

# JOINT MEETING OF THE EL CAJON CITY COUNCIL AND REDEVELOPMENT AGENCY



## MINUTES

### CITY OF EL CAJON EL CAJON, CALIFORNIA

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**May 13, 2014**

A Regular Joint Meeting of the El Cajon City Council and Redevelopment Agency of the City of El Cajon, California held Tuesday, May 13, 2014, was called to order by Mayor/Chair Bill Wells at 3:00 p.m., in the Council Chambers, 200 Civic Center Way, El Cajon, California.

#### **ROLL CALL**

Council/Agencymembers present:	Ambrose, Bales and McClellan
Council/Agencymembers absent:	None
Mayor Pro Tem/Vice Chair present:	Kendrick
Mayor/Chair present:	Wells
Other Officers present:	Hawley, City Clerk/Secretary Foley, City Attorney/General Counsel Williford, City Manager/Executive Director Al-Ghafry, Assistant City Manager

**PLEDGE OF ALLEGIANCE TO FLAG led by Mayor Wells and MOMENT OF SILENCE.** (The Courts have concluded that sectarian prayer as part of City Council Meetings is not permitted under the Constitution).

**POSTINGS:** The City Clerk posted Orders of Adjournment of the April 22, 2014, meetings and the Agenda of the May 13, 2014, meeting in accordance to State Law and Council/Authority/Successor Agency to the Redevelopment Agency Policy.

**PRESENTATIONS:**

- **Jimmie Johnson Recognition Event**
- **Proclamation: Bike to Work Week**
- **Proclamation: National Public Works Week**
- **Run EC Event**

**AGENDA CHANGES: None**

**CONSENT ITEMS: (1.1 – 1.9)**

**MOTION BY McCLELLAN, SECOND BY BALES, to APPROVE  
Consent Items 1.1 to 1.9.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

**1.1 MINUTES OF CITY COUNCIL/REDEVELOPMENT AGENCY MEETINGS**

Approve Minutes of the April 22, 2014, meetings of the El Cajon City Council/Housing Authority/Successor Agency to the El Cajon Redevelopment Agency.

**1.2 WARRANTS**

Approve payment of Warrants as submitted by the Finance Department.

**1.3 APPROVAL OF READING BY TITLE AND WAIVER OF READING IN FULL  
OF ORDINANCES ON AGENDA**

Approve the reading by title and waive the reading in full of all Ordinances on the Agenda.

**1.4 ACCEPTANCE OF WASHINGTON AVENUE RADAR FEEDBACK  
SIGNS PROJECT, PW 3494/3491, BID NO. 005-14  
(Report: Assistant City Manager)**

Accept the project, authorize the City Clerk to record a Notice of Completion, and release the bonds in accordance with the contract terms.

**CONSENT ITEMS: (Continued)**

**1.5 JANUARY – MARCH 2014 QUARTERLY TREASURER’S REPORT  
(Report: Director of Finance and Treasurer)**

Receive the quarterly Treasurer’s Report for the quarter ending March 31, 2014.

**1.6 RESOLUTIONS: APPROVAL OF PLANS AND SPECIFICATIONS FOR  
STREET RESURFACING 2014, RUBBERIZED SLURRY ON VARIOUS  
STREETS AND HILLSIDE PARK BIKE PATH, ENGINEERING JOB  
NO. PW 3490/BID NO. 008-15 (Report: Deputy Director of Public Works)**

Adopt RESOLUTION No. 045-14 to approve Plans and Specifications and RESOLUTION No. 046-14 to direct a Notice Inviting Sealed Bids to be opened on June 18, 2014.

**1.7 AWARD OF RFP NO. 019-14, COLLECTION AGENCY SERVICES (Report:  
Purchasing Agent)**

Authorize the City Manager, or designee, to enter into a one-year Agreement for Professional Services between the City of El Cajon and Penn Credit Corporation for Collection Agency Services with an option to renew from year-to-year for four additional years. The estimated first year cost is \$30,000.00.

**1.8 COMMUNITY EVENT IN THE RIGHT-OF-WAY, AMERICA ON MAIN  
STREET (Report: Director of Recreation)**

Approve the use of the public right-of-way for America on Main Street.

