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SPECIAL CITY COUNCIL MINUTES  
OCTOBER 20, 1992

**CALL TO ORDER** Mayor Feaster called the special meeting of the City Council for October 20, 1992, to order at 7:30 PM.

**ROLL CALL** Present: Feaster, Jones, Metcalfe, Trantham, Vanasse, Warner, Wintersteen

**APPROVAL/MINUTES** M/M by Vanasse, 2nd by Wintersteen to approve the minutes of the September 22, 1992, regular Council meeting as amended: Page 2, third paragraph, line 5, change the word "directed" to "requested." Voice vote. Motion carried unanimously.

M/M by Wintersteen, 2nd by Jones to approve the minutes of the Special City Council meeting of October 8, 1992, as presented. Voice vote. Motion carried unanimously.

**APPROVAL/AGENDA** M/M by Warner, 2nd by Trantham to amend the agenda by adding under New Business, Item G-- Review and Selection of Lobbyist; Item H-- Executive Session, Deliberation of Bid Process Appeal. Voice vote. Motion carried unanimously.

**MAYOR'S REPORT** Mayor Feaster referred Council to his written report:  
--Recommended that Council approve request from the City Clerk to attend the Alaska Association of Municipal Clerks meeting November 8-10, 1992.

**motion** M/M by Trantham, 2nd by Jones to approve the request to send the City Clerk to AAMC meeting November 8-10. Voice vote. Motion carried unanimously.

--Recommended that council members become more involved in the Alaska Municipal League and suggested attendance at the AML meeting scheduled to begin November 8, in particular the training seminar for newly elected council members. Councilman Metcalfe indicated that he would be interested in attending, if his schedule permitted. For those who are unable to attend, video tapes are available through the AML.

--Regarding the process for selection of a City Manager, Council scheduled a work session for Monday, October 26, 1992, 7:30 PM to review applications submitted for the city manager position. It was decided to select the top three candidates from the pool of applicants using the rating system established by the City's Personnel Office; references are to be checked within 10 days of the 26th and interviews scheduled. Copies of the applications will be distributed to council members in advance of the work session.

**motion**

M/M by Warner, 2nd by Metcalfe to join the Alaska Conference of Mayors. Voice vote. Motion carried unanimously.

#### **Selection of Mayor**

**motion**

M/M by Warner, 2nd by Wintersteen to nominate Mr. Feaster for a second term as Mayor.

**motion**

M/M by Jones, 2nd by Vanasse to close nominations.

By acclamation, Council unanimously confirmed the selection of Mr. Feaster as Mayor for an additional one year term.

#### **Committee/Commission Assignments**

Mayor Feaster made the following council representative assignments to committees/commissions: Finance Committee--Harold Jones; Planning Commission--Jake Metcalfe; Public Safety Committee--Gary Vanasse; Transportation Commission--Dave Trantham. Mayor Feaster stated that he would step down from the Finance Committee so that he could devote more time to the ad hoc Solid Waste Committee.

#### **MANAGER'S REPORT**

City Manager Hohman reviewed his written Manager's report with Council on the following items:

--Advised Council of request from BNC to either repair or remove the snow fence at Tundra Ridge.

--TIPSA litigation; YKHC organization has filed suit against TIPSA for \$800,000 in fees

for services rendered to native members of TIPSA.

--Attorney's opinion letter regarding the swearing of newly elected Council members (A copy of that letter is attached as part of these official minutes).

--Report on surplus property sale which indicated the City made \$41,245.

--Letter from Jim R. McMichael requesting that the City return the passengar van to the PATC program because the van was purchased with state grant funds. City Manager Hohman stated that the City has responded in writing indicating that the van, which had been used by the Teen Center operation and is intended to be returned there, is used with the original purpose of the grant--substance abuse; currently waiting for a response.

--Request from the Bethel Chamber of Commerce that the City Council transfer title of the old city office building to the Chamber.

--Spill Contingency Plan for transportation of fuel which was requested by Ray Dronenberg of DEC.

--September statement from the City Attorney.

**Addendum to City Manager's Report:**

--City Manager Hohman also distributed a report on the meeting of October 19 which was held to discuss the land exchange involving the Charles' native allotments--land located near the sewer lagoon, the landfill and the City shop. (A copy of that report is attached as part of these official minutes).

