

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

September 3, 1981
3:00 P.M.

Council Chambers
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

Present: Mayor McClellan, Councilmembers Duncan, Mullen

Absent: Mayor Pro Tem Trevino, Councilmembers Deuser, Goodman,
Urdu

INVOCATION

The Invocation was given by Pastor Jim Abington, Bannockburn Baptist Church.

PROCLAMATION

Mayor McClellan read a proclamation setting aside September 9, 1981 as United Way Day. Mr. Lonnie Davis, Chairman, United Way Drive, accepted the proclamation with his thanks and appreciation.

RECESS

Mayor McClellan recessed the Council Meeting at 3:05 p.m. because there was not a quorum present. The Council Meeting was resumed at 3:20 p.m. when Councilmembers Deuser, Urdu and Goodman entered the Council Chamber.

USEPA GRANT AMENDMENT

Councilmember Dueser moved that the Council adopt a resolution approving the USEPA Grant Amendment Special Condition #1 for the Onion Creek Wastewater Plant and Interceptor concerning protecting prime agricultural land and future interceptor connections. The motion, seconded by Councilmember Duncan, carried by the following vote:

Ayes: Councilmembers Duncan, Mullen, Urdy, Mayor McClellan,
Councilmember Deuser

Noes: None

Absent: Mayor Pro Tem Trevino

Not in Council Chamber when roll was called: Councilmember Goodman

Mr. Bill Bulloch passed out a map showing the area prior to the vote and discussed the area.

LEGAL COUNSEL FOR PROPOSAL 7

Motion

Councilmember Goodman moved that the Council adopt a resolution expanding the duties of Don Butler, our legal counsel for PURPA, to include representation of the City of Austin regarding Proposal 7 before the Public Utilities Commission, should that become necessary. The motion was seconded by Councilmember Duncan.

MR. MERLE LANG addressed Council as follows: "I'd like to recommend that no money be spent outside the City staff to support what is essentially a political argument, which Proposition 7 is. I resent having to pay for it when in effect it will be doing me in. Mr. Goodman knows very well how I feel about Proposition 7, which is my right that cannot be denied to me and he chose my non-support of Proposition 7 not to listen to a very valid argument I had with the City Council and the City Electric Department on my personal matter. I would like for the rest of the Council to be advised that Proposition 7 is, I believe, in the process of being on its way to the Courts in a test of its constitutionality, and to spend money on outside services until that's determined would be wrong."

Councilmember Duncan said he thinks the City has a right to defend its rate structure and Don Butler has great expertise in rate structure and he thinks the City needs to defend its public utility's rights to set rates within our jurisdiction. Mr. Lang said he has a clipping from the American Statesman describing Proposal 7 as elimination of declining block rates. "This should be well understood by the citizens of Austin that that does not have anything to do with Proposition 7. It in effect is turning the rates over and the general public is not aware because the news media cannot get the story right. That is not what is taking place and there is a question of constitutionality of what you are trying to do...."

Mayor McClellan said she feels Proposal 7 is unduly discriminatory and it will have long legal battles. Councilmember Mullen asked if the motion is passed today, where the City stands budgetwise. Mayor McClellan asked for a report on expenses for the PURPA proposal and any relating to Proposal 7. Discussion followed concerning the budget.

Roll Call on Motion

Ayes: Councilmembers Goodman, Urdy, Deuser, Duncan
 Noes: Councilmember Mullen, Mayor McClellan
 Absent: Mayor Pro Tem Trevino

OPERATING BUDGET AMENDMENT

Mayor McClellan brought up the following ordinance for its first reading:

AN ORDINANCE AMENDING THE 1980-81 OPERATING BUDGET BY APPROPRIATING FUNDS FROM THE GENERAL FUND ENDING BALANCE, THE HOSPITAL FUND ENDING BALANCE, AND THE UTILITY FUND ENDING BALANCE AND TRANSFERRING FUNDS TO VARIOUS CITY DEPARTMENTS; AND DECLARING AN EMERGENCY.

