

CITY COUNCIL

Kent Harding
Buford McComas
Tad Miller
Mary Pavil
Ruth Richardson, Mayor
Stanley Rodgers
Wally Wallace



CITY MANAGER

Kan Weaver

ACTING CITY CLERK

Laurie Adams

City of Bethel
Regular Council Meeting Minutes
December 12, 1995

I CALL TO ORDER

The meeting was convened at 7:30 p.m. by Mayor Richardson in the Log Cabin, Bethel, Alaska.

II ROLL CALL

Present Harding, McComas, Miller, Pavil, Richardson, Rodgers, Wallace

Absent

III PEOPLE TO BE HEARD

Carl Russell, Bethel, stated that he had received the letter from the City requiring him to move his house, which is encroaching on City property. Mr. Russell stated that he would appreciate it if the City would allow him to leave the house in the current location until after winter, as he was having a very difficult time finding another place to move it right now.

Tom Warner, Bethel, stated he had three points of concern to discuss. Mr. Warner began by stating he had seen the report in the newspaper concerning the motion by Council member Miller to collect back rent from the Bethel Lions Club and give the money to the K-300 race committee. Mr. Warner informed the Council the only way they could spend any City money was to go through the budget process, which would require an ordinance amending the budget, a public hearing and a vote. Mr. Warner pointed out that the Council could not just make a motion to allocate money to organizations around town, and recommended that people familiarize themselves with the way the City is supposed to do its financial business. Mr. Warner continued on to state he noticed a long list of Executive Session items. Mr. Warner then stated that by State law there were only certain items which could be discussed in Executive Session and pointed to several items on the agenda under Executive Session that he believed were not Executive Session topics. Mr. Warner continued, stating the reason for having those items discussed out of closed session was to ensure that the public was kept informed. Mr. Warner then discussed the encroachment dispute between the City

and Carl Russell. Mr. Warner referred to the Tomaganuk house stating that there had been no cooperation from Ms. Tomaganuk to move the house and that the house was supposed to have been moved before construction of the Cultural Center. Mr. Warner stated it was time for the Council to take some action in the Tomaganuk case, if they were going to take action toward Mr. Russell. Mr. Warner then referred to several years ago when Harry Faulkner, Sr. attempted to take over a City lot on Hanger Lake Road and was immediately evicted. Mr. Warner stressed the need for the Council to take action in all cases to avoid accusations of discrimination and unequal application of the law.

IV. APPROVAL OF MINUTES

motion M/M by Miller, 2nd by Pavil to approve the minutes of the November 28, 1995, regular meeting as presented. Voice vote. Motion carried unanimously.

Council member McComas requested the City Clerk look into whether Mr. O'Brien actually stated that he heard a council member say that the Council had nothing to do with the budget. Mr. McComas did not recall that statement ever being made by a council member.

V. APPROVAL OF AGENDA

motion M/M by Miller, 2nd by Wallace to amend the agenda by removing Executive Session Item F: Discussion Item--City Attorney and Item G: Discussion Item--Public Safety Organizations from Executive Session and adding them as New Business Item B and Item C, in recognition of Mr. Warner's comments. Voice vote. Motion carried unanimously.

motion M/M by Pavil to amend the agenda by adding Executive Session Item H: Personnel--Senior Center.

motion M/M by Miller, 2nd by McComas to approve the agenda as amended. Voice vote. Motion carried unanimously.

VI. MAYOR'S REPORT

Mayor Richardson informed Council that the new Korean Consulate General would be visiting Bethel next week, and Mayor Richardson invited the Council to attend the meeting with the Consulate General which was scheduled for 1:30 pm, December 19, 1995, at the City Offices.

Mayor Richardson stated she was pleased to see the additional interest in the City Clerk position. Mayor Richardson then stated she wished to schedule interviews with the three local candidates. The Council agreed to perform the interviews as a Council since the City Clerk works for every council member. The Council then discussed scheduling of the interviews and agreed to decide after further discussion in Executive Session.