--Letter of resignation from City Manager Hohman indicating that November 3, 1992, would be his last day of employment as City Manager.

--Letter of interest in the old city office of building from Archie Barnes.

Regarding the requests for the old city office building, it was pointed out that if the Council wishes to dispose of that property in accordance with the disposal ordinance, the bid process must be reopened.

**motion**

M/M by Vanasse, 2nd by Wintersteen to table any action with regard to the old city office building and place it on the agenda for

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October 27, 1992. Voice vote. Motion carried unanimously.

The issue of either removing or repairing the snow fence at Tundra Ridge as requested by BNC was next addressed. Following discussion, it was recommended that because of the cost to repair the fence, it should be removed by the Public Works Department by the deadline of October 31, 1992.

**PEOPLE TO BE HEARD**

Harry Faulkner, Jr. addressed the issue of dredging of the small boat harbor. He stated that for at least the past two years the City has gone out for bid to have the dredging done on a per yard basis at a cost of approximately \$100,000. He further stated that it was his understanding that it has been decided to place the project under the Public Works Department, pointing out that this takes away dollars from the construction industry in Bethel. Mr. Faulkner asked if the City, with its large overhead, can conduct this project better and cheaper than private enterprise. Mr. Faulkner suggested that the City put the project out for bid and let the City bid on it. He further mentioned snow removal in Blueberry subdivision.

Ray Dronenberg advised Council that he had attended a meeting that day with the Public Health Department and the Corps of Engineers to address problems of cleaning up the old hospital site and the old BIA site. The project will involve removal of asbestos, contaminated soil, and underground storage tanks, etc. in order to restore the land as it once was before returning it back to the Bethel Native Corporation. This contamination material must be put somewhere. The law states that this material must be put in 50 gallon drums, double-packed and shipped to Portland, Oregon or another disposal site. The cost would be around \$1,200 a drum; essentially a large amount of money would be leaving the community. Mr. Dronenberg suggested that the City consider using a part of the landfill as a repository for the asbestos which would be paid for by the federal government.

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Robert Himshoot representing the men's basketball league requested reconsideration of the funding for the three adult leagues--men's and women's basketball and co-ed volleyball. Discussion of the gym use agreement for which 50% or \$6,500 is funded by the City was held. It was decided to place an introduction for budget amendment for full funding of the gym use agreement on the agenda for the October 27, 1992 meeting.

Mitzi Watson and two other students, representing the KUC student government, presented a written request for waiver of sales tax for their annual Christmas raffle. It was pointed out that the City Council does not have the authority to waive sales tax and that an amendment to the sales tax ordinance is required.

In response to a question from Councilman Vanasse regarding the passenger van, City Manager Hohman stated that he was waiting for a response to his letter from Mr. McMichael. In addition, he pointed out that under grant regulations, 7 AAC. 78 280(c), the City has some options for retaining the van, one of which was to purchase, based on book value price or approximately \$2,500.

Responding to a question from Councilman Warner regarding the recommendation from the Port Commission not to purchase the Marine Operator's liability, Finance Director, Larry Elam, stated that no action on the insurance had been taken pending a decision from the Council.

**motion**

M/M by Warner, 2nd by Wintersteen to not purchase the Marine Operator's liability insurance. Poll vote. Motion carried unanimously. 7-yes.

Councilman Warner inquired about the FEMA grant with respect to the rock stockpile. Finance Director, Larry Elam, stated that the rock had been purchased. He further stated that the City was eligible for another purchase of rock in the amount of \$62,500 which cannot be obtained until spring when the

barges come into Bethel. The City is obligated under the 1990 grant to maintain 80% of the rip rap stockpile for five years for emergency seawall repairs.

Council broke at 9:00 PM for a short recess. At 9:10 PM, Mayor Feaster called the meeting back to order.

**COUNCIL MEMBER  
COMMENTS**

Councilman Wintersteen commended the Fire Department for the time the staff devoted to informing the public about fire safety and for testing smoke detectors during Fire Prevention Week. In addition, representing the Port Commission, Councilman Wintersteen requested the issue of security at the port be placed on the October 27 agenda.

