



**REGULAR CITY COUNCIL MEETING MINUTES**  
**JULY 13, 2010**  
**7:00 PM**  
**CITY HALL COUNCIL CHAMBERS**  
**10 NORTH ROBINSON**

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**I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 7:03 PM**

**City Council:**

- ✓ Justin Hewlett, Mayor
- ✓ John Warren, Mayor Pro Tem
- ✓ Dr. Bob Kelly, SMD 1
- ✓ Gayle White, SMD 2
- ✓ Dale Sturgeon, SMD 3

**Administration:**

- ✓ Chester Nolen, City Manager
- ✓ Rick Holden, Assistant City Manager
- ✓ Shelly Doty, City Secretary
- ✓ Ivy Peterson, Deputy City Secretary
- ✓ Wade Adkins, City Attorney

**Division Directors:**

- ✓ Jerry Cash, Economic Development
- ✓ David Esquivel, Public Works
- ✓ Clint Ishmael, Fire Services
- ✓ Donna Jackson, Development Services
- ✓ Terry Powell, Police Services
- ✓ Debra Powledge, Human Resources
- ✓ Max Robertson, Parks & Recreation
- ✓ Greg Wilmore, Finance

**Department Heads:**

- ✓ Kim Galvin, Budget & Purchasing
- ✓ Ann Powell, Planning & Zoning

**Media:**

- ✓ Matt Smith, Times-Review
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**II. INVOCATION by Rev. Roger Noel, Cleburne Baptist Temple**

**III. PLEDGE OF ALLEGIANCE**

**IV. COMMUNITY INTEREST MATTERS**

Proclamation                      Hillary Hagan Day, July 19, 2010

**V. CITY SECRETARY READ THE GUIDELINES TO SPEAK BEFORE COUNCIL**

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**CONSENT ITEMS**

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**C1. MINUTES**

**APPROVAL OF MINUTES FOR THE **JUNE 22, 2010** REGULAR COUNCIL MEETING.**

**RS1. RS07-2010-43**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH CHILDRESS ENGINEERS FOR ENGINEERING FOR THE NORTH HARVEST HILL LIFT STATION AND SANITARY SEWER PROJECT.**

Person presenting this item: David Esquivel, Director of Public Works

**BRIEF:** This agreement will provide design, surveying, right of way acquisition services, geotechnical services, and resident project representation for a wastewater interceptor line with appurtenances and a lift station. Fees are not to exceed \$262,500.00.

**RS2. RS07-2010-44**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH CHILDRESS ENGINEERS FOR WATER TREATMENT PLANT CLEARWELL REHABILITATION.**

Person presenting this item: David Esquivel, Director of Public Works

**BRIEF:** Repairs to the two existing clearwells are needed. This agreement will provide engineering and design to cover the clearwells with geodesic domes, removal of existing concrete spall, and sealing existing cracks. Fees are not to exceed \$55,000.00.

**RS3. RS07-2010-45**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH FREESE AND NICHOLS FOR THE BID AND CONSTRUCTION PHASE OF THE WATER TREATMENT PLANT 5.0 MGD EXPANSION.**

Person presenting this item: David Esquivel, Director of Public Works

**BRIEF:** This agreement will provide project management, bid process, contract administration, O & M manual, testing and inspections, surveying, resident project representation and coordination with Texas Water Development Board for the 5 MGD expansion at the Water Treatment Plant. Fees are not to exceed \$1,200,000.00. Funding is from the approved Water Infrastructure Fund through the Texas Water Development Board.