**1.9 RESOLUTION: AWARD OF BID NO. 001-15 GRAFFITI ABATEMENT  
SERVICES (Report: Purchasing Agent)**

Adopt RESOLUTION No. 047-14 to award the bid to the sole responsive, responsible bidder, AES Property Services, in the amount of \$143,988.00 for the first year of services, with the option to renew for four additional one-year periods.

## **PUBLIC COMMENT:**

**Robert McNutt** thanked City Staff for their help in bringing Solterra Apartments up to code and making it a safer community for senior citizens living there.

**Jayson August** stated he felt harassed by the FBI.

**Jackie Horton-Toft**, from ACES Foundation, invited the community and the City Council to the Barkitecture fundraising event.

**Monica Zech**, Public Information Officer, spoke about the Wednesday night Car Shows, the Farmers Market on Thursday nights and the Friday night Dinner and a Concert series at the park. She also reminds citizens about the Jimmie Johnson event and invited volunteers to sign up for the KaBOOM Playground Build on June 5<sup>th</sup> & 7<sup>th</sup> and the America on Main Street event on June 14, 2014.

**Sunshine Horton** invited Council to her birthday celebration Dance-a-Thon. All proceeds will benefit Rady Children's Hospital, in honor of her daughter. She will also participate in the 2014 Torch Run, and thanked Christopher Shamoon and Riley Care Ambulance Service for supporting her efforts.

**Councilmember Bales** thanked **City Manager Williford, Staff**, and all the volunteers for working tirelessly to make America on Main Street a great event.

**Councilmember McClellan** shared a historical moment written by John Marshall, Fourth Chief Justice of the United States Supreme Court.

**Mayor Pro Tem Kendrick** thanked the Police Department for arresting the two top leaders of a gang that is responsible for 50% of the graffiti in the City of El Cajon.

**2. WRITTEN COMMUNICATIONS: None**

**3. PUBLIC HEARINGS: None**

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#### 4. ADMINISTRATIVE REPORTS:

##### 4-A ADMINISTRATIVE HEARING – APPEAL REMOVAL OF MILLER’S TOWING, INC. FROM POLICE TOW ROTATION (Report: City Attorney)

**RECOMMENDATION:** That the **City Council** conduct the Administrative Hearing; review documents submitted; receive testimony from witnesses who have been identified on each party’s list; and determine whether the removal of Miller’s Towing, Inc. ("Miller's Towing") from the Police Department’s Tow Rotation list should be upheld or reversed.

**City Attorney Foley** introduced the Item and described the process for the Administrative Hearing. The following witnesses were sworn in:

Daniel Miller, the appellant  
Mr. Gregory Garrison, attorney for the appellant  
Captain Jeff Arvan, Presenting Officer for the City  
Police Chief Jim Redman

**Captain Arvan** gave opening remarks and explained the basis for the Police Department’s decision to remove Miller’s Towing from tow rotation. He responded to questions from **Council** concerning the appellant’s contacts with members of what **Captain Arvan** testified to as an outlaw motorcycle gang, and the citations received by **Mr. Miller** for selling alcohol without a license.

**Daniel Miller** testified, answering a series of questions from his attorney, **Mr. Garrison**, and responded to questions from **Council** about his encounters with long-time friends who are members of the Peckerwoods motorcycle club, and about the vest he wore while being considered a prospective member of the club, which included two pins – one a swastika and the other a replica of the “SS” emblem.

**Mr. Garrison** called upon **Police Chief Redman** to answer questions about the history of the services provided by Miller’s Towing, the letter sent from the Police Department to **Mr. Miller** advising him of the removal from the tow list, and contacts **Mr. Miller** had with a San Diego Sheriff Deputy. **Chief Redman** also responded to questions from **Council** concerning **Mr. Miller’s** known affiliation with the outlaw motorcycle gang, and how that affects the Department’s trust that the tow operator can perform its services when called and the vehicle is owned by a fellow gang member.

Closing statements were given by **Captain Arvan** and **Mr. Garrison**.

