

CALL TO ORDER

Mayor Gutierrez called the regular meeting of the Loveland City Council to order on the above date at 6:30 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Roll was called and the following responded: Gutierrez, Taylor, Farley, Klassen, Shaffer, Trenary, McKean, McEwen and Fogle.

**PROCEDURAL
INFORMATION**

Mayor Gutierrez made the following procedural announcement: Anyone in the audience will be given time to speak to any item on the Consent Agenda. Please ask for that item to be removed from the Consent Agenda. Items pulled will be heard at the beginning of the Regular Agenda. You will be given an opportunity to speak to the item before the Council acts upon it. Public hearings remaining on the Consent Agenda are considered to have been opened and closed, with the information furnished in connection with these items considered as the only evidence presented. Adoption of the items remaining on the Consent Agenda is considered as adoption of the staff recommendation for those items. Anyone making a comment during any portion of tonight's meeting should come forward to a microphone and identify yourself before being recognized by the Mayor. Please do not interrupt other speakers. Side conversations should be moved outside the Council Chambers. Please limit your comments to no more than three minutes.

CONSENT AGENDA

Mayor Gutierrez asked if anyone in the audience, Council or staff wished to speak on any of the items or public hearings listed on the Consent Agenda. Councilor McEwen moved to approve the Consent Agenda. The motion was seconded by Councilor Shaffer and a roll call vote was taken with all councilors present voting in favor thereof.

1. CITY CLERK

**Approval of Council Minutes
Motion**

Administrative Action: A motion approving Council minutes from January 10, 2012 study session, January 17, 2012 regular meeting and January 24, 2012 study session was approved.

2. CITY MANAGER

Board & Commission Appointments

Motion

Administrative Action: City Council approved the following appointments:
Human Services Commission: Melody Bettenhausen was appointed for a partial term effective until June 30, 2012.
Police Citizen Advisory Commission: Erin Frisch, Pat Kistler and John Tindall were reappointed each for three year terms effective until December 31, 2014. Tony Adams was appointed as an alternate member for a one year term effective until December 31, 2012.

3. DEVELOPMENT SERVICES

**Supplemental Appropriation – State Historical Grant (Pulliam Building)
Ordinance #5662**

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR A STATE HISTORICAL FUND GRANT TO FUND A STRUCTURAL ASSESSMENT OF THE PULLIAM BUILDING" was approved and ordered published on second reading.

4. FINANCE

Supplemental Appropriation – Costs incurred with Agilent property purchase

Ordinance #5663

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO APPROPRIATE A PORTION OF THE PROCEEDS FROM THE AGILENT PROPERTY SALE" was approved and ordered published on second reading.

5. ECONOMIC DEVELOPMENT

Supplemental Appropriation of Developer Funds (Rialto Bridge Project)

Ordinance #5664

Administrative Action: "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET TO APPROPRIATE THE DEVELOPER'S CONTRIBUTION TO THE RIALTO BRIDGE CONSTRUCTION PROJECT" was approved and ordered published on second reading.

6. CITY MANAGER

Municipal Code Amendment – Change to Senior Advisory Board Membership

1st Rdg Ord. & P.H.

Legislative Action: A public hearing was held and "AN ORDINANCE AMENDING SECTION 2.60.240 OF THE LOVELAND MUNICIPAL CODE PERTAINING TO THE SENIOR ADVISORY BOARD" was approved and ordered published on first reading.

7. DEVELOPMENT SERVICES

Street Name exception in Mariana Butte 25th Subdivision

Resolution #R-7-2012

Legislative Action: Resolution #R-7-2012 regarding street name exception to Section 12.08.100 of the Loveland Municipal Code within the Mariana Butte PUD legally described as Lot 1 Block 12 Mariana Butte Seventh Subdivision and a portion of Tract A Mariana Butte PUD First Subdivision, all situated in the southwest quarter of Section 16, Township 5 North, Range 69 West of the 6th P.M. to the City of Loveland, County of Larimer, State of Colorado was approved.