Mayor Richardson stated there were many applicants for appointment to the Public Safety Commission, and while the appointments needed to be made, she wished to postpone making the appointments until the Council was able to review the applications and offer their input. Mayor Richardson requested copies of the applications be distributed to the Council as soon as possible. Mayor Richardson then stated there were also two applicants for the one open seat on Transportation Commission, and that both were cab drivers or owners. Mayor Richardson stated the Transportation Commission already had one or two cab drivers, and she wished to continue to advertise for someone outside that occupation. Discussion followed on whether the reason for seating someone outside that occupation was for conflict of interest purposes. Mayor Richardson then stated she had appointed Glen Goefert to the Youth Services Committee at the previous meeting. Mayor Richardson continued by stating she had two applicants for the Finance Committee and wished to appoint Larry Elam, due to his previous Finance Director experience with the City of Bethel.

motion M/M by Miller, 2nd by McComas to confirm Larry Elam's appointment to the Finance Committee. Voice vote. Motion carried unanimously.

Mayor Richardson stated she didn't mind that her request to change the Council meeting night did not pass, but she would still like to change the meeting time from 7:30 pm to 6:30 pm. Mayor Richardson then stated she would like to get a general idea from the Council about how they feel on proposed ordinance items before time and money is wasted on something that is not going to pass anyway. Mayor Richardson then asked for the Council's feelings on her request to discuss possible ordinance changes before being introduced.

Council member Wallace stated that it was a good idea and would save time, since after discussion amongst the Council members it would be pretty easy to tell whether it would pass or not.

Council member Miller stated that he felt differently and that allowing an ordinance to go through the Public Hearing process allowed time for people to change their minds after hearing the public and getting more information. Mr. Miller also stated that it was hard to predict how Council would vote with different combinations of members if not all seven were present at a particular meeting.

Council member Harding stated he believed it was hard for the Council to make up their individual minds on an ordinance before hearing input from the community. Mr. Harding then stated he was please to see the number of community members who spoke out on previous ordinances and felt that the input helped the Council make up their minds since they do represent the citizens of Bethel.

Council member Pavil stated she agreed with Mr. Harding, that input from the community is very important especially when there is a change, although she wished there was a way to eliminate the cost associated with going through the process.

Council member Rodgers stated he felt that ordinances proposals should be discussed in the Council meeting and that it would still allow community members to contact the Council members with their input.

Council member McComas stated that a Public Hearing could be held before introduction of an ordinance. City Manager Weaver pointed out that copies of the draft ordinance would still have to be made available to the public for them to testify, but recommended that in some cases a work session could be held to get the public input.

Mayor Richardson asked the Council to keep her request in mind.

Mayor Richardson directed her inquiry as to the status of installing a streetlight at Laroux Lane to the City Manager. City Manager Weaver stated that the State was responsible for installing the streetlight and that they were going to do it. Mayor Richardson asked that Mr. Weaver keep pushing them to get it done.

VII. MANAGER'S REPORT

City Manager Weaver referred Council to his written report and requested direction on the following items:

Police Department Management Study

City Manager Weaver stated that money had been set aside in this years budget for a Police audit study or analysis. Mr. Weaver informed Council that he had been in contact with Jim Fendrick of AML/JIA who provides this service through Public Safety Consultants at Pacific Northwest. Mr. Weaver recommended that the City proceed with the study and provide the Public Safety Commission with all the information pertaining to the study. Mr. Weaver informed Council that the study was schedule to begin just after the first of the new year.

Council member Wallace questioned who would lead them once they arrive. Mr. Weaver stated that they will have a list of contact names and they would work under the direction of the City Manager, City Council and the guidelines of the scope of work.

motion M/M by Miller, 2nd by Pavil to make the Police Department Management Study the first issue for the Public Safety Commission, once the appointments are made, so they have the opportunity to define the scope of work of the audit and advise the Council on other issues that the Council may need to know about.

Discussion followed on the scheduling of the audit to allow for the Public Safety Commission to review the scope of work and what benefits having them review the scope may provide.

Council member Harding stated he did not believe that any specifications had been drawn up as to what the City expected to gain from this audit. Mr. Harding stated that the areas

the City would like covered in the audit should be identified so the City gets the information they want.

Council member Pavil inquired as to when Mayor Richardson expected the Public Safety Commission would be in place. Ms. Pavil emphasized her desire to have the Public Safety Commission involved from the very start for the reasons Mr. Harding pointed out. Mayor Richardson stated that if the Council would allow her to make the appointments at Thursday's special meeting, the Council could ratify them at the next Council meeting and the Commission could get started right away.

vote Poll vote. Motion carried, 4-yes, 3-no (McComas, Richardson, Rodgers).