**OR1. OR07-2010-35**

**AN ORDINANCE AMENDING CHAPTER 51 - WATER AND SEWER, SECTION 51.030 - RATES FOR TREATED WATER SERVICE, SUBSECTIONS (D) OF THE CODE OF ORDINANCES.**

Person presenting this item: Greg Wilmore, Director of Finance

**BRIEF:** The current language in the ordinance for water rates has created ambiguity in the billing procedures for sprinkler systems. As a housekeeping item and to ensure all meters are charged uniformly for services provided by the Utility Billing Department, subsection (D) (1)

and (D) (2) will be deleted, and the last sentence of subsection (D) will be deleted. Subsection (D) will read as follows:

(D) Sprinkler system. Water, separately metered, used solely for lawn sprinkler systems shall be billed according to the rate tables in division (C) of this section. No service demand charge shall be applied if zero usage is indicated on the meter.

**OR2. OR07-2010-36**

**AN ORDINANCE AMENDING THE 2009-2010 BUDGET, WATER/WASTEWATER FUND, BY RE-ALLOCATING \$150,000 FROM WATER DISTRIBUTION ACCOUNT 6083-8820, CAPITAL - STRUCTURES TO WATER TREATMENT ACCOUNT 6084-8419, M&R - STRUCTURES.**

Person presenting this item: Greg Wilmore, Director of Finance

**BRIEF:** The Rose Street Elevated Tank project came in under budget and therefore \$500,000 was budgeted in the Capital - Structures account, 6083-8820, that can be allocated to other projects. An amount of \$150,000 is requested for the Clear Well Aluminum Dome project, 6084-8419.

**OR3. OR07-2010-37**

**AN ORDINANCE AMENDING THE 2009-2010 BUDGET, WATER/WASTEWATER FUND, BY RE-ALLOCATING \$350,000 FROM WATER DISTRIBUTION, CAPITAL – STRUCTURES ACCOUNT 6083-8820 AND \$160,000 FROM FUND BALANCE TO WASTEWATER COLLECTION, SANITARY SEWER SYSTEMS ACCOUNT 6096-8830, TO FUND THE NORTH HARVEST HILL SANITARY SEWER AND LIFT STATION PROJECT.**

Person presenting this item: Greg Wilmore, Director of Finance

**BRIEF:** The Rose Street Elevated Tank project came in under budget and therefore \$500,000 was budgeted in the Capital - Structures account (6083-8820) that can be allocated to other projects. An amount of \$350,000 is requested for the North Harvest Hill Sanitary Sewer and Lift Station as well as \$160,000 from Fund Balance.

**OR4. OR07-2010-38**

**AN ORDINANCE AMENDING THE 2009-2010 BUDGET, WATER/WASTEWATER FUND, BY RE-ALLOCATING \$40,800 FROM FUND BALANCE TO WATER TREATMENT, CAPITAL EQUIPMENT ACCOUNT 6084-8930 FOR COMPLETION OF THE SCADA PROJECT.**

Person presenting this item: Greg Wilmore, Director of Finance

**BRIEF:** The SCADA project was originally budgeted in 2008-2009 in the amount of \$264,000. During the budget sessions for 2009-2010 it was estimated that only \$65,000 of the original \$264,000 would need to be re-allocated in 2009-2010 to complete the project. During the 2008-2009 fiscal year only \$105,800 was expended for this project, resulting in the need to re-allocate

the remaining \$40,800 to the 2009-2010 fiscal year budget.

**OC1.**

**APPROVAL OF ACCOUNTS PAYABLE FOR THE MONTH OF JUNE 2010.**

Person presenting this item: Greg Wilmore, Director of Finance

**OC2.**

**APPROVE FINAL PLAT OF LOT 1, BLOCK 1, ULRICH BARN BUILDERS ADDITION, (BEING 4.508 ACRES OF THE ORRIN WINTERS SURVEY, LOCATED AT 2033 EAST HENDERSON STREET), AS REQUESTED BY ULRICH BARN BUILDERS LLC; REPRESENTED BY DUMAS LAND SURVEYING, INC.**

Person presenting this item: Ann Powell, Planning and Zoning Coordinator

BRIEF: The Planning & Zoning Commission (P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law. The Comprehensive Land Use Plan shows this area to be low density residential and commercial. We have received no inquiries or objections. The plat meets the platting requirements for the City. P&Z recommended approval by a vote of 5-0.