Councilman Metcalfe announced that there may be a live satellite hookup on Thursday, October 22 from 12:15 to 12:45 with Hillary Clinton addressing people throughout Alaska. Pacifica will serve as host. Questions for Mrs. Clinton can be directed to Ceclia LaCara who will relay them to the organizers of the event in Anchorage.

Councilman Gary Vanasse inquired about the status of the Tidelands Lease. City Manager Hohman referenced the report submitted by the Planning Manager which refers to a meeting held on October 15 attended by Mr. Dave Perez of the Division of Land, several City employees, Councilman Trantham, and Bruce Crow. He further indicated that the Department of Natural Resources had elevated the status of the project. Planning Manager, Jerry White, stated that the issue is on the Planning Commission agenda for Thursday, October 22, and further referred Council to the recommendations outlined in his report. Councilman Trantham reported that at the meeting he had suggested exploring the possibility of a Quit Claim Deed versus a lease; Mr. Perez indicated to Mr. Trantham that he would look into and come back with an answer to that question. Regarding the recommendations in the report, Council indicated it would defer any action pending

recommendation from both the Port and Planning Commissions.

Responding to comments from some townspeople regarding the makeup of the current Council as all white/all male and, therefore, not being representative of women, minorities, and the native population, Councilman Vanasse stated that he wanted to make it very clear to the residents of the community that he would equally represent all constituencies in all matters coming before the Council.

Councilman Warner indicated to the public that his phone number is listed in the telephone book and that he is generally available in the evenings for calls from the people.

Councilman Warner next addressed the issue of the small boat harbor dredging raised earlier by Harry Faulkner, Jr. The transcript of the discussion that transpired among Council and people in the audience is attached.

Councilman Warner next addressed the fuel hauling contract and asked the City Manager if he could bring the Council up to date on the matter. City Manager Hohman stated that he was not certain what the status was on the long-term large contract. The City, however, did issue a short-term contract which was awarded to former council member, Ben Dale. Mr. Dale's low bid was about 11 cents a gallon for hauling the fuel; anticipated about 11,000-12,000 gallons of fuel to be hauled under that contract. The contract was divided into two pieces, in anticipation of receiving the fuel, because the City had let the fuel tanks run low. With the impending cold weather, these tanks needed to be filled. To date, 9,000 gallons have been hauled and an additional 3,000 will be moved under this contract. Deadline for submission of bids on the long-term contract is November 3. In addition, Mr. Warner stated that some people in the community had expressed concern about the quality of the fuel, further indicating that he hoped this fuel was being filtered. Mr. Korhuis and Mr. Hohman assured Council that the fuel was being properly filtered, and

in addition, Mr. Hohman pointed out that the fuel had been tested by a laboratory in Spokane, Washington; it was determined that it was quality fuel and usable.

Councilman Trantham stated that he had requested input from all members of the community through the use of ads on cable television and in the local newspaper. He has received some responses which will be compiled and presented to Council for consideration at later date. Responding to one request, Mr. Trantham recommended that a Council packet be placed on file at the library. This recommendation is agreeable to the College and with the librarian who indicated that the packets can be kept on file for a period of three months. Council agreed to the request.

Councilman Jones announced that Congressman Don Young would be in Bethel October 24-25 to take part in the ribbon cutting ceremony for the new optical office and to participate in several other events.

**REPORTS OF STANDING  
COMMITTEES**

Mayor Feaster reported that the Finance Committee met October 15, and referred Council to the minutes included in the packet.

Councilman Warner reported that the Planning Commission meeting was postponed to October 22, and that the Public Works Committee meeting scheduled for October 20 was not held.

**OLD BUSINESS:**

**Item A: Pacifica  
Lease**

**LEASE WITH PACIFICA INSTITUTE FOR BUS BARN AND  
BOJANGLES**

Mayor Feaster stated that at the Council meeting of September 22, the lease was reviewed and recommendations to amend several items were made. The revised lease was again before Council for further review. Representing Pacifica Institute were, Jenny Carpenter and Jill Kerns. On behalf of Pacifica, Ms. Carpenter, requested three additional changes to the proposed lease:

1. Reinstate the option to renew the lease for two successive periods of 5

years each;

2. Under VII, Maintenance and Repairs, paragraph 2--add a clause that would not require written requests for emergency repairs;

3. A three month deferment on payment of rent for the Bojangles Building in order to allow Pacifica the time to make the necessary repairs; specifically, to repair the electrical wiring and to install a handicap ramp.