City Manager Weaver recommended appointing a subcommittee to include Council members and a potential member of the Public Safety Commission to review and add to the Police Department Management Study Scope of Work.

motion M/M by McComas, 2nd by Rodgers to approve the Police Department Management Study. Poll vote. Motion carried, 6-yes, 1-no (Miller).

Informational Items/Discussion/Questions on City Manager's Report

City Manager Weaver directed Council to the letter from Sheri Neth requesting the establishment of an alcohol beverage delivery site.

Mayor Richardson stated that she recalled seeing all the information submitted with Ms. Neth's letter in years previous at a Council meeting.

Council member McComas relayed to the Council that this had been tried several Councils ago and the study that was done showed it would cost the City money to set up an alcohol beverage delivery site. Mr. McComas recommended that if the Council wanted to do this, the City could contract with several beverage stores in Anchorage, buyers would place their order at the City, and tax would be collected at that time.

Mayor Richardson requested that the City Manager look at the figures and do an in-house study of how much it would cost to maintain a delivery site. Mayor Richardson recommended contacting the airlines to see how much alcohol is shipped in, figure out a tax schedule for the alcohol, and decide who would run it and where.

motion M/M by Miller, 2nd by Wallace to sent this as the first agenda item to the Public Safety Commission. Voice vote. Motion carried unanimously.

City Manager Weaver requested that Executive Item: Legal Strategy--Wulvik v. City of Bethel be added to the agenda for the Thursday, December 14, 1995, special meeting.

motion M/M by Pavil, 2nd by Miller to add Executive Item: Legal Strategy--Wulvik v. City of Bethel be added to the agenda for the Thursday, December 14, 1995, special meeting. Voice vote. Motion carried unanimously.

Council broke at 8:30 pm for a short recess. At 8:40 pm, Mayor Richardson called the meeting back to order.

VIII REPORTS OF STANDING COMMITTEES

Scheduled dates for upcoming Committee/Commission meetings were announced.

Mayor Richardson informed Council that the minutes for the Transportation Commission and Public Works Committee were in the packet.

Council member Harding stated that the Youth Services Committee held a work session last week. Mr. Harding stated that the Youth Services Committee was seeking Council approval of their proposal to use the old Library facility for the use of an indoor recreational facility for the youth of the community. Mr. Harding then stated that several members on the committee were knowledgeable with grant writing and had volunteered their time to seek out grants for funding. Mr. Harding then spoke of seeking support of the community and additional issues that would need to be addressed, such as moving the building to another site, and improving the structure of the building. City Manager Weaver stated that there were some concerns that would need to be addressed about the heating system.

Council member Wallace questioned the status of City water truck. Council member Miller stated the Public Works Committee would be discussing that and other issues at tomorrow night's meeting.

Council member McComas stated that the Planning Commission was scheduled to meet at the end of the week. Mayor Richardson inquired as to whether the Planning Commission was involved in reviewing the City Planner applications and recommended that they make arrangements to do so.

Council member Pavil stated that the Senior Services Committee and the elders were scheduled to meet with the Korean Consulate General the following week to have a gift exchange, enjoy some native dancing, and have lunch.

Council member Rodgers inquired as to the status of the Port becoming a department. City Manager Weaver responded that he was waiting for a report from the Port Director before proceeding.

Discussion followed on whether there was anything prohibiting a citizen of the community from serving on more than one committee/commission. Council member McComas stated he felt it was better not have citizens serving on any more than one committee/commission to allow for more involvement from the community. Mayor Richardson explained that she had received applications from several people who are currently filling seats, but have also

submitted letters or applications seeking current vacancies on other committees and commissions.

Discussion continued on the purpose of having a particular dated set by the Police Department for cab inspections, even though the driver may have another 3 months before the 6 month inspection is required. Mayor Richardson stated that setting it up that way made it much easier to see who has had their inspection done and who has not. Council member Miller then questioned why the monthly permit fees are still charged if the car is out of service, whether for maintenance or the driver is out of town. Mayor Richardson responded that the Police Department should not be charging in that cases, since the monthly permit fee is in lieu of sales tax.