**MOTION: to approve in it's entirety**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
White			X					Approved as amended
Sturgeon	X		X					Denied
Warren			X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

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**RESOLUTIONS**

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**RS4.**

**RS07-2010-46**

**A RESOLUTION APPROVING NAMES FOR THE ROOMS AT THE CLEBURNE CONFERENCE CENTER.**

Rick Holden, Assistant City Manager stated that the following names are being considered for rooms/areas at the new Cleburne Conference Center:

- Theater            Community Performing Arts Center (CPAC)
- Exhibit Hall      Brazos Exhibit Hall
- Lobby              Santa Fe Lobby
- A-1                 Cross Timbers
- A-2                 Cross Timbers Branch
- M-1                 Camp Henderson
- M-2                 General Pat Cleburne

C-1 Chisholm Trail Board Room

Councilwoman White stated that she preferred not to name the rooms after living persons.

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White	X		X					Approved as amended
Sturgeon			X					Denied
Warren		X	X					Withdrawn
Hewlett			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

**RS5. RS07-2010-47**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH NEDDERMAN & ASSOCIATES, INC. FOR DRAINAGE, SIDEWALKS, CURBS, AND GUTTERS AT THE MUSEUM COMPLEX IN THE AMOUNT OF \$122,882.**

Greg Wilmore, Director of Finance stated that drainage at the Museum has had a long history of problems. The basement of the building has flooded almost every time it rains. With the purchase of the office buildings next to the Smith History Center it has become more apparent that we need a new plan. With the completion of the Smith History Center we have to solve our water issues or we will continuously have this problem with the old buildings as well as the new. We have already gotten water in the new Smith History Center and now is the time to fix the problem. Childress Engineers (results in backup) did an engineering study. Their plan will address the drainage issues, ADA building entrance requirements, sidewalks, curbs, and gutters.

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White			X					Approved as amended
Sturgeon	X		X					Denied
Warren		X	X					Withdrawn
Hewlett			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

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**ORDINANCES**

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**\*OPENED PUBLIC HEARING**

**OR5. OR07-2010-39**

**AN ORDINANCE ANNEXING 8.423 ACRES OF THE J.J. KUYKENDALL SURVEY ABSTRACT NO. 482 AND THE JAMES H. KUYKENDALL SURVEY ABSTRACT NO. 483 JOHNSON COUNTY, TEXAS, AND ZONING THE NEWLY ANNEXED**

**PROPERTY AS A (AGRICULTURAL DISTRICT) IN COMPLIANCE WITH §155.07 OF THE CODE OF ORDINANCES; AS REQUESTED BY VOLUNTARY PETITION OF PROPERTY OWNERS ROBERT AND JANE WALKER; REPRESENTED BY DUMAS LAND SURVEYING, INC.**

Ann Powell, Planning and Zoning Coordinator stated that this is a request for voluntary annexation of 8.423 acres in accordance with Section 43.028 of the Local Government Code. This land meets the requirements for consideration under this section of the State Law. This property adjoins the city limits of Cleburne. The Comprehensive Land Use Plan shows this area to be low density residential and open space/flood plains. This annexation is for a residence. On the effective date of the ordinance the area becomes a part of the municipality and zoned "A" (Agricultural District).

Speakers: None

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White	X		X					Approved as amended
Sturgeon			X					Denied
Warren		X	X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>					<b>Roll Call</b>

**\*OPENED PUBLIC HEARING**

**OR6. OR07-2010-40**

**AN ORDINANCE REZONING THE NORTH HALF OF LOT 3, BLOCK 27 (LOCATED AT 302 SOUTH ROBINSON STREET) FROM MF (MULTIPLE-FAMILY DWELLING DISTRICT) TO C2 (GENERAL BUSINESS DISTRICT), AS REQUESTED BY KIMBALL BEND OF CLEBURNE, L.P.; REPRESENTED BY MAXINE AMMONS.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be commercial and industrial. We have received inquiries but no objections. The applicant stated through its representative that it plans to build a private community center to serve the Liberty Hotel, the Plaza Theater and the downtown area. P&Z approved the request by a vote of 5-0.

