if there were any talks going forward with the Living Together arrangement with Lawrence Township. Chief Durkee said there was nothing recent. He was under the understanding that there might be some people participating at the meeting tonight, but there was not. Mr. Cozy said he spoke with Trustee Les Kampf and left a message with Trustee Mike Stevens. They would like to meet with us at City Hall before our next council meeting. There is a Safety Committee meeting scheduled and that would be appropriate for them to attend that. Chief Durkee said operationally they are moving towards living together. Some of the same people we talked about earlier are on both departments. We are working towards a seamless integration.

Police Chief – Chief Swartz submitted a Monthly Report for the Council Packet.

He also wanted to thank Mr. Cozy and Mr. Bagogius and Sue Mayberry for attending a School Safety Meeting. A large portion of the meeting was to discuss an SRO inside the schools. There is going to be a subcommittee meeting on issues about funding an SRO and Chief Swartz said he would be meeting with the Superintendent to put the committee together. He asked if any members of Council would like to be on it, and if they would to let him know. He thought that someone from the City should be on that committee.

Paul Bagogius said that being possibly the next chair of the safety committee he would like to be part of the committee at the school.

Engineer/Streets/Public Utilities – Bill Dorman was present and reported on minor work assisting administration with the Locust/Cherry intersection project.

Locust/Portage Resurfacing project – Letter were received from the Ohio Public Works Commission notifying us of the funding for the project.

The Waste Water Treatment Plant screen project is also underway. Construction could not begin until July 1<sup>st</sup> and they are working on getting bids locked in prior to that.

Paul Bagogius asked about the Wooster Storm Sewer Project plan. Mr. Dorman stated that the engineering would be completed this month. Dan Mayberry stated that he covered that in his director's report included in the packet. He said he had been working with Dave Koontz at CTI on the project and that they had to rethink their approach based on input from property owners. That has been done and Mr. Koontz had put pen to the paper and is coming up with some schematic type plans and Mr. Mayberry suspected he would receive them soon. He would review them and report on the finished design. Mr. Svab asked if we would incur more money on the plan since the first one did not go through. Mr. Dorman said he had heard no indication on increasing costs. Dan Mayberry said he was going to add a couple more catch basins on Wooster Street, and one on private property with the cooperation of the owner. They are eliminating three bio-retention basins, and some storm sewer pipe that would have run on Forge and Ash Streets. So the project is being reduced

Dan Mayberry stated that he had submitted his written report. In addition to that he wanted to let Council know that utility billing clerk mailed 124 delinquent letters to customers last month. Of those, 53 notices were hung on doors to shut service off. Only two customers had to be turned off for non-payment.

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Mr. Mayberry said he did receive the City's safety manual from American Safety. Mayor Harbaugh asked if the Safety meetings helped the employees. Mr. Mayberry said absolutely that they are very proactive in the field of safety.

Paul Bagocius asked about the energy audit status. Mr. Mayberry stated that he had contacted RCAP and asked them where the report was. Their response was that they had lost a couple of key people and the report would be forthcoming in 2012. Now we are going into February of 2013. He has contacted RCAP again. Mr. Svab wanted to know if they had been paid and Mr. Mayberry said no. Mr. Svab wanted to know if we were obligated contractually. Mr. Mayberry said he thought they could pull the plug. Mr. Bagocius said he personally did not want to pull the plug. Mr. Mayberry stated that he was not happy with the vendor. Mr. Cozy said there was an alternative and that First Energy Solutions did ask some very detailed questions and at first they thought that they would not be as thorough as RCAP. First Energy Solutions would be free. We could at least start the process with First Energy Solutions again.

Sue Mayberry asked about the insurance claim that had been denied on the grit building. Mr. Mayberry stated that is correct. The insurance company believes that the moisture in the bulicing caused the plates that hold the trusses together resulted in damage to the roof. Our insurance will not cover that. Mr. Mayberry said he had been speaking with Mr. Condo, a hazardous communication analyst for the Ohio Pan. Mr. Condo sent two other firms to analyze the structure. Mr. Mayberry said he had Allen Keith Construction secure the building.

Finance Director – Mr. Goffe reported that he had hired Kathy Lewis-Snyder in the Finance Department. He has contacted Pay Corp, but has not heard anything back from them on automating payroll, and has not had a chance to look into it further.