RESOLUTION NO. #R-7-2012

A RESOLUTION REGARDING STREET NAME EXCEPTION TO SECTION 12.08.100 OF THE LOVELAND MUNICIPAL CODE WITHIN THE MARIANA BUTTE PUD LEGALLY DESCRIBED AS LOT 1 BLOCK 12 MARIANA BUTTE SEVENTH SUBDIVISION AND A PORTION OF TRACT A MARIANA BUTTE PUD FIRST SUBDIVISION, ALL SITUATE IN THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE 6TH P.M., TO THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO.

WHEREAS, Lot 1 Block 12 Mariana Butte Seventh Subdivision and a portion of Tract A Mariana Butte PUD First Subdivision, were zoned as part of the Mariana Butte PUD; and

WHEREAS, C.R.S. §31-15-702 authorizes the governing body of a municipality to name and rename any streets within its boundaries; and

WHEREAS, Chapter 12.08 of the Loveland Municipal Code regulates the naming and numbering of streets within the city limits of Loveland, Colorado; and

WHEREAS, Section 12.08.045 of the Loveland Municipal Code sets forth the guidelines for names of streets within the City of Loveland and provides as follows:

12.08.045 Guidelines for names.

The names for streets shall be selected in such a manner so that no repetition shall appear in any of the names given to different streets. The names for streets used in any area shall not be unduly similar to those names used in other areas. The length of the names for streets shall be kept to a reasonable minimum. Anytime that a street makes a directional change of approximately ninety degrees, the street name shall change. A directional change of approximately ninety degrees shall mean a horizontal curve where a reduction in the design speed is required (i.e. a sharp turn vs. a sweeping curve). Street

names from each category shall be readily recognizable to the general public. Street names may not reflect any corporate or brand names. Existing street names shall continue across intersections and round-abouts.; and

WHEREAS, the streets located in Lot 1 Block 12 Mariana Butte Seventh Subdivision and a portion of Tract A Mariana Butte PUD First Subdivision are further governed by Section 12.08.100 of the Loveland Municipal Code, which states as follows:

12.08.100 South of Eisenhower Blvd., north of First Street and west of Railroad Avenue. In the area south of Eisenhower Boulevard and north of First Street and west of Railroad Avenue all streets shall have the names of pioneers of the Loveland area, Loveland Mayors, native Colorado animals, prominent geographical features of the area, golf terms, Native American tribe names and Native American chief names.; and

WHEREAS, a request has been made to City staff to all allow for an exception to the street naming conventions as set forth in Chapter 12.08 and, due to a desire in using the name Zander; and

WHEREAS, Section 12.08.200 of the Loveland Municipal Code allows the City Council to grant exceptions to the provisions of Chapter 12.08 with respect to naming of streets; and

WHEREAS, the City Council desires to allow for an exception to the City's standard street naming conventions and allow for a street located in Lot 1 Block 12 Mariana Butte Seventh Subdivision and a portion of Tract A Mariana Butte PUD First Subdivision to be named Zander Court.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF LOVELAND, COLORADO THAT:

Section 1. Pursuant to Loveland Municipal Code section 12.08.200, the City Council determines that it is in the best interest of the citizens of the city of Loveland to allow for an exception to the street naming conventions set forth in Loveland Municipal Code section 12.08.100 with respect to those portions of Lot 1 Block 12 Mariana Butte Seventh Subdivision and a portion of Tract A Mariana Butte PUD First Subdivision which lie within the Mariana Butte PUD, and does hereby approve the following street name for said development.

1. Zander Court.

Section 2. The City Clerk is directed to record this Resolution with the Larimer County Clerk and Recorder.

Section 3. The effective date of this Resolution shall be the date of its recording with the Larimer County Clerk and Recorder.