The ordinance was read the first time, and Councilmember Mullen moved that it be passed to its second reading. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Mullen, Urdy, Mayor McClellan, Councilmember Duncan
 Noes: Councilmember Deuser
 Absent: Mayor Pro Tem Trevino
 Not in Council Chamber when roll was called: Councilmember Goodman

The Mayor announced that the ordinance had been passed through first reading only.

From the General Fund Ending Balance:

Medical Assistance Program	\$ 1,605,869
Public Works	100,000
City Manager	40,375
Municipal Court	11,316

From the Hospital Fund Ending Balance:

Brackenridge	\$ 1,955,119
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From the Utility Fund Ending Balance:

Electric	\$58,469,912
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Prior to the vote, Mr. Tom Muehlenbeck, Acting City Manager, addressed questions Councilmember Mullen asked regarding the amendment and asked Ms. Lee Thomson, Budget Director, to give the Council information. Ms. Thomson said one of the questions concerned interest earned from investment of General Operating funds. "We are estimating this year \$314,000.00. That compares to actual collections the year before of \$664,290 and actual collections the year before of \$1,042,098. I think this revenue fell short primarily because there was less money available to invest, not because of incorrectly projecting the interest rate. One of the larger sources of money that we invest is funds that are transferred from the Electric Utility to the General Fund and last year we made that transfer at the end of the year. We will make that transfer this year in the next few weeks and I think the revenue reflects the transfer later in the year."

Councilmember Mullen asked if the \$40,375 has been paid to former City Manager Dan Davidson. Ms. Thomson answered the total amount including the unused sick and vacation and severance and regular pay for the last two weeks has been paid. Mr. Deuser said he thought Council should re-examine the policy on paying out sick leave and unexpended comp time for executives in the system. Councilmember Mullen said this should be for all City employees, not just executives.

NO ACTION TAKEN ON ORDINANCE

Council agreed to hold the following ordinance they had for consideration until it can be reviewed with all fees during budget discussions:

Consider amending Ordinance No. 800925-JJ Part 1, setting a schedule of fees for Water and Wastewater Department Engineering review and construction inspection of subdivision water and wastewater construction within the service area of the City of Austin's water and wastewater system.

RESCHEDULING OF ZONING PUBLIC HEARING

Councilmember Mullen moved that the Council adopt a resolution rescheduling Zoning Public Hearings for the month of September to October 8, 1981 at 4:00 p.m. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Deuser, Duncan, Mullen, Urdy, Mayor McClellan

Noes: None

Absent: Mayor Pro Tem Trevino

Not in Council Chamber when roll was called: Councilmember Goodman

VOTING PROCEDURES

Mayor McClellan stated, "For informational purposes and just to make sure everyone is clear about how roll call votes are taken and recorded, and I checked with Mr. DeLaRosa on this, but I wanted to be sure everyone understands. If you are here in the Council Chamber your vote will be recorded. Even if you are in the back room for a few minutes, you are still hearing what is going on. So we are construing that as being able to vote. But if you are not here in the Council Chamber and that means not in the back room either, and you arrive late, I believe it is then inappropriate to then cast a vote and Mr. DeLaRosa concurs with that. So you need to be in the Council Chambers to be voting, or in the back room. I just wanted to tell you all that is the way we are operating and so, if you ask the Clerk to do otherwise, it is putting her in a difficult position. I want to be sure everyone is on the same wave length with that."

Councilmember Deuser asked about the time limit on voting. Mr. DeLaRosa said, "I would think it would have to be done in a timely fashion... a few minutes after the vote is taken and recorded." Mayor McClellan said she objects if the voting has been done this way within the past few weeks and will object if it is recorded that way.

RECESS

Council recessed its meeting at 3:50 p.m. and resumed its recessed meeting at 4:20 p.m. At that point Mayor Pro Tem Trevino entered the Council Chamber.