Mr. Bagocius asked about when Council Members are unable to attend the meeting there is to be a deduction on their pay. He said that he had spoken to Mr. Goffe several times but it still has not reflected on his pay for the meetings that he was unable to attend. Mr. Bagocius stated that there needs to be a system in place when Council Members are absent.

City Manager – Mr. Cozy stated that his written report was included. He asked for and executive session to discuss issues with healthcare and two bargaining units. He also requested an executive session to discuss potential property to purchase.

Mr. Cozy said he met with Zevian properties today. They closed on Heritage Square Plaza. They employ 71 people. They would like to within the next two years employ 200 people. They needed the extra space. We are working with them to facilitate the move. They were happy to hear that we are switching to Massillon for our building department. Mr. Cozy stated that he met with Bill Kraft, the Chief Building Official with Massillon to make sure that we are on the same page with legislation. Massillon is also happy that we are forming our own building department also because that allows us to collaborate more. Massillon is now looking to expand that agreement to include other area municipalities, and use our legislation as a potential model.

Mr. Svab asked the Mayor if Lawrence Township used Massillon for their inspections. The Mayor said no. Mark Cozy stated that home rule townships used the county.

Paul Bagocius asked what the status was on the Mural. It seems like every time we talk about the Mural the City is putting in more money. He wanted to know if we were paying for the installation. Mr. Cozy said no, at this point the hope is the committee is going to secure another grant from East Ohio Gas and they met with the installer and they might discount their quote as a donation to the City.

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Report of Mayor – Mayor Harbaugh stated that he was appointed Helen Weygandt to the Senior Citizens Commissioners spot that Helen Hardie stepped down from. Helen Weygandt will complete Helen Hardie's term.

Parks & Recreation Board – No Report.

Law Director – Law Director Scott Fellmeth reported on the complaint issued by Gayle Danzy with the Civil Rights Commission. We received a letter dismissing the case dated February 1, 2013. The commission determined there was no probable cause and no discrimination perpetrated by the City of Canal Fulton. The date of the mailing was January 31<sup>st</sup>, 2013. She can file an application for reconsideration within ten days of the date of mailing with the Ohio Civil Rights Commission. She would then have an additional appeal with the US Equal Employment Opportunity Commission within fifteen days of the date of mailing and 30 day Petition for Judicial Review. If she would wish to file a Civil Suit she would have two years.

**THIRD READINGS**

**Ordinance 1-13:** An Ordinance by the Council of the City of Canal Fulton, Ohio authorizing the Canal Lands II Annexation of 66 acres, more or less, from Lawrence Township, Stark County, Ohio to the City of Canal Fulton.

A motion was made by Paul Bagocius to table Ordinance 1-13, second by Linda Zahirsky.

Linda Zahirsky stated that one of the reasons she would like to see it tabled was that she knew Danny Losch and her had talked about how much of the road was going to be the city's responsibility and where the culvert was. The weather has been bad and there has not been an opportunity to get out and see it. They are also waiting on something from Mr. Mayberry. She thought it was best that it was tabled until Council received all of the information. Mayor Harbaugh stated that he thought that was a good idea.

All Council Members voted yes. Motion approved.

**SECOND READINGS**

**Resolution 3-13:** A resolution by the Council of the City of Canal Fulton to enter into a contract with the City of Massillon, Ohio for transportation of prisoners to and from the Stark County Jail for appearances required in the Massillon Municipal Court and declaring an emergency.

**FIRST READINGS**

**Resolution 5-13:** A resolution by the Council of the City of Canal Fulton, Ohio to enter into an agreement with the City of Massillon, Ohio for enforcement of the Ohio State Building Codes within the City.

**Resolution 6-13:** A Resolution by the Council of the City of Canal Fulton, Ohio to enter into an agreement with the Board of Trustees of Local Organized Governments in cooperation for dispatching services and declaring an emergency.

A motion was made to suspend the rules by Scott Svab, second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made to pass Resolution 6-13 under suspension by Linda Zahirsky, second by Sue Mayberry. All Council Members voted yes. Motion approved.

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**Resolution 7-13:** A Resolution by the Council of the City of Canal Fulton, Ohio to enter into the Fifth Amendment to the 1997 Contract for Joint Staffing and Fire Services with Lawrence Township, Stark County, Ohio.