Adopted this 7th day of February, 2012

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

8. DEVELOPMENT SERVICES

Fee Waivers for Loveland Habitat for Humanity

Resolution #R-8-2012

Administrative Action: Resolution #R-8-2012 waiving certain development fees for construction of eight residences by Loveland Habitat for Humanity was approved.

RESOLUTION #R-8-2012

A RESOLUTION WAIVING CERTAIN DEVELOPMENT FEES FOR CONSTRUCTION OF EIGHT RESIDENCES BY LOVELAND HABITAT FOR HUMANITY

WHEREAS, Loveland Habitat for Humanity ("Habitat") has requested that the City waive certain City-imposed development fees, including capital expansion fees, for eight residences that it will construct in 2012 in Loveland, Colorado, including 6 residences located in Willow Park 2nd Subdivision at 574, 598, 599, 623, 647, and 671 East 27th Street, and 2 residences located in Wards 3rd Subdivision at 1229 2nd Street Southeast and 1232 Raven Place, (collectively, the "Residences"); and

WHEREAS, Loveland Municipal Code Section 16.38.075 provides that the City Council may by resolution grant an exemption from all or part of the capital expansion fees or any other fees imposed upon new development upon a finding, set forth in a development agreement, that the project for which the fees would otherwise be imposed will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts; and

WHEREAS, Habitat is willing and able to enter into one or more development agreements with the City pursuant to which Habitat will agree to construct the Residences for the benefit of low and moderate income Loveland households.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the City Council finds that the waiver of the development fees, capital expansion fees, and enterprise fees which results from the adoption of this Resolution will provide not-for-profit facilities open to Loveland area residents that might otherwise be provided by the City at taxpayer expense, that such facilities relieve the pressures of growth on City-provided facilities, and that such facilities do not create growth or growth impacts.

Section 2. That capital expansion fees in a total amount not to exceed \$95,876.88 payable for the construction of the Residences are hereby waived for the purpose described above.

Section 3. That as provided in Loveland Municipal Code Section 16.38.075, when a capital related fee is waived as set forth in Section 2, there shall be no reimbursement to the capital expansion fund by the general fund or any other fund.

Section 4. That development fees, including, but not limited to, all building permit fees, plan review fees, and any and all other fees, due and payable for construction of the Residences between permit application and final certificate of occupancy (but not including capital expansion fees, enterprise fees such as system impact fees, raw water fees, tap fees or other enterprise fees) in a total amount not to exceed \$30,640.56 are hereby waived for the purpose described above.

Section 5. That enterprise fees, including system impact fees, raw water fees, tap fees, or any other enterprise fees, payable for construction of the Residences in a total amount not to exceed \$65,000.00 are hereby waived for the purpose described above.

Section 6. That the amount of the waived enterprise fees, in an amount not to exceed \$65,000.00, as set forth in Section 5 hereof, shall be paid by the City into the City's enterprise funds from the general fund of the City, and that such funds have been appropriated in the City's 2012 budget.

Section 7. That the waiver of the fees described in Sections 2, 4, and 5 hereof shall be conditioned upon the City, through its City Manager, and Habitat entering into one or more development agreements, which development agreements shall provide for the waiver of said fees in exchange for the construction of the Residences, as well as such other conditions as the City Manager shall deem necessary.

Section 8. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 7th day of February, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

9. PUBLIC WORKS

Supplemental Appropriation- Fleet Replacement of a roadway mowing tractor

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR THE FLEET REPLACEMENT OF A ROADWAY MOWING TRACTOR" was approved and ordered published on second reading.

10. WATER & POWER

Amend Rate Schedule TS (Transmission Voltage Service)

Resolution #R-9-2012

Administrative Action: Resolution #R-9-2012 adopting Rate Schedule TS, Transmission Voltage Service, and superseding all prior resolutions establishing former Rate Schedule IP, Interruptible 115 kV Transmission Voltage Service was approved.