SALE OF FOOD AND BEER AT AUDITORIUM SHORES

Councilmember Mullen moved that the Council approve the request of Mr. Mike Kleinman for permission to sell beer and food at Auditorium Shores, Saturday, October 17, 1981 from 12:00 a.m. until 2:00 a.m. and Sunday, October 18, 1981 from 12:00 noon to 12:00 midnight; also Friday, October 16, 1981, with a \$500.00 deposit and \$50.00 charge per day. The motion, seconded by Councilmember Duncan, carried by the following vote:

Ayes: Councilmembers Deuser, Duncan, Mullen, Urdy, Mayor McClellan, Mayor Pro Tem Trevino

Noes: None

Not in Council Chamber when roll was called: Councilmember Goodman

Prior to the vote, the fee was discussed. Councilmember Mullen asked if a rule can be set that the fee will be \$500 for an organization whose track record has been good for four years re care of the grounds.

CPAC GOALS

DR. C. WILLIAM BODE, JR. appeared before Council to discuss CPAC - Goals - Evolution vs. Revolution. He distributed a report to Council. (CLERK DID NOT RECEIVE A COPY) After references to his written report, he asked when citizens will be allowed to participate without having to take on the system.

PHARMACY ISSUES

MR. WILLIE KOCUREK appeared before Council to discuss pharmacy issues. He spoke against one central dispensing pharmacy. He said there is dignity to a person being able to go to their own pharmacy.

AMENDMENT TO UTILITY SERVICE DISCUSSED

MR. MICHAEL L. SCHOENFIELD appeared before Council to discuss an amendment to utility service area to include land (approximately 81.77 acres) adjacent to Pecan Meadows Subdivision. He passed out a map. (CITY CLERK DID NOT RECEIVE A COPY) He said there is a drafting error and they should be in the service area.

Mr. Bulloch said he would like to check the map.

Motion

Councilmember Mullen moved that the Council approve unanimously to bring this item back to Council in two weeks. The motion, seconded by Councilmember Deuser, carried by a unanimous vote.

FUND RAISER DANCE

Mayor Pro Tem Trevino moved that the Council approve the request of MS. JUDITH W. BRAY for the sale of beer and wine at ARC on September 12, 1981, for a fund raiser dance to benefit ARC gymnastics. The motion, seconded by Councilmember Duncan, carried by the following vote:

Ayes: Councilmembers Mullen, Urdy, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan

Noes: None

Not in Council Chamber when roll was called: Councilmember Goodman

AUSTIN COMMUNITY GARDENS

MR. KENNETH MILLER appeared before Council to request, as Chairman of Austin Community Gardens, funding of Austin Community Gardens through the Human Services Review Team Grant to the City of Austin.

PARADE PERMIT

Councilmember Mullen moved that the Council approve the request for a Parade Permit from MR. RICHARD G. MOORE for University Hills Homeowner Association, from 9:30 a.m. to 10:00 p.m., Monday, September 7, 1981 beginning at corner of 183 and Langston, direct route on Langston to Jordan Park. The motion, seconded by Councilmember Urdy, carried by the following vote:

Ayes: Councilmembers Mullen, Urdy, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan

Noes: None

Not in Council Chamber when roll was called: Councilmember Goodman

NORTHWEST SERTOMA CLUB

Councilmember Mullen moved that the Council approve the request of MR. KEN PRINGLE, Art Fair Secretary, representing Northwest Sertoma Club of Austin, requesting permission to place portable non-lighted 4 by 8 foot signs, curbside at the following locations:

1. Riverside Drive and South First on the northwest corner
2. 1151 block of West 1st on same side as the Humane Society
3. 404 East Anderson Lane in front of Tuftwick Carpet
4. 3500 block of Far West Boulevard

The motion, seconded by Councilmember Deuser, carried by the following vote:

Ayes: Councilmember Urdy, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Mullen

Noes: None

Not in Council Chamber when roll was called: Councilmember Goodman

DEFERRED PAYMENT LOAN

Council had before it a resolution to consider a directive to the ARA relating to the Bernabe Sabana payment loan.