**Ordinance 5-13:** An Ordinance authorizing a request to the Ohio Board of Building Standards to Certify the City of Canal Fulton, Ohio for enforcement of the Residential Code of Ohio to exercise enforcement authority and accept and approve plans and specifications, and make inspections.

**Resolution 8-13:** A Resolution by the Council of the City of Canal Fulton, Ohio to enter into an agreement with the City of Massillon, Ohio for enforcement of the Residential Code of Ohio within the City.

**Ordinance 6-13:** An Ordinance authorizing a request to the Ohio Board of Building Standards to certify the City of Canal Fulton, Ohio for Enforcement of the Ohio State Building Codes to exercise enforcement Authority and accept and approve plans, and specifications and make inspections.

**Ordinance 7-13:** An Ordinance Amending Ordinance 39-12, and Correcting Errors in the Original Appropriations for the Current Expenses and Other Expenditures of the City of Canal Fulton, County of Stark, Ohio, for the Fiscal Year Ending December 31, 2013.

A motion was made to suspend the rules by Scott Svab, Second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made by Linda Zahirsky to pass Ordinance 7-13 under suspension, second by Sue Mayberry. All Council Members voted yes. Motion approved.

**Ordinance 8-13:** An Ordinance Amending Ordinance 7-13, and Providing for Supplemental Appropriations for the Current Expenses and Other Expenditures of the City of Canal Fulton, County of Stark, Ohio, for the Fiscal Year Ending December 31, 2013.

A motion was made to suspend the rules by Scott Svab, Second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made by Linda Zahirsky to pass Ordinance 8-13 under suspension, second by Sue Mayberry. All Council Members voted yes. Motion approved.

**P.O.s**

**P.O. 7641:** to Bain Enterprises in the amount of \$6,995.75 for Hydraulic Valve Exerciser and Telescoping Valve Key

A motion was made by Scott Svab to approve P.O. 7641, second by Linda Zahirsky. All Council Members voted yes. Motion approved

**P.O. 7644:** to Hannon Electric Co, in the amount of \$7,840.00 for repair of Hoffman Blower

A motion was made by Nellie Cihon to approve P.O. 7644, second by Scott Svab. All Council Members voted yes. Motion approved.

**P.O. 7643:** to CTI Engineers, Inc. in the amount of \$13,800.00 for the design of Automatic Bar Screen at WWTP

A motion was made by Nellie Cihon to approve P.O. 7643, second by Linda Zahirsky

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Paul Bagočius asked if this would eliminate the rags and debris with the screen. Mr. Mayberry said yes, it would not eliminate 100% of the debris but most of it. Mr. Svab asked if this was just for the design. Mr. Mayberry said this would just for the design and getting it bid out.

All Council Members voted yes. Motion approved.

**P.O. 7645:** to Clemans Nelson & Associates, Inc. in the amount of \$5,000 for Labor Council Legal Services

A motion was made by Linda Zahirsky to approve P.O. 7645, second by Nellie Cihon. All Council Members voted yes. Motion approved.

**P.O. 7646:** to Massillon Law Department in the amount of \$25,200.00 for Prosecutor Legal Services

A motion was made by Nellie Cihon to approve P.O. 7646, second by Scott Svab. All Council Members voted yes. Motion approved.

**P.O. 7654:** to Pelton Environmental Products in the amount of \$12,768.00 for Seepex Progressive Cavity Pumps for use as Sludge Pumps at WWTP

A motion was made to approve P.O. 7654 by Scott Svab, second by Nellie Cihon. All Council Members voted yes. Motion approved.

**P.O. 7655:** to Dezurik, Inc. in the amount of \$7,910.00 for five 8" Dezurik Plug Valves

A motion was made by Linda Zahirsky to approve P.O. 7655, second by Scott Svab. All Council Members voted yes. Motion approved.

**P.O. 7656:** to Hach Company in the amount of \$5,992.82 for PO4 Meter and Reactor, DR3900 Spectrophotometer & Warranty, DRB 200 Reactor, Total Phosphorus Reagent & Supply

A motion was made by Nellie Cihon to approve P.O. 7656, second by Scott Svab. All Council Members voted yes. Motion approved.

**P.O.7658:** to LOGIC Red Center in the amount of \$30,572.00 for Fire Department Dispatching.

A motion was made by Linda Zahirsky to approve P.O. 7658, second by Nellie Cihon. All Council Members voted yes. Motion approved.