Speakers: None

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
White			X					Approved as amended
Sturgeon			X					Denied
Warren	X		X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>			<b>Roll Call</b>		

**\*OPENED PUBLIC HEARING**

**OR7. OR07-2010-41**

**AN ORDINANCE REZONING THE NORTH HALF OF LOT 4, BLOCK 27 OF THE ORIGINAL TOWN OF CLEBURNE (LOCATED AT 304 AND 306 SOUTH ROBINSON STREET) FROM MF (MULTIPLE-FAMILY DWELLING DISTRICT) TO C2 (GENERAL BUSINESS DISTRICT), AS REQUESTED BY ROSALIO DIAZ; REPRESENTED BY MAXINE AMMONS.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be commercial and industrial. We have received inquiries but no objections. The applicant stated through its representative that it plans to build a private community center to serve the Liberty Hotel, the Plaza Theater and the downtown area. P&Z approved the request by a vote of 5-0.

Speakers: None

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
White	X		X					Approved as amended
Sturgeon			X					Denied
Warren			X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>			<b>Roll Call</b>		

**\*OPENED PUBLIC HEARING**

**OR8. OR07-2010-42**

**AN ORDINANCE REZONING A PORTION OF BLOCK 371 ACCORDING TO THE OFFICIAL MAP OF CLEBURNE (LOCATED AT 901 EAST SECOND STREET) FROM M1 (LIGHT INDUSTRIAL DISTRICT) TO SF-4 (SINGLE FAMILY DWELLING DISTRICT), AS REQUESTED BY HOMER SEPULVEDA; REPRESENTED BY COLDWELL-BANKER BOB KING REALTY.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission

(P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be low density residential, public and parks. We have received an objection. P&Z approved the request by a vote of 5-0.

Speakers: None

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White			X					Approved as amended
Sturgeon		X	X					Denied
Warren	X		X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>					<b>Roll Call</b>

**\*OPENED PUBLIC HEARING**

**OR9. OR07-2010-43**

**AN ORDINANCE REZONING LOT 9, BLOCK 17, NOLAN’S CROSSING, SECTION 1 (LOCATED AT 1901 NOLAN RIDGE DRIVE) FROM SF-4/MH (SINGLE FAMILY DWELLING DISTRICT AND/OR HUD CODE MANUFACTURED HOUSING) TO SF-4/MH/SUP (SINGLE FAMILY DWELLING DISTRICT AND/OR HUD CODE MANUFACTURED HOUSING WITH A SPECIFIC USE PERMIT FOR A PERSONAL SERVICE (BEAUTY) SHOP, AS REQUESTED BY EUGENE DAVID FIELD.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be low density residential and commercial. We have received one objection. P&Z approved the request by a vote of 4-1, with Mrs. Wileman voting in opposition.

Speakers: David Field, proponent, spoke in favor of this item.

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
White				X				Approved as amended
Sturgeon			X					Denied
Warren	X		X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>					<b>Roll Call</b>

**\*OPENED PUBLIC HEARING**

**OR10. OR07-2010-44**

**AN ORDINANCE REZONING: (1) THE SOUTH ONE-HALF OF LOT 4, BLOCK 285; (2) LOT 5 AND A PORTION OF LOT 4, BLOCK 285; (3) A PORTION OF BLOCK 285; AND (4) LOT 6, BLOCK 285 (LOCATED AT 220, 224 AND 228 N BRAZOS AVENUE AND 702 EAST WARDVILLE) FROM C3 (COMMERCIAL DISTRICT) AND C1 (LOCAL BUSINESS DISTRICT) TO C3/SUP (COMMERCIAL DISTRICT WITH SPECIFIC USE PERMIT FOR SWAP MEET/FLEA MARKET), AS REQUESTED BY SID AND JERRY BURD-ELLIS.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be commercial and mixed use - transitional use. We have received inquiries and objections. P&Z approved the request by a vote of 5-0.