IX. OLD BUSINESS

Item A: Public Hearing--Ordinance #95-36: An Ordinance Amending Chapter 9.24 of the Bethel Municipal Code Entitled Weapons, Section 9.24.010, Entitled Discharge--Aiming at Person--Carrying Concealed

Mayor Richardson opened the Public Hearing. There being no one who wished to speak, Mayor Richardson closed the Public Hearing.

motion M/M by Miller, 2nd by Wallace to adopt Ordinance #95-36 as presented. Poll vote. Motion carried, 7-yes, 0-no.

Item B: Resolution #95-53: A Resolution Requesting Bethel Bank Stabilization Project Funding Assistance from the Alaska State Legislature

motion M/M by McComas, 2nd by Miller, to ratify Resolution #95-53 as presented. Voice vote. Motion carried unanimously.

Council member Miller stated that the City must do something about its money problems relating to this project, so that it may continue. Mr. Miller recommended that Resolution #95-53 also be sent to the federal representatives of Alaska, because it would not be long before the City of Bethel will have to request funding from the Federal Government for some of the bigger projects. Mayor Richardson reaffirmed Mr. Miller's comments by stating that it was very hard for Bethel's state legislators to get money for this project since legislators in other areas who are facing the same situations are all fighting for the same dollars.

Item C: Discussion Item--Lions Club Lease/Donation to K300 (McComas)

Council member McComas stated that he had be informed that the K-300 does bring additional money into Bethel and all up the river. Mr. McComas stated that the motion to collect back rent from the Lions Club and then turn around and earmark that money to the K-300 was most likely an illegal vote. Mr. McComas informed the Council that the City does not have the money to be giving money away to organizations that are already funded. Mr. McComas went on to point out the City needs money for streetlights, matching funds for the

Bethel Bank Stabilization Project, renovation of the P.A.T.C. building, and other things. Mr. McComas stated that if the City is in a better financial situation to do so next year and the City has the funding for all these other things, then maybe the City would look at that.

motion M/M McComas, 2nd by Pavil to not donate money to the K-300 Race Committee, but if the City could provide police work or animal control that would be excellent.

Council member Miller opposed the motion stating that the money the City would contribute to the K-300 would be used for a city fireworks display, which would provide an added attraction to the festivities. Mr. Miller added that donating this money to the K-300 would be a signal to the community that while the City "squirms" in economic pain the City intends to support sober activities.

Council member Pavil stated that the way the motion was handled was illegal and that the donation should have gone through the budget process. Ms. Pavil then stated that although she supported the K-300, she did not believe that it brought any money into Bethel because all the mushers were put up and fed at houses of local residents.

Council member Harding stated that he was not sure that the donation figure was correct and understood that the Bethel Lions Club was finding evidence of payments made and not recorded. Mr. Harding then stated that the motion was made in good faith, whether called illegal or improper, and that he would like to see the money collected as required by City ordinance, deposited appropriately and the back rent matter resolve between the City Manager and the Lions Club.

Mayor Richardson stated she too supported not donating to the K-300 and that she was appalled when she read about Mayor Richardson reminded Council that they must handle City funds in accordance with what city government requires.

vote Voice vote on the motion. Motion carried, 6-yes, 1-no (Miller).

Item D: Discussion Item--Request Extension of the Bethel Bank Stabilization Project--William Hately

Mayor Richardson invited Mr. Hately to speak to this issue. Mr. Hately stated that he had met with the Corps of Engineers and City Manager Weaver several weeks ago and had since written a letter requesting that his portion of the bank added to the Stabilization Project to prevent any erosion from occurring, like it had elsewhere on the river bank.

Discussion followed on whether Mr. Hately had previously been given the opportunity to have the Corps consider extending the seawall to include his property. Mr. Hately stated that was the case, but that he had not understood the letter he received from the consulting firm regarding what was to become of the property. Mr. Hately stated that he had informed the consultant that because the property was a native allotment the paperwork would have to go through Dorothy Rodgers at O.N.C. Mr. Hately reported that neither the City or the

consultant filled out the necessary paperwork. Mr. Hately stated that while he was waiting for the paperwork to be completed by the City and the consultant, they informed him that they were not going to include his portion in the project, because they did not get a response back from Mr. Hately.

Mayor Richardson inquired of the City Manager as to how much it would cost to add Mr. Hately's 300 feet to the project. City Manager Weaver stated that the 300 feet would increase the cost of the project by \$500,000, \$125,000 of which would be required for Bethel's local match. Mr. Weaver added that if the project was extended to include Mr. Hately's portion, the resolution the Council passed would need to be amended to reflect the additional funds needed.