**P.O. 7662:** to City of Massillon in the amount of \$6,000.00 for Prisoner Transport and Fingerprint Fees.

This P.O. was pulled from the agenda so that the Law Director could view the contract.

**P.O. 7663:** to Quasar Energy Group, LLC in the amount of \$6,000.00 for WWTP Sludge Disposal

A motion was made by Nellie Cihon to approve P.O. 7663, second by Sue Mayberry. All Council Members voted yes. Motion approved.

**P.O. 7665:** to Bonded Chemicals, Inc. in the amount of \$7,500.00 for Fresh Water Treatment Chemicals

A motion was made by Sue Mayberry to approve P.O. 7665, second by Linda Zahirsky. All Council Members voted yes. Motion approved.

**P.O. 7666:** to Ream & Haager Laboratory, Inc. in the amount of \$5,000.00 for Waste Water Testing.

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A motion was made by Nellie Cihon to approve P.O. 7666, second by Linda Zahirsky. All Council Members voted yes. Motion approved.

P.O. 7667: to D & R Supply, Inc. in the amount of \$5,000.00 for Asphalt for Road Patching.

A motion was made by Scott Svab to approve P.O. 7667, second by Nellie Cihon. All Council Members voted yes. Motion approved.

OLD/NEW/OTHER BUSINESS

Paul Bagocius said he had talked with the Chair of the Personnel Committee on some concerns that he had. Linda Zahirsky recommended that a Personnel Committee meeting be scheduled.

A motion was made by Linda Zahirsky for a Personnel Committee meeting to be held on March 5<sup>th</sup>, 2013 at 6:00pm, second by Sue Mayberry. The purpose will be to go over Police issues and other issues that Mr. Bagocius would like to bring up as well. All Council members voted yes. Motion approved.

Paul Bagocius state that a Library will have a levy on the ballot in May. He thought that it would be a good idea for a representative for the library speak to Council and spell out the needs, so that Council would consider passing a resolution to endorse the levy.

Mr. Bagocius asked about the City Roster – Mrs. Dolan stated that she is working on the completion of the roster at this time. The new roster is a work in progress.

REPORT OF PRESIDENT PRO TEMPORE No report.

REPORT OF SPECIAL COMMITTEES

CITIZENS COMMENTS – Open Discussion (Five Minute Rule)

Earl Mincks, 627 S. Canal Street asked if anyone on Council had thought about windmills in the City. Danny Losch said that he had thought about it. The problem is the wind speed here in this area. It would be something to definitely keep in mind with new technologies.

A motion was made by Linda Zahirsky to adjourn to Executive Session at 8:25 pm to discuss the purchase of real, personal, tangible or intangible property, and preparing for, conducting or reviewing negotiations or bargaining sessions with public employees, second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made to return to public session at 8:57pm by Linda Zahirsky, second by Danny Losch. All Council Members voted yes. Motion approved.

A motion was made by Linda Zahirsky for Mark Cozy to negotiate with Local 24 as he recommended in Executive Session. Second by Danny Losch. Vote was as follows:

Scott Svab – No; Nellie Cihon – Yes; Danny Losch – Yes; Linda Zahirsky – Yes; Paul Bagocius – Yes; and Sue Mayberry – Yes. Motion approved.

A motion was made by Linda Zahirsky to do and identical settlement with the FOP as Local 24 as recommended Mark Cozy recommended, second by Nellie Cihon.

Mr. Svab asked what happens if they don't agree to identical. Mr. Bagocius agreed that out of 24 members they were throwing 16 under the bus that would have to pay more, eight that would pay less. He did not understand their thinking on that. The FOP may not agree with that. Mr. Goffe said it's not even eight it's actually five. Mr. Cozy stated that if we continue to make it whole they would pay