Speakers: Sid Ellis, proponent, spoke in favor of this item.  
 Stephen Wilkerson spoke against this item as a Flea Market, but no opposition to a parking lot.

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve rezoning as an improved parking lot only with an all-weather, dust free surface**

	Motion	Second	Aye	No	Abstain	Absent	Result
Kelly	X		X				Approved as presented
White		X	X				X Approved as amended
Sturgeon			X				Denied
Warren			X				Withdrawn
Hewlett			X				Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>				<b>Roll Call</b>

**OR11. OR07-2010-45**

**AN ORDINANCE APPROVING A SIGN VARIANCE PERMITTING AN LED ELECTRONIC MESSAGE CENTER LOCATED AT 2206 N. MAIN STREET, TO BE WITHIN 500 FEET OF ANOTHER LED SIGN, AS REQUESTED BY MCDONALDS.**

Donna Jackson, Director of Development Services stated that this is a request for variance for a LED electronic message center to be located at 2206 N. Main Street. According to Section 156.21 (D) 7, no electronic display screen shall be approved within 500 feet of another electronic display screen. The LED sign located at Comfort Inn, 2117 N. Main, is within approximately 390 feet of the proposed site. According to the Code of Ordinances, Section 156.21 (A) City Council Authority - the City Council is given the authority to hear and grant variance appeals. In hearing such appeals, the City Council...may consider whether or not the regulations and standards of this Ordinance will by reason of exceptional circumstances or surroundings,

constitute a practical difficulty or unnecessary hardship. Upon request of an interested party, the City Council shall hear and shall seriously and fairly consider a request for a meritorious exception under this Section. The decision of the City Council shall be final.

**MOTION: to approve as presented due to the fact that the signs are separated by the highway**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White		X	X					Approved as amended
Sturgeon	X		X					Denied
Warren			X					Withdrawn
Hewlett			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

**OTHER COUNCIL MATTERS**

**\*OPENED PUBLIC HEARING**

**OC3.**

**APPROVE REPLAT OF LOT 2R, BLOCK 32 OF CHAMBERS SOUTHWEST ADDITION (LOCATED AT 1016 SOUTH WALNUT AVENUE), AS REQUESTED BY RALPH LITTLEJOHN HOMES & CONSTRUCTION, INC.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of June 14, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be low density residential, open space/flood plains and parks. We have received inquiries but no objections. The plat meets the platting requirements for the City. P&Z recommended approval by a vote of 5-0.

Speakers: None

**\*CLOSED PUBLIC HEARING**

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White			X					Approved as amended
Sturgeon		X	X					Denied
Warren	X		X					Withdrawn
Hewlett			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

**OC4.**

**APPOINTMENTS TO THE TAX INCREMENT FINANCING DISTRICT #1 BOARD**

**(INDUSTRIAL PARK).**

Greg Wilmore, Director of Finance stated that County Judge Roger Harmon and Commissioner Don Beeson's terms expired June 12, 2010. Both are willing to serve another term. Other members on the board are John Warren (until 03/10/11) and Bob Kelly and Gayle White (until 08/25/11).

**MOTION: to reappoint Judge Harmon and Commissioner Beeson**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
White	X		X					Approved as amended
Sturgeon			X					Denied
Warren		X	X					Withdrawn
Hewlett			X					Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>					<b>Roll Call</b>

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**CITIZENS COMMENTS**

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Eugene Birdsall signed up to speak but was no longer present.

**ADJOURNED AT: 7:37 p.m.**

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**APPROVAL OF MINUTES**

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**APPROVED BY MAJORITY VOTE OF COUNCIL ON: July 27, 2010**