Council member McComas recalled the erosion that occurred on Bluff Road and stated that the very same thing could take place at Mr. Hately's property, if the project was not extended.

Council member Wallace stated that in listening to previous discussions on this issue with the Corps, it was said that if the seawall did not go all the way down, the City could lose the Fuel Dock.

Discussion followed on exactly where Mr. Hately's property was in relation to where the project is scheduled to end.

Port Director, Stuart Greydanus recommended that the Council talk with the Contractor, Jay Sullivan of Land Field Services, to hear his views on the situation, since the Council had heard from Mr. Hately.

Council member Harding stated it was his understanding from the Corps that Mr. Hately's portion was originally part of the contract and if Council approve including his portion back into the project that it would not be any delays. Mr. Harding informed the Council that the Corps would need to know of their decision by January, so that it would not delay the Contractor.

Discussion followed on whether Mr. Hately was ready and willing to do what all the other riverfront land owners had done. Mr. Hately reported on his concerns and the discussions with the Corps concerning his property. Mr. Hately stated he had wanted to work with the Corps and that his portion was in the original plan, but the Corps used the money for the emergency work this summer.

Mayor Richardson stated she understood that the portion had been removed when Mr. Hately said no to the project, not when the emergency repairs were needed this summer. Mr. Hately responded, stating he was not interested in his property being involved in the project when he misunderstood that he would not have any access to that property and therefore would not be able to use his dock. Mr. Hately stated that he then found out that that was not the case and the Corps would only need the easement for maintenance.

Mayor Richardson stated her concern with the City having to come up with the local match to included his portion in the project without Mr. Hately giving anything in return like the other land owners did.

motion M/M by Miller, 2nd by McComas to restore to the original seawall design, the construction of riprap along the seawall to the fuel dock.

Discussion followed on whether the City or the Council was in a position to make the decision to include Mr. Hately's portion in the project, if the paperwork was not yet complete and the City did not have the match for the additional funds required.

Motion and second withdrawn.

motion M/M by Miller, 2nd by McComas to place Discussion Item: Request Extension to the Bethel Bank Stabilization Project--William Hately on the agenda for the December 14, 1995, Council work session. Voice vote. Motion carried unanimously.

Mr. Hately informed Council that if they were going to discuss this at another meeting, Dorothy Rodgers could attend as his representative, as he would not be available.

Mayor Richardson requested that Jay Sullivan of Land Field Services be available for a teleconference at the Thursday work session.

X NEW BUSINESS

Item A: Discussion Item--Taxation of Charitable Gaming (McComas)

Council member McComas informed Council of the City's current practice of taxing charitable gaming and lumping that tax in with regular sales tax. Mr. McComas questioned that practice, saying it was like the City was trying to hide the fact that they were taxing charitable gaming because its charity.

motion M/M by McComas to have the taxation of the charitable gaming split out into a gaming tax. No second.

Council member Miller questioned if legally the City can call it a gaming tax because the City does not have the taxation authority to do that.

Council member McComas referred to an attorney opinion received during the last Council, stating that the only way charitable gaming could be taxed on the net proceeds rather than the gross would be if it was a gaming tax.

Mayor Richardson requested the City Clerk check with the City Attorney to see if that was still the opinion.

Council member McComas rescinded his motion.

Council member McComas stated that he was in favor of dropping the tax completely, believing that it was an inappropriate tax, since the charitable organizations could do things for the community the City could not.

Mayor Richardson stated she felt bad that the City taxed these non-profit organizations who use their money in a very charitable way for the community as a whole. Mayor Richardson voiced her concern that the City find a way to ease the pain of charitable organizations.

Council member Pavil informed the Council that before the City began taxing the charitable organizations, many of the organizations made donations to the City, and the City really benefited.

Item B: Discussion Item--City Attorney Contract (McComas)

Council member McComas voiced his concern at the recent trend of running up the tab and then recommending that the City settle. Mr. McComas stated that just as it was said in the last Council that it was important to change auditors periodically, he believed it was also important to change attorneys.

Council member Miller stated that he agreed with Mr. McComas, and suggested that the City at least look into making a change. Mr. Miller then stated that he felt the new City Manager had done an excellent job of handling situations on his level without having to refer them to the City Attorney.

motion M/M by McComas, 2nd by Pavil that the City issue an RPF for attorney services for the City.