RESOLUTION #R-9-2012

A RESOLUTION ADOPTING RATE SCHEDULE TS, TRANSMISSION VOLTAGE SERVICE, AND SUPERSEDING ALL PRIOR RESOLUTIONS ESTABLISHING FORMER RATE SCHEDULE IP, INTERRUPTIBLE 115 kV TRANSMISSION VOLTAGE SERVICE

WHEREAS, the Loveland Municipal Charter and Code provide that all utility rates, charges, and fees of the City shall be set by resolution upon two readings of the City Council; and

WHEREAS, the City Council last set such rates, charges, and fees for the City's Water and Power Department in Resolution #R-64-2011; and

WHEREAS, City staff has presented to the City Council a revised "Schedule IP, Interruptible 115 kV Transmission Voltage Service" ("Rate Schedule IP"), now renamed "Schedule TS, Transmission Voltage Service," a copy of which is attached hereto as Exhibit A and incorporated herein by reference ("Rate Schedule TS").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That Rate Schedule TS, attached hereto as Exhibit A, is hereby adopted.

Section 2. That this Resolution, as of the effective date of this Resolution and as provided in Section 3 below, shall supersede in all respects all previous resolutions of the City Council which established former Rate Schedule IP.

Section 3. That this Resolution shall be effective as of the date of its adoption on second reading as provided in the Loveland Municipal Code.

ADOPTED this 7th day of February, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk

Exhibit A is available at the City Clerk's Office

11. CULTURAL SERVICES

Supplemental Appropriation for donation to Rialto Theater Center

1st Rdg Ord & P.H.

Administrative Action: A public hearing was held and "AN ORDINANCE ENACTING A SUPPLEMENTAL BUDGET AND APPROPRIATION TO THE 2012 CITY OF LOVELAND BUDGET FOR EQUIPMENT AT THE RIALTO THEATER CENTER" was approved and ordered published on first reading.

12. FIRE & RESCUE

Loveland Fire Rescue Authority Bylaws

Resolution #R-10-2012

Administrative Action: Resolution #R-10-2012 approving the Loveland Fire Rescue Authority Bylaws was approved.

RESOLUTION #R-10-2012

A RESOLUTION APPROVING THE LOVELAND FIRE RESCUE AUTHORITY BYLAWS

WHEREAS, On August 19, 2011, pursuant to that Intergovernmental Agreement for the Establishment and Operation of the Loveland Fire Rescue Authority as a Separate Governmental Entity (The "Formation Agreement") the City of Loveland ("City") and the Loveland Rural Fire Protection District ("District") created the Loveland Fire Rescue Authority ("Fire Authority") and set a beginning operational date of January 1, 2012 at 12:01 a.m.; and

WHEREAS, pursuant to the Section 1.5 of Article I of the Formation Agreement the Fire Authority Board ("Board") is required to adopt bylaws and/or any necessary policies governing the responsibilities and duties of the Board consistent with the terms of the Formation Agreement; and

WHEREAS, such section further requires that the Board submit such bylaws, policies and any amendments to the City and the District for approval before going into effect; and

WHEREAS, on January 12, 2012, the Board unanimously adopted Resolution #R-002, approving the "Loveland Fire Rescue Authority Bylaws," attached hereto as Exhibit A and incorporated by reference ("Bylaws"), and now seeks approval by the City and the District; and

WHEREAS, the City Council of the City of Loveland finds that it is in the best interests of the City to approve the Bylaws; and NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO AS FOLLOWS:

Section 1. That the Bylaws are hereby approved.

Section 2. That the City Manager is hereby authorized to execute the Bylaws on behalf of the City, subject to such modifications in form or substance as the City Manager, in consultation with the City Attorney, may deem necessary to effectuate the purposes of this Resolution or to protect the interest of the City.

Section 3. That this Resolution shall go into effect as of the date and time of its adoption.

ADOPTED this 7th day of February, 2012.
Cecil A. Gutierrez, Mayor
Attest: Teresa G. Andrews, City Clerk
Exhibit A is available at the City Clerk's Office

13. ECONOMIC DEVELOPMENT

Fee Deferral Agreement with Advanced Manufacturing for Bottles, Inc.