**Mayor Wells** polled members of the **Council** to assess their opinions on action that should be taken:

## **ADMINISTRATIVE HEARING – APPEAL: Item 4-A (Continued)**

**Councilmember Ambrose** indicated he supports the Police Department's recommendation and felt the department provided enough evidence for the case. While he initially stated he would consider imposing a suspension of six or twelve months, he feels there should not be a time limit for the suspension.

**Councilmember McClellan** agreed that a six-month suspension might be appropriate, and felt that **Mr. Miller**, as a business owner, would be paying a penalty for what he did.

**Mayor Pro Tem Kendrick** spoke about the meaning of the symbols on the vest worn by **Mr. Miller** and expressed concerns about the City's integrity. He indicated he does not support keeping Miller's Towing on the rotation list. He felt the evidence showed that **Mr. Miller** knew what he was getting involved in.

**Councilmember Bales** stated that she believes the report from the Police Department and felt a six-month suspension would be reasonable.

**City Attorney Foley** clarified the actions that **Council** may take, and in response to questions from **Mayor Wells**, he advised that **Council** should consider whether the evidence received to remove Miller's Towing outweighs the evidence contrary to that. **Mayor Pro Tem Kendrick** stated that he believed that there was a preponderance of evidence presented by the Police Department to support its decision.

**Mayor Wells** stated the City should think about tightening up the regulations to make it clear as to what is and is not acceptable for companies on the tow rotation list. He felt the problem with this case is the involvement with a criminal element. He indicated his initial reaction was to go along with the Police recommendation, but that he could be persuaded to go along with a suspension, if imposed, and he suggested the **Council** should hear back from the Police Department before reinstating Miller's Towing.

**MOTION BY KENDRICK, SECOND BY AMBROSE, to UPHOLD the decision to remove Miller's Towing from the Police Department's Tow Rotation and DENY the appeal.**

**MOTION CARRIES.  
(McClellan – NO)**

**Mayor Pro Tem Kendrick** requested that Item 8.2 be moved ahead of Item 4.1, to accommodate a speaker for that the Item. **Council** approves the request.

## **8.2 EL CAJON INCUBATOR BUSINESS PROGRAM**

**RECOMMENDATION:** That the **City Council** hear a presentation on an El Cajon Incubator Business Program.

### **DISCUSSION**

**Councilmember Ambrose** introduced **Dr. Noori Barka**, who provided a slide presentation on the concept of Business Incubator Program.

**Councilmember Ambrose** stated that he wanted **Council** to know about the program, which is growing and moving forward.

**Councilmember McClellan** acknowledged that **Dr. Barka** has helped many individuals start businesses in the community.

**Rena Arabo** spoke on behalf of the San Diego East County Chamber of Commerce and Eric Lund, in support the Incubator Business Program.

**Councilmember Bales** spoke in support of the program and encouraged women and minorities in the community to get involved.

**Mayor Wells** stated he looks forward to future updates on this concept from **Councilmember Ambrose**.

*Recess called at 5:28 p.m.  
Meeting called back to order at 5:40 p.m.*

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**4.1 STATUS OF SEWER BILLING ISSUES  
(Report: Deputy Director of Public Works)**

**RECOMMENDATION:** That the City Council accept the report providing the current status of the sewer billing process.

**DISCUSSION**

**City Manager Williford** spoke about challenges the City has had with the transition of the sewer billing service. He indicated the purpose of the report is to give the history of what has gone on, discuss the current status, and what lies ahead. He called upon the **Dennis Davies**, Deputy Director of Public Works to give the presentation.

**Deputy Director Davies** gave the update and a slide show presentation.

**City Manager Williford** responded to questions from **Councilmember McClellan**, indicating that **Council** previously rejected a proposal to place sewer bills on the property tax rolls; however, that option remains open to do so in the future, if **Council** so desires.

**Councilmember Ambrose** suggested the billing problems should first be resolved before considering placing the bills on the property tax rolls.

No one else came forward to speak.

**MOTION BY AMBROSE, SECOND BY KENDRICK, to ACCEPT the report.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

**4.2 CITY COUNCIL MEETING SCHEDULE (Report: City Manager)**

**RECOMMENDATION:** That the City Council considers canceling one mid-summer City Council meeting for summer recess. Staff is recommending Council discuss and consider cancellation of the August 26, 2014 meeting.