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the same premium they paid last year. Mrs. Mayberry asked what were they approving, they did not know what they were voting on really. Mr. Fellmeth said that it was to approach the FOP with the same proposal. It's not something for Council's approval. It would still have to come back to Council. Mr. Svab says so what about non-bargaining people. Would the same policies be used? Mr. Cozy said that was the whole purpose for everybody across the board to pay what they did last year that way everyone was the same. Mrs. Mayberry said she was not sure about that. Mr. Fellmeth said the motion at this time was to allow Mr. Cozy to enter into negotiations with the FOP. Mr. Cozy said that is where they ended up. Danny Losch asked if it all referred to everyone, regardless. Mr. Cozy said he would like it to be the same for everybody. Mr. Cozy said if they wanted to vary it for the ratio and what premiums are paid for different employees; we would have to make sure that the finance department knows that for payroll. Mr. Goffe stated that we have only gotten two requests for reimbursement for 2013 at this time. They are on hold pending the grievances. Mr. Bagocius wanted to know if the FOP had seen the settlement. Mr. Cozy said yes, that they came in and said they would settle this with the same as the Teamsters. Mr. Svab said but their contract was 15%. So if their rate went up they would still be on the hook per their contract 15%. That floated, but because all of these other variable went in, then those variables were part of the contract, the out of pocket reimbursements. Mr. Cozy asked if they recalled the negotiations with the FOP, when the premiums went up and they took us to arbitration and we ended up holding their premium for the same rate for a year. They grieved the increase and we had to settle. The bottom line Mr. Cozy said is you are looking at \$248,000 vs. \$202,000 from the previous year. If we agree to this our out of pocket will go down slightly. So right away you are \$40,000 in the hole starting out. Mr. Cozy said yes, we were incurring some risk. Mr. Svab said the difference was the employees would be picking up \$6,000 more of that 15% of the increase of the \$40,000 that you are saying. Mr. Svab said to vote. It is so far down the road that you can't even begin to catch up with it. Mrs. Zahirsky said when we were going to catch up was this fall, when they realize how good they had it and what they are going to get stuck with, like the rest of us. Mrs. Mayberry said the company we went with, that they are telling us that we have to pay for this and this, that the unions are grieving, because it is not the same thing as what they had. The delineation between the plans versus before, how is that going to be handled when you go and give your card that you have now. Mr. Goffe stated that all these additional items that we are now talking about possible reimbursements, those are all in house. Mrs. Mayberry asked if we would have to handle that all in house. Mr. Goffe said yes those are in house after they get their explanation of benefits to show what actually happened. Mrs. Mayberry said so that has to come here and that is going to get divvied up. Mr. Cozy stated that we were already doing that for deductibles and copays for prescriptions. Now, we won't be doing it so much for prescriptions because the new plan actually follows what the contract said in 2008. Mrs. Mayberry asked so who is going to be doing all this work. Mr. Cozy said the Finance department. Mr. Goffe said unless he could dump some of it off on Teresa. Mrs. Mayberry stated that this is going to get very confusing and messy. Mr. Svab said the thing is it is not an apple to apples plan. Mr. Svab said when this quote was given to you it mirrored exactly what you had last year. This new plan has a higher deductible. If Distefano was then allowed to say raise the single plan from \$500 to \$1,500. Do the out of pocket from this to that. Mr. Goffe said Distefano saw the exact quote before. Mr. Cozy said Mr. Distefano saw the quote and came in and said that he could not touch it. Mr. Svab stated that he had already talked to him. Mr. Goffe said if you want an apple to apples plan that you would have to take whatever the premium increase is. If you want to look for something that was going to save money then it is not going to be exactly apples to apples. It's going to be apples to oranges. Mr. Svab said but then if you took that orange and said this is the plan that we have -- match that,



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he would not come up with \$248,000 would he, because you raided the deductibles as one of the key things. Mr. Svab said that is what he was trying to drive across and they were talking in circle here. Mr. Svab said vote, he would vote no, they would pass it and they could go. Mr. Losch said we are not passing anything but for the negotiation. If it has to go to committee, then it will. Paul Bagocius stated that he felt that the non-union should go with the Teamsters. Mrs. Mayberry said it would be a fiasco if you didn't. Paul Bagocius stated that it would be an accounting nightmare. Scott Svab stated that he did not have a problem with the non-union having the same benefit.

The vote was as follows on the first motion – All Council members voted No. Motion fails.

A motion was made that the grievance be settled the way that the Teamsters is settled with the FOP and Non-Union employees will follow by Paul Bagocius, Second by Nellie Cihon. The vote was as follows:

Nellie Cihon – Yes; Sue Mayberry – Yes; Paul Bagocius – Yes; Linda Zahirsky – Yes; Danny Losch – Yes and Scott Svab – No.

**ADJOURNMENT**

The meeting was adjourned at approximately 9:20pm