Resolution #R-11-2012

Administrative Action: Resolution #R-11-2012 approving Advanced Manufacturing for Bottles, Inc. fee deferral agreement was approved.

RESOLUTION #R-11-2012

A RESOLUTION APPROVING ADVANCED MANUFACTURING FOR BOTTLES, INC. FEE DEFERRAL AGREEMENT

WHEREAS, Advanced Manufacturing for Bottles, Inc., a Colorado corporation ("AMT") designs and produces conveyance systems for bottles, cans, caps and cartons in its existing facility located at 3920 Patton Avenue, in Loveland (the "AMT Facility"); and

WHEREAS, AMT plans to construct a new building adjacent to the AMT Facility at a budgeted cost of approximately \$800,000.00 (the "New Building") on certain real property known as 3950 Patton Avenue (the "Property"); and

WHEREAS, AMT is required to pay the City certain capital expansion fees and other fees (the "Fees") and construction materials use taxes ("City Use Taxes") as a precondition to receiving from the City a building permit and/or final certificate of occupancy for the New Building; and

WHEREAS, AMT has asked the City for certain economic incentives to aid it in constructing the New Building on the Property to support and expand AMT's design and production business operated in the AMT Facility; and

WHEREAS, City staff and AMT have negotiated certain economic incentives as set forth in the Advanced Manufacturing Technology for Bottles Fee Deferral Agreement attached hereto as Exhibit A and incorporated herein by this reference (the "Agreement"); and

WHEREAS, construction of the New Building, retention of AMT's business operations in Loveland, and expansion of AMT's business will provide significant economic benefits to the citizens of Loveland, primarily in the form of jobs and increased property tax revenues to the City; and

WHEREAS, deferral of the Fees may be authorized by a resolution of Council under City Code Section 16.38.071 and credit for or deferral of the City Use Taxes is authorized under City Code Section 3.16.590, if the resolution makes a determination and finding that such deferral will serve a public purpose, which purpose may include providing the public with significant economic benefits, and provided the resolution approves a written agreement with the person owing the fees containing such terms and conditions as the City Council determines are in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND:

Section 1. That pursuant to City Code Sections 16.38.071 and 3.16.590, the City Council hereby finds that: (a) the deferral of the Fees and City Use Taxes and possible partial waiver of City Use Taxes pursuant to the Agreement will serve the public purpose of providing the public with significant economic benefits including, without limitation, new jobs and increased property taxes; and (b) the terms and conditions of the Agreement are in the best interests of the City.

Section 2. That the Agreement is hereby approved.

Section 3. That the City Manager is authorized, following consultation with the City Attorney, to modify the Agreement in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of the City.

Section 4. That the City Manager and the City Clerk are hereby authorized and directed to execute the Agreement on behalf of the City of Loveland.

Section 5. That the City Clerk shall record the Agreement in the real property records of the Larimer County Clerk and Recorder after execution by all parties.

Section 6. That this Resolution shall be effective as of the date of its adoption.

Approved this 7th day of February, 2012.

Cecil A. Gutierrez, Mayor

Attest: Teresa G. Andrews, City Clerk
Exhibit A is available at the City Clerk's Office

END OF CONSENT AGENDA

CITY CLERK READ TITLES OF ORDINANCES ON THE CONSENT AGENDA.

PRESENTATION Miss Loveland Valentine 2012, Mary Askham gave a presentation to Council.

CITY COUNCIL

a) Citizens' Reports None

b) Business from Council

Farley Councilor Farley attended a meeting with developers from Artspace Projects Inc.

McEwen Councilor McEwen commented on members from the Youth Advisory Commission's participation in the Loveland Trivia Bowl held Saturday, February 4, 2012. Proceeds benefited a local organization "Look Both Ways". She also attended the 50th anniversary of the Sweetheart Ball for the Foote and Fiddle Square Dance Club.