**DISCUSSION**

**City Manager Williford** stated that in previous years the **City Council** cancelled a meeting session during the summer. If **Council** is interested in doing this in 2014, **Staff** recommends cancelling the August 26, 2014 meeting.



## **ITEM 4.2 (Continued)**

**Councilmember McClellan** announced he will be absent for the September meetings.

No further comments made.

**MOTION BY WELLS, SECOND BY McCLELLAN, to CANCEL the August 26, 2014 meeting for a summer recess.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

## **4.3 REGULATING SECONDHAND MERCHANDISE (Report: Planning Manager)**

**RECOMMENDATION: That the City Council:**

- Receive comments from the public;
- Discuss the subject matter in this report;

THEN

- Direct the City Manager to prepare amendments to Titles 5 and 17 of the El Cajon Municipal Code to regulate secondhand businesses and address the secondary effects associated with new regulations.

OR

- Provide alternative policy direction to staff.

## **DISCUSSION**

**Mayor Wells** disqualified himself from item 4.3 citing a conflict of interest, and left the Chambers at 5:49 p.m.

**City Manager Williford** stated that in October of 2013, the City Council directed Staff to examine the issue of secondhand merchandise businesses in the City of El Cajon, and subsequently, the Council placed a temporary moratorium on these types of businesses. The objective of the report is for Council to give policy direction to Staff.

**Planning Manager Shute** gave a slide presentation with background on the item.

### **Item 4.3 (Continued)**

**Councilmembers** discussed the statistics for crimes relating to secondhand businesses, gold buying, pawnshops and electronic buy back kiosks.

**Detective Stacy Orchulli** clarified that most of the problems with secondhand business crimes are not with the big, organized stores, but rather the kiosk type of establishments that are available in the City. Discussion ensued between **Detective Orchulli, Police Chief Redman** and **Council** on procedures to determine whether items being re-sold are stolen items.

**David Chong** expressed concern about the potential impact of the proposed moratorium on his upcoming business as a firearms dealer.

**Mayor Pro Tem Kendrick** suggested that Staff exclude firearms dealers from the proposed Ordinance and **Councilmembers**, when polled, concurred with the suggestion.

**John Gibson** supported the proposed Ordinance and the suggestion to exempt firearms.

Upon hearing the discussion about possible exclusions, **City Attorney Foley** indicated the option to bring back an amendment to the moratorium at the next meeting on this Item, extending the moratorium for the rest of the year, if necessary, and to consider the exclusions as requested by **Council**.

No one else came up to speak.

**MOTION BY McCLELLAN, SECOND BY AMBROSE, to DIRECT the City Manager to prepare amendments to Titles 5 and 17 of the El Cajon Municipal Code to regulate secondhand businesses and address the secondary effects associated with new regulations, and incorporate the exclusions as suggested by Council**

**MOTION CARRIES. (WELLS – Disqualified)**

**Mayor Wells** returned to the Chambers at 6:15 p.m.

### **5. COMMISSION REPORTS: None**

## **6. ACTIVITIES REPORTS OF MAYOR WELLS/COMMENTS**

SANDAG (San Diego Association of Governments); SANDAG Public Safety Committee; League of California Cities, San Diego Division; Heartland; Fire Training JPA – Alternate; Indian Gaming Local Community Benefit Committee.

### **6.1 Council Activities Report/Comments**

**REPORT AS STATED.**

### **6.2 Legislative Report**

Mayor Wells discussed AB 2715 (Hernandez), a new piece of Legislation currently in the assembly that would require district-based municipal elections. He feels the bill is unnecessary and would take away local control.