Mr. Carlos Herrera said he was back before the Council, as directed at the September 2 meeting, with information on the discretionary fund that ARA has. "I want to inform you that ARA has a balance of \$8,331.00 in that fund. I also want to inform you that fund represents the income that is derived from rent totalling \$28,362 in income generated as a result of work that is performed for HUD under the substantial rehabilitation program. That total is \$6,708.00. The total income annually for that fund is \$35,070. Out of

that fund they have obligations totalling \$23,697, leaving a balance of \$11,373 discretionary. As of July 31 they had \$8,331.00. Combining that information with recommendations we have made, again, if the City Council wishes to suggest to the ARA board that they could combine or consider all of the rehabilitation work, there are funds available for that purpose."

Discussion followed.

Mayor Pro Tem Trevino said, "I don't know how much authority we have, Mr. City Attorney, to utilize that \$8,300 we know they had in the kitty as of July 31 of this year." Mr. Albert DeLaRosa answered, "I don't think we have much authority. I think what the Council needs to do is inform ARA...." Mayor Pro Tem Trevino said he hoped "we can do something not just inform." Mr. DeLaRosa said "this is not money controlled by the City of Austin. This is not CDBG (Community Development Block Grant) funds. This is money that is internal to ARA. I think Council would be telling ARA that it is their problem and they must resolve it." Mayor Pro Tem Trevino stated, "I want to make it in as strong terms as possible, Mr. City Attorney, that though we don't have any authority or jurisdiction, I still want them to get the message very loud and clear."

Mr. Herrera told Council, "We will be glad to draft something to come up with that language to inform ARA as to the intent Council has to inform them to use any available resources they have to repair this house and bring it back acceptable to the Sabana's."

Motion

Mayor Pro Tem Trevino moved that the Council adopt a resolution instructing staff to use strongest possible legal terms to convey to ARA to correct the problems themselves. Councilmember Duncan seconded the motion.

Mayor Pro Tem Trevino explained, "We have identified \$8,300 that are non CDBG monies that they could use. Therefore that doesn't put us in a position that we establish a precedent about having to use good money after bad. And that way we will not offend HUD either."

Roll Call on Motion

Ayes: Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers
Deuser, Duncan, Goodman, Mullen, Urdy

Noes: None

PROPERTY TAX RATE INCREASE

Council had before them for consideration six items concerning the proposed property tax rate. Mr. Mulcahy, Assistant City Attorney, discussed the calculated rates and Mayor McClellan and Mayor Pro Tem Trevino expressed their dislike of the publishing of notices. The following motions were made:

Motion - Failed

Councilmember Mullen moved that the Council propose a 9.5% property tax increase. The motion, seconded by Mayor McClellan, failed to carry by the following vote:

Ayes: Councilmember Mullen, Mayor McClellan
Noes: Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan,
Goodman, Urdy

The Mayor asked that whatever proposed property tax rate increase is voted that Council vote unanimous.

Motion

Mayor Pro Tem Trevino moved that the Council propose an 18% property tax increase. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Deuser, Duncan, Goodman, Urdy, Mayor
McClellan, Mayor Pro Tem Trevino
Noes: Councilmember Mullen

Councilmembers expressed opinions that the tax rate would probably have to be raised but they would work to reduce the 18% increase.

Motion

Councilmember Goodman moved that the Council approve the wording of notices to be published on the proposed property tax increase. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Duncan, Goodman, Urdy, Mayor McClellan,
Mayor Pro Tem Trevino, Councilmember Deuser
Noes: None
Abstain: Councilmember Mullen

Motion

Councilmember Duncan, moved that the Council set a public hearing on the proposed property tax rate increase for September 21, 1981 at 6:00 p.m. The motion, seconded by Councilmember Deuser, carried by the following vote:

Ayes: Councilmembers Goodman, Mullen, Urdy, Mayor McClellan,
Councilmembers Deuser, Duncan
Noes: None
Not in Council Chamber when roll was called: Mayor Pro Tem Trevino

Motion

Councilmember Urdy moved that the Council set the following public hearings for September 21, 1981 at 5:00 p.m.:

Public hearing for General Revenue Sharing requirements on the proposed 1981-82 budget.