With regard to both the wiring and the ramp, Councilmen Metcalfe and Wintersteen stated that the City should not rent a building unless it was brought up to code and recommended that the City repair those items that are considered a hazard before the tenant takes possession. Discussion regarding the issue of safety, the revised maintenance clause and renewal period of the lease followed. It was recommended that Building Maintenance inspect the building for safety hazards and provide a status report at the October 27 meeting. Regarding paragraph VII, Maintenance and Repair, 2nd paragraph, first sentence, it was suggested that the word "major" be inserted before the word "mechanical," however, no clear direction on the wording was provided. Regarding the renewal period of the lease, it was the consensus that the lease could be renewed for one (not two) successive period of 5 years.

**motion**

M/M by Warner, 2nd by Wintersteen that the proposed lease agreement be tabled to the October 27 regular meeting of the City Council pending clarification of responsibility for installing the handicap ramp and the status report on safety issues from Building Maintenance. Voice vote. Motion carried unanimously.

**motion**

M/M by Jones, 2nd by Warner to continue meeting past 10:00 PM. Voice vote. Motion carried unanimously.

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**NEW BUSINESS:**

**Item A: Amend.  
#1 to Ord. #203**

**INTRODUCTION OF AMENDMENT #1 TO ORDINANCE #203  
FY 93 BUDGET--POLICE**

motion

M/M by Warner, 2nd by Jones to introduce Amendment #1 to Ordinance #203, FY 93 Budget--Police, for public hearing to be held November 10, 1992. Voice vote. Motion carried unanimously.

**Item B: Heavy  
Equipment**

**APPEAL OF TRANSACTION REGARDING LEASE OF HEAVY  
EQUIPMENT**

Because of the complexity of the issue being discussed and the possibility that the issue may go into litigation, a transcript of the discussion held was prepared and is attached as part of these official minutes.

**Item C: Report  
On Sewer Lagoon**

**REPORT FROM JORDAN SUHR, JMM ENGINEERS, AND  
STEVE ENG, VSW, ON THE SEWER LAGOON EXPANSION**

Mayor Feaster opened the discussion by stating that it was his hope that Council would receive an analysis by Mr. Suhr and Mr. Eng of the sewer lagoon project. City Manager Hohman made the introductions. For future reference by Council and City Administration, a transcript of the discussion was prepared and is attached as part of these official minutes.

**Item D: Sewer  
Lagoon Project  
Management**

**SEWER LAGOON PROJECT MANAGEMENT: FORCE ACCOUNT;  
EQUIPMENT LEASE; PROJECT PERSONNEL NEEDS**

Councilman Warner pointed out that no decision had been made as to whether the project was to be done force account. A brief explanation of how a force account is handled was presented by Larry Elam. In addition, Mr. Hohman referred Council to the letter of October 12, 1992, which details some of the requirements for a VSW force account that must be completed before the work begins. Mr. Suhr also discussed the estimated project value of the Hitachi EX 700 and the D8 equipment would be to the project. He further stated that Mr. Eng had implicitly agreed that the process he used to obtain the project value was bona fide, so that VSW might be willing to pay some portion of those project value costs. In

response to a question from Councilman Trantham regarding contracting a portion of the work when the project is force account, Mr. Suhr stated that it was not advisable as the wages paid to contractors would be Davis Bacon versus City wages to City employees. A brief discussion regarding labor costs of the project by force account as compared to contracting out was held.

Regarding the bid for a 25 ton and a 35 ton rock truck, City Manager Hohman reported that the two pieces of equipment were at Napaskiak on an airport construction project that was not yet completed; therefore, the trucks are not available for the project. Regarding what equipment the City is advertising for, Jerry Korthuis, stated that he had asked for the availability of a D9 Cat, D8 Cats, scrappers, rock trucks, regular dump trucks, light stands, loaders. Also need one fuel truck. Council was not being asked to make a decision on equipment at this time. It was further pointed out that the deadline for the purchase option on the Hitachi EX 700 was extended until October 22nd. When asked if there was a difference in terms of what can be charged back to the project if the Hitachi was leased or purchased, Mr. Eng stated that the City could lease or purchase, but the advantage was that the purchase could be justified and the equipment would be available for maintenance after the project is completed. Mr. Eng also stated that if it's cheaper to lease VSW would probably go for the lease, but "it works out either way in the wash, so you might as well own it."