**MOTION BY WELLS, SECOND BY KENDRICK, to WRITE a letter of OPPOSITION to AB 2715.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

## **ACTIVITIES REPORTS OF COUNCILMEMBERS**

### **7.**

#### **MAYOR PRO TEM GARY KENDRICK**

Heartland Communications JPA; Heartland Fire Training JPA; SANDAG (San Diego Association of Governments) - Alternate; SANDAG Public Safety Committee – Alternate

### **7.1 Council Activities Report/Comments**

**REPORT AS STATED.**

(Remainder of this page intentionally left blank)

## **7.2 REQUEST TO CREATE A CRIME FREE MOTEL/HOTEL PROGRAM**

**RECOMMENDATION:** That the **City Council** direct the City Manager to implement a Crime Free Motel / Hotel Program and to report back on this new programs' implementation within 120 days.

### **DISCUSSION**

**Mayor Pro Tem Kendrick** spoke about the proposed program, which would help address the issue of crime taking place at some hotels in the City.

**City Clerk Hawley** advised that speaker cards were submitted by Eric Lund and Renae Arabo, but the speakers are no longer present in the audience.

**Mayor Wells** mentioned that **Renae Arabo** had to leave the meeting, and requested that he report she is in favor of the recommendation to implement the program.

**Mayor Pro Tem Kendrick** requested that the program include the toughest guidelines possible.

**MOTION BY KENDRICK, SECOND BY McCLELLAN, to DIRECT the City Manager to implement a Crime Free Motel / Hotel Program and to report back on this new programs' implementation within 120 days.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

## **8.**

### **COUNCILMEMBER TONY AMBROSE**

Chamber of Commerce – Government Affairs; MTS (Metropolitan Transit System Board) - Alternate; East County Economic Development Council; METRO Commission/ Wastewater JPA.

#### **8.1 Council Activities Report/Comments**

**REPORT AS STATED.**

## **ACTIVITIES REPORTS OF COUNCILMEMBERS: (Continued)**

### **COUNCILMEMBER STAR BALES**

East County Economic Development Council - Alternate; METRO Commission/Wastewater JPA – Alternate; Indian Gaming Local Community Benefit Committee – Alternate.

#### **9.1 Council Activities Report/Comments**

**REPORT AS STATED.**

### **10.**

#### **COUNCILMEMBER BOB McCLELLAN**

MTS (Metropolitan Transit System Board); Harry Griffen Park Joint Steering Committee; Heartland Communications JPA – Alternate.

#### **10.1 Council Activities Report/Comments**

**Councilmember McClellan** indicated his report was as stated, but with the modification that the MTS Executive Board cancelled their scheduled meeting.

### **11. JOINT COUNCILMEMBER REPORTS**

(Discussion on Item 11.1 occurred after Item 9.1)

#### **11.1 STATUS REPORT REGARDING VETERAN'S MEMORIAL AND REQUEST FOR CITY ASSISTANCE IN ESTABLISHING A 501 (C) (Report: Councilmembers Ambrose and Bales)**

**RECOMMENDATION:** That the City Council agree to have the City lend technical/legal assistance in the creation of a 501 (c) for the Veteran's Memorial effort.

#### **DISCUSSION**

**Councilmember Ambrose** gave a status report on the Veteran's Memorial, indicating a preliminary concept has been developed. He spoke about a suggestion to host a contest for artists, with a prize for the winner.

**MOTION BY AMBROSE, SECOND BY McCLELLAN, to AGREE to have the City lend technical/legal assistance in the creation of a 501 (c) for the Veteran's Memorial effort.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

**12. GENERAL INFORMATION ITEMS FOR DISCUSSION: None**

**13. ORDINANCES: FIRST READING**

**13.1 MORATORIUM ON APPROVAL OF ANY NEW HOOKAH AND ELECTRONIC/VAPOR SUBSTANCE INHALATION SHOPS AND LOUNGES (Report: City Attorney)**

**RECOMMENDATION:** That the **City Council** adopt an urgency ordinance to establish a moratorium on the approval of any new hookah and electronic/vapor substance inhalation shops and lounges (also called hookah bars, e-vap lounges or bars, or vaping lounges), until staff has the opportunity to conduct a study to determine what land use regulations might be necessary to address any possible adverse impacts that these businesses might have on other properties, and the public, in the City.

- Make a MOTION to Adopt the Urgency Ordinance
- Discussion
- Vote
- If approved, the Mayor requests the City Clerk to recite the title.