Public hearing on increases of municipal utility rates (water, sewer and garbage collection), transit fares and various other fee increases.

Public hearing on proposed 1981-1986 Capital Improvements Program.

The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Mullen, Urdy, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman

Noes: None

PROPOSED LAKE AUSTIN REGULATIONS

Councilmember Deuser moved that the Council continue the public hearing and passage of ordinance on Proposed Lake Austin Regulations to October 15, 1981 at 5:00 p.m. and to extend the Lake Austin Shoreline Moratorium to October 16, 1981. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmember Urdy, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman, Mullen

Noes: None

Motion to Reconsider

Councilmember Goodman moved that the Council reconsider the motion. Council approved unanimously.

Motion

Councilmember Deuser moved that the Council continue the public hearing and passage of ordinance on Proposed Lake Austin Regulations to October 15, 1981 at 6:30 p.m. and to extend the Lake Austin Shoreline Moratorium to October 16, 1981. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Goodman, Mullen, Urdy, Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan

Noes: None

BRADFORD-AUSTIN HOTEL

Councilmember Goodman moved that the Council direct the Historic Landmark Commission to consider the matter of the Bradford-Austin Hotel as soon as legally possible. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Mayor McClellan, Mayor Pro Tem Trevino, Councilmembers Deuser, Duncan, Goodman, Mullen, Urdy
Noes: None

ZONING PUBLIC HEARING LIMITS

Motion

Councilmember Mullen moved that the Council ratify criteria for time limits on zoning public hearings as set out during Council work session. The motion was seconded by Councilmember Goodman. Council will have the ability to rescind at any time.

Council discussed the motion. Councilmember Deuser was in disagreement about rules set forth during the work session.

Motion for Question

Councilmember Mullen moved that the Council call for the question. The motion, seconded by Mayor Pro Tem Trevino, carried by the following vote:

Ayes: Mayor Pro Tem Trevino, Councilmembers Duncan, Mullen, Urdy, Mayor McClellan
Noes: Councilmembers Deuser, Goodman

Roll Call on Motion

Ayes: Councilmembers Duncan, Goodman, Mullen, Urdy, Mayor McClellan, Mayor Pro Tem Trevino
Noes: Councilmember Deuser

(During their work session, Council agreed to limit zoning public hearings to one hour. Time allowed for each speaker to depend on number of speakers present. Five minutes for applicant presentation and five minutes for applicant summation; and five minutes for opposition presentation and five minutes for their summation, to be included in the hour time. If there are many more speakers than there is time, it will be a judgment call as to whether or not more time than an hour will be allowed.)

ZONINGS SET FOR PUBLIC HEARING

The City Manager reported the following applications have been referred to the Planning Commission for recommendation and have been set for public hearing before City Council on October 8, 1981 at 4:00 p.m.:

ZERA MACKIE By Jerry Reed C14-81-133	3603 Lawton	From "A" Residence 1st Height and Area To "O" Office 1st Height and Area
CITY OF AUSTIN By Planning Department C14-81-134	6401 Manor Road 3417 Northeast Drive 3404-3406 Hycreek Drive	From "LR" Local Retail 1st Height and Area To "AA" Residence 1st Height and Area
JAMES E. BYRN By Bob Hardy C14-81-136	4015 Manchaca Road	From "O" Office 1st Height and Area To "LR" Local Retail 1st Height and Area
ASHLEY J. AND PAT WELCH By Dan Burgess C14-81-137	1108 Pearl Street 900 West 22½ Street	From "BB" Residence 1st Height and Area To "B" Residence 2nd Height and Area
MARDELL E. WARD By Joe Lucas C14-81-138	11028 Jollyville Road	From Interim "AA" Residence 1st Height and Area To "O" Office 1st Height and Area
WESTLAKE CROSSROADS, INC. By Joe Lucas C14r-81-139	4211, 4301 Westlake High Drive 1304 Camp Craft Road	From Interim "AA" Residence 1st Height and Area To "O" Office 1st Height and Area
THOMAS T. SMITH, TRUSTEE C14-81-140	10101-10123 Middle Fiskville Road	From "A" Residence 1st Height and Area To "O" Office 1st Height and Area
ROY S. MILLER By Steve Foster C14-81-141	1201 West 49th Street 4808-4810 Grover Avenue	From "A" Residence 1st Height and Area To "O" Office 1st Height and Area
NBC ASSOCIATES By R. Gill and Associates C14r-81-142	2108 East Ben White Boulevard; also bounded by Woodward Street	From "C" Commercial 1st Height and Area To "C" Commercial 2nd Height and Area