Mayor Richardson pointed out that issuing an RPF would in no way break anything in the contract with Hicks, Boyd, Chandler, and Falconer.

Council member Harding suggested the Council perform an evaluation of the City Attorney if they were interested. Council member McComas stated that one had just been done and that it would be wasted time. Mayor Richardson added that she would only have three months on which to base her evaluation.

vote Voice vote. Motion carried, 6-yes, 1-no(Harding).

Item C: Discussion Item--Public Safety Organizations (McComas)

Council member McComas stated that a number of people view some of the people filling positions in the City's public safety organizations as extremely inadequate and question the adequacy of the structure. Mr. McComas mentioned possibly restructuring would help, but that it needs to be dealt with and resolved. Mr. McComas expressed one persons suggestion of

a Public Safety Department, where a Public Safety Director is head of the public safety departments of the City.

Mayor Richardson suggested that this issue be one of the first for the Public Safety Commission to discuss.

City Manager Weaver stated there would be some issues about Public Safety Departments, concerning structure and training that would need to be talked about.

XI COUNCIL MEMBER COMMENTS

Council member Miller wished happy holidays to all his friends, neighbors, and the citizens of Bethel.

Council member Harding stated that he would like for all those recognized by the Police Chief for the recent drug arrests, also be recognized by the Council and wished everyone happy holidays.

Council member Pavil wished everyone a very safe, happy and healthy holiday season.

Council member Rodgers thanked the Police Department for doing their job and wished everyone a merry Christmas.

Council member McComas stated that the recent drug and alcohol arrest were just the tip of the iceberg and is evidence to the citizens of Bethel of what the Police Department can do and should have be doing.

Mayor Richardson stated that the biggest point she heard said about the bootlegger bust was that the Police Department didn't get the big guys, which she responded to by saying that bootlegging is bootlegging and you have to catch some of them some time. Mayor Richardson concluded by wishing everyone a merry Christmas and reminding the community of the tree lighting ceremony on Thursday.

IX EXECUTIVE SESSION

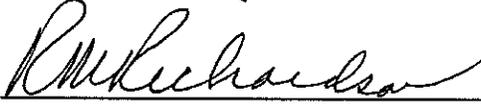
- Item A: Legal Strategy--Rodgers v. City of Bethel
- Item B: Legal Strategy--Nearby v. City of Bethel
- Item C: Legal Strategy--TWC v. City of Bethel
- Item D: Legal Strategy--John Miller v. City of Bethel
- Item E: Discussion Item--City of Bethel v. Southwest Fuel
- Item F: Discussion Item--City Attorney Contract
**Discussed as New Business Item B*
- Item G: Discussion Item--Public Safety Organizations
**Discussed as New Business Item C*
- Item H: Discussion Item--Carl Russell's Encroachment Dispute
- Item I: City Clerk Search

- motion** M/M by Miller, 2nd by Pavil to go into Executive Session for the purpose of discussing Legal Strategy--Rodgers v. City of Bethel, Nerby v. City of Bethel, TWC v. City of Bethel, John Miller v. City of Bethel and discussion items City of Bethel v. Southwest Fuel, Carl Russell's Encroachment Dispute and City Clerk Search. Voice vote. Motion carried unanimously.
- motion** M/M by Wallace, 2nd by Pavil to come out of Executive Session. Voice vote. Motion carried unanimously.
- motion** M/M by Pavil, 2nd by Miller to follow the advise of the City Attorney. Voice vote. Motion carried.
- motion** M/M by Miller, 2nd by Pavil to direct the City Manager to consolidate the management positions at the Senior Center and begin advertising at the first of the year, to include members of the Senior Center Advisory Board in the hiring process, how many and whom to be at the discretion of the City Manager. Voice vote. Motion carried unanimously.

XIII ADJOURNMENT

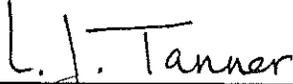
- motion** M/M by Pavil, 2nd by Rodgers to adjourn the meeting at 11:07 p.m. Voice vote. Motion carried unanimously.

PASSED AND APPROVED THIS 9TH DAY OF JANUARY, 1996.



Ruth M. Richardson, Mayor

ATTEST:



L.J. Tanner, City Clerk