**DISCUSSION**

**City Attorney Foley** stated the **City Council** had expressed interest to regulate the growth of hookah and electronic/vapor substance inhalation shops in the City. He advised that if the Urgency Ordinance is adopted, it would be in effect for a minimum of 45 days, and during that time it could come back to **Council** to request an extension or a study.

**Claudia Llamas** submitted a card in support but did not wish to speak.

**Lorenzo Higley** offered to provide technical support to the City Attorney, and spoke in support of the proposed moratorium. He submitted a handout for **Council**.

In response to the question from Councilmember Ambrose, **Mr. Higley** indicated that liquid nicotine is extremely lethal and gave some information on the issue.

**City Clerk Hawley** indicated speaker cards for **Helen Riffel** and **Katherine Webb** were submitted, but they were no longer present in the audience.

**Mayor Pro Tem Kendrick** spoke in support of the moratorium.

No one else came forward to speak.

**ITEM 13.1 (Continued)**

**MOTION BY KENDRICK, SECOND BY MCCLELLAN, to ADOPT Urgency Ordinance No. 5008 to establish a moratorium on the approval of any new hookah and electronic/vapor substance inhalation shops and lounges (also called hookah bars, e-vap lounges or bars, or vaping lounges), until staff has the opportunity to conduct a study to determine what land use regulations might be necessary to address any possible adverse impacts that these businesses might have on other properties, and the public, in the City.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

The **City Clerk** recites the title of the ordinance for a first reading.

AN INTERIM ORDINANCE ADOPTED AS AN URGENCY MEASURE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 TO ESTABLISH A MORATORIUM ON THE APPROVAL OF ANY NEW HOOKAH AND ELECTRONIC/VAPOR SUBSTANCE INHALATION SHOPS AND LOUNGES IN THE CITY OF EL CAJON

**14. ORDINANCES: SECOND READING AND ADOPTION - None**

**15. CLOSED SESSIONS**

**RECOMMENDATION: That the City Council/Redevelopment Agency adjourn to Closed Session as follows:**

**15.1 CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION –**  
pursuant to paragraph (1) of subdivision (d) of Government Code Section 54956.9:

Name of Case: Murillo v. City of El Cajon et al.  
San Diego Superior Court  
Case Number 37-2013-00030258-CU-WM-CTL

## **CLOSED SESSIONS: (Continued)**

### **15.2 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

– Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Government Code Section 54956.9:

Number of potential cases: 1

Facts and Circumstances Known to Potential Plaintiffs: The City of El Cajon is a participating agency in the City of San Diego Metropolitan Wastewater System (the “Metro System”) along with a number of other agencies, including Padre Dam Municipal Water District. In 2010, Padre Dam performed a review of its billings as a participating agency in the Metro System and discovered that it had been overcharged by the City of San Diego since fiscal year ending June 30, 1998, which necessarily means that El Cajon and the other participating agencies were likely undercharged during that time. By a joint letter dated February 5, 2013, Padre Dam and the City of San Diego have presented their recommendation for resolving the overbillings by the City of San Diego, the overpayments by Padre Dam, and their contentions that the City of El Cajon along with all other participating agencies should contribute toward a resolution of Padre Dam’s claims. The participating agencies have responded with an offer of compromise. A revised counter-offer has been presented to the participating agencies.

### **15.3 PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Title: City Attorney

**MOTION BY McCLELLAN, SECOND BY KENDRICK, to Adjourn to Closed Session at 6:32 p.m.**

**MOTION CARRIES BY UNANIMOUS VOTE.**

### **16. RECONVENE TO OPEN SESSION AT 6:54 p.m.**

**City Attorney Foley** reports the following actions:

**15.1** Direction was given to the City’s attorneys.

**15.2** Direction was given to the City’s Legal Counsel.

**15.3** Council conducted a performance evaluation for the City Attorney.



**Adjournment:** Mayor Wells adjourned the Regular Joint Meeting of the City Council/ Redevelopment Agency held this 13th day of May 2014, at 6:55 p.m. to Tuesday, May 27, 2014, at 3:00 p.m.

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**BELINDA A. HAWLEY, CMC**  
**City Clerk/Secretary**