In response to the cost if the City exercised the option to purchase, Larry Elam, provided the following information:

Purchase--\$283,960; can finance for 12 months at no interest; freight in is \$25,000; total cost if purchased is \$308,960; \$292,500 can be charged to the project.

Lease (assuming it is used for the whole 9 months)--\$165,000 plus \$50,000 for freight in

and freight out; total cost of the lease would \$215,000.

motion

M/M by Jones, 2nd by Wintersteen that the City exercise the option to convert the lease of the Hitachi EX 700 to a purchase agreement. Poll vote. Motion failed. 1-yes; 6-no (Feaster, Jones, Trantham, Vanasse, Warner, Wintersteen).

Councilman Warner pointed out that the difference in the projected figures that were presented to Council was an additional \$93,000 if the Council exercised the option to purchase. Mr. Warner recommended that the City adhere to the purchasing ordinance and go out for bid if it plans on spending an additional \$93,000 to purchase the equipment.

motion

M/M by Warner, 2nd by Jones that the City prepare and advertise a request for proposal for the purchase of the Hitachi EX 700 delivered in Bethel for the current construction period. The bid process should begin immediately. Poll vote. Motion carried. 6- yes; 1-no (Vanasse).

Council next discussed the issue of hiring a project manager and that person's responsibilities to the project. It was stated by Mr. Eng that the City could contract out for construction management services under a force account job.

motion

M/M by Warner, 2nd by Wintersteen that the City immediately begin advertising and RFP for construction management services for the sewage lagoon project. Voice vote. Motion carried out unanimously.

Mr. Suhr stated that he did not see that this proposal would hold up the start of the project.

Item E: Res. #718 **RESOLUTION #718--SITE SELECTION FOR SEWER LAGOON EXPANSION**

Mayor Feaster stated that at the September 22 Council meeting, Council took action in the form of a motion to go west for the expansion

of the sewer lagoon. Initially, Mr. Eng stated that VSW would want a resolution expressing that decision. However, City Manager Hohman stated that he had not prepared a resolution because he thought that the motion would serve to indicate Council's direction on the matter.

**motion**

M/M by Warner to table Resolution #718 to the next meeting.

At this time, City Manager Hohman read aloud the motion passed and approved by Council at the September 22, 1992, regular Council meeting. In response, Mr. Eng stated that the motion would be sufficient.

The motion died for lack of a second.

**Item F: Solid  
Waste Planning  
Grant**

**COMMUNITY SOLID WASTE MANAGEMENT PLANNING GRANT  
APPLICATION**

Mayor Feaster opened this portion of the meeting by stating that the Solid Waste Committee had received the grant application in September. Realizing that it did not have the time to put the application together, the Committee discovered a grant writer in town, Eric Shrum, who volunteered to write the grant. The grant is requesting funding for planning purposes in the amount of \$44,000; Council must show support through a motion and the City is committed to matching the grant which it will do through in-kind services. Mr. Shrum then briefed Council on the components of the grant.

**motion**

M/M by Warner, 2nd by Vanasse to accept grant proposal and submit it to the Department of Environmental Conservation with a strong show of support. Voice vote. Motion carried unanimously.

**Item G: Lobbyist**

**REVIEW AND SELECTION OF A LOBBYIST**

**motion**

M/M by Warner, 2nd by Jones that the City not hire a lobbyist. Roll call vote. Motion failed. 2-yes; 5-no (Feaster, Metcalfe, Trantham, Vanasse, Wintersteen).

Before voting, a discussion of the pros and cons of hiring a lobbyist followed.

Council next briefly addressed the applicants; several council members presented their evaluations of the applications and how they had rated the candidates. Some discussion regarding the selection process was held with Councilman Metcalfe expressing his disappointment that more time had not been devoted to the discussion nor adequate attention paid to the applications.

motion

M/M by Warner, 2nd by Vanasse that Council retain the lobbyist the City had contracted with last year, Mr. Rick Urion, as per his proposal. Voice vote. Motion carried. 6-yes; 1-no (Metcalfe).