RUDOLPH VANZURA By Cunningham- Graves, Inc. C14-81-143	3108, 3114, 3200 and 3210 Manchaca Road	From Interim "A" Residence and "A" Residence, 1st Height and Area To "B" Residence 1st Height and Area
MYERS K. PARSONS C14-81-144	2720-2802 Lyons Road	From "A" Residence and "C" Commercial, 1st Height and Area To "MH" Mobile Home 1st Height and Area
BRIGIDO MARTINEZ By Margaret Nunez C14-81-145	1909 East 3rd Street	From "A" Residence 1st Height and Area To "C" Commercial 1st Height and Area
EDGAR S. DAUGHERTY By Donald Dumas C14-81-146	11314 Jollyville Road	From Interim "AA" Residence 1st Height and Area To "C" Commercial 1st Height and Area
JIM & BERTHA E. NATIONS By William Scudder C14-81-147	1906 West 35th Street	From "A" Residence 1st Height and Area To "O-1" Office 1st Height and Area
GREGORY A. KOZMETSKY TRUMAN BREED By TAO/ONO, Jim Person C14-81-148	2901-2903 San Gabriel	From "BB" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
H. C. CARTER By Edgar James C14-81-149	3816 Spicewood Springs Drive 7901-7906 Baywood Drive	From "BB" Residence 1st Height and Area To "O" Office 1st Height and Area
RALPH E. AND LOIS H. HAYS By Jimmy Carmichael C14r-81-152	2324-2436 Research Boulevard 7700-7828 East US 290	From Interim "A" Residence 1st Height and Area To "DL" Light Industrial 1st Height and Area
R. A. JOHNSON COMPANY By John Taylor C14r-81-053	1715 South Loop 360	From Interim "AA" Residence 1st Height and Area To "O" Office and "LR" Local Retail, 1st Height and Area

DR. FRED A. PURCELL
WALTER VACKAR AND
NATER INVESTMENTS
LEON SCHMIDT
By Kinney and
Stone, Inc.
C14r-81-154

9422 Research Boulevard
9215-9229 Jollyville
Road

From Interim "A" Residence
and "GR" General Retail
1st Height and Area
To "O" Office
2nd Height and Area

RICHARD DAVIS
C14-81-098

4334 Duval Road
4412 Switch Willo

From Interim "AA" Residence
1st Height and Area
To "A-2" Condominium
1st Height and Area (as
amended)

JIMMY YOUNGQUIST
By David Armbrust
C14r-81-010

13711-13733 U.S. 183

From Interim "AA" Residence
1st Height and Area
To "O" Office
1st Height and Area

HAZEL GOODNIGHT
By Di Ann Johnston
C14-81-120

4802 South Congress
Avenue

From "DL" Light Industrial
1st Height and Area
To "C" Commercial
1st Height and Area

MICHAEL NORWICH
By William D.
Brown
C14-72-131

8711 Burnet Road

Amendment to Restrictive
Covenant

AGEND ITEM NOT CONSIDERED

Council took no action on the following resolution:


Consider amending current agreement for provision of pharmacy
services to Medical Assistance Program clients for the fiscal
year beginning October 1, 1981.

ADJOURNMENT

Council adjourned its meeting at 6:15 p.m.

ATTEST:

APPROVED:


Mayor


City Clerk