Shaffer Councilor Shaffer reported on the North Front Range Metropolitan District meeting that "all is well". She was unable to attend the Loveland Housing Authority meeting where they discussed the project between Housing Authority and Artspace for management of the proposed project located on property adjacent to the Feed & Grain Building.

Gutierrez Councilor Gutierrez attended "A Night in Hollywood", a fundraiser for the Loveland High School band program and a breakfast award ceremony for the Boys and Girls Club. The Rialto Theater Center is opening soon. Former Transportation Advisory Board member Jimmy Johnson passed away. The Mayor encouraged everyone to come out to the various events Friday night in downtown Loveland.

c) City Manager Report City Manager Cahill mentioned the improvements to the Council Chambers including new microphones.

d) City Attorney Report None

PROCEDURAL INFORMATION

Anyone who wishes to address the Council on any item on this part of the agenda may do so when the Mayor calls for public comment. All public hearings are conducted in accordance with Council Policy. When Council is considering adoption of an ordinance on first reading, Loveland's Charter only requires that a majority of the Council present vote in favor of the ordinance for it to be adopted on first reading. However, when an ordinance is being considered on second or final reading, at least five of the nine members of Council must vote in favor of the ordinance for it to become law.

REGULAR AGENDA

CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA

14. DEVELOPMENT SERVICES

Maintenance of HOA Open Lands within Garden Gate Subdivision Appeal

Quasi-judicial Action: The Mayor opened the public hearing at 6:58 p.m. Current Planning Manager Bob Paulsen introduced this item to Council. Also present were City

Planner Troy Bliss, Director of Development Services Greg George and the appellant, Mr. Cromwell. A public hearing to consider a quasi-judicial action to reverse or uphold a decision made by the Planning Commission denying an appeal of an administrative decision by the Director. The Director's decision concerned the maintenance of HOA open space lands within the Garden Gate Subdivision. The appellant, Mr. Cromwell, is a resident of the Garden Gate neighborhood. Mr. Cromwell contends that the Planning Commission erred in its decision, failing to fully consider relevant facts and failing to specify the conditions associated with their decision. As a de novo hearing, the presentation of new and additional evidence is permitted and City Council may reverse, uphold, or modify the decision of the Planning Commission.

Bruce Cromwell, 267 Wrybill Avenue, spoke in support of the appeal and distributed copies of photographs that were also included in the Council packet. Robert Valland, 224 Sand Grouse Drive, Secretary of the HOA for Garden Gate, spoke in opposition to the appeal. Brandon Brake with Mill Brothers Landscaping distributed a maintenance schedule for Garden Gate Landscape. Richard Ferner, 2020 Sandhill Crane Circle spoke in support of the appeal. The Mayor closed the hearing at 8:12 p.m. Council discussion ensued. Councilor McEwen made a motion to uphold the Planning Commission decision on November 28, 2011 to deny the appeal of the administrative determination made by the Director of Development Services, and, therefore, uphold the Director's decision concerning the maintenance of HOA open space areas within the Garden Gate First Subdivision, subject to the Planning Commission's condition that noxious weeds (within the open space tracts) be controlled by the Garden Gate Homeowners Association Councilor Klassen seconded the motion and a roll call vote was taken with all Councilors present voting in favor thereof. Staff will come back with written findings and conclusions setting forth Council's decision for consideration and adoption within 30 days of this appeal hearing.

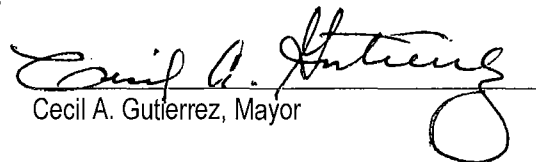
ADJOURNMENT

Having no further business to come before Council, the February 7, 2012 Regular Meeting was adjourned at 9:12 p.m.

Respectfully Submitted,


Teresa G. Andrews, City Clerk




Cecil A. Gutierrez, Mayor