Councilman Trantham requested that the Mayor notify the applicants who were not chosen and thank them for their interest on behalf of the City Council.

motion

M/M by Warner, 2nd by Jones to go into Executive Session for the purpose of deliberating the appeal of the backhoe lease. Voice vote. Motion carried unanimously.

motion

M/M by Warner, 2nd by Trantham to come out of Executive Session. Voice vote. Motion carried unanimously.

motion

M/M by Jones, 2nd by Vanasse that since the City Manager has worked diligently for a number of months without a vacation, we allow him to have the remainder of the time before his resignation as vacation, paid by the City with all benefits and relieve him of any duties that would interfere with his preparing for his trip to Russia.

Following a brief discussion, Councilman Vanasse withdrew his second. Councilman Jones then withdrew his motion.

motion

M/M by Warner, 2nd by Wintersteen that the deliberations on the appeal of the bid process for the backhoe by Mr. Faulkner be suspended until the next meeting pending a legal opinion

from the City Attorney. Voice vote. Motion carried unanimously.

Council next addressed the letter of resignation from City Manager Hohman which had not been acted upon by the Council. It was pointed out that according to the City Manager's contract if either party wished to terminate the contract a two week notice was required.

motion

M/M by Warner, 2nd by Jones that the City of Bethel accept the resignation letter dated October 20, 1992, from Mr. Hohman, that Council appoint an acting city manager effective immediately and inform Mr. Hohman that his services are no longer necessary and that he will be paid through November 3, 1992, as his contract states. Roll call vote. Motion carried. 5-yes; 2-no (Metcalfe, Wintersteen).

Councilman Warner stated that this action was not to be construed as a disciplinary action per se but was based on a number of occurrences that have landed the City in "hot water." Councilmen Metcalfe and Wintersteen both stated that they did not feel this was an appropriate action to take and gave their reasons why. A brief discussion regarding providing continuity and overlap for a smooth transition followed. Following the vote, Councilman Trantham requested that Mayor Feaster notify Mr. Hohman of the decision and that he be notified as soon as possible.

Council next discussed the time line for selecting a new city manager indicating that it could be the first of the year before a manager could be on board, and that Council needed to look at appointing an Acting City Manager until the next Council meeting scheduled for October 27, 1992.

motion

M/M by Jones, 2nd by Wintersteen that for the next seven days appoint Mr. Elam as the Acting City Manager. Voice vote. Motion failed. 0-yes; 7-no (Feaster, Jones, Metcalfe, Trantham, Vanasse, Warner, Wintersteen).

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Discussion regarding the stipulation in the Personnel Rules and Regulations that a Department Head cannot supervise a relative was held. In this case, Mr. Elam as Acting City Manager would be supervising his wife who serves as the City Clerk. A verbal summary of an opinion letter prepared by the City Attorney relating to this situation was provided which indicated that situation could be resolved by passing a resolution. However, there was no resolution before the Council, and therefore, the issue could not and should not be dealt with that time.

**motion** M/M by Warner to appoint the Fire Chief as Acting City Manager. Motion died for lack of a second.

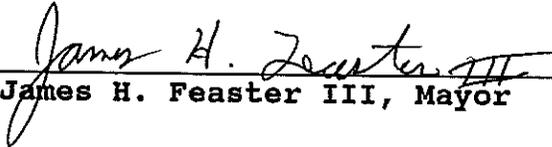
**motion** M/M by Jones to appoint Chris Liu as Acting Manager for seven days. Motion died for lack of a second.

**motion** M/M by Vanasse to appoint Jerry Korthis as Acting City Manager. Motion died for lack of a second.

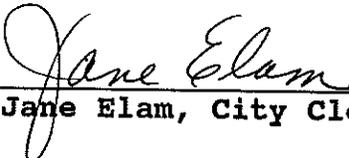
**motion** M/M by Jones, 2nd by Warner to appoint Police Chief, Chris Liu, as Acting City Manager for the next seven days. Voice vote. Motion carried. 6-yes; 1-no (Metcalf).

**motion** M/M by Warner, 2nd by Vanasse to adjourn the meeting at 2:40 PM. Voice vote. Motion carried unanimously.

PASSED AND APPROVED THIS 27<sup>th</sup> DAY OF October, 1992.

  
James H. Feaster III, Mayor

ATTEST:

  
Jane Elam, City Clerk