

REGULAR MEETING OF THE IRVING CITY COUNCIL
April 27, 2006

The City Council met in regular session in the Council Chambers of the City Hall Complex on April 27, 2006, at 7:00 P.M. The following members were present:

Mayor Herbert A. Gears

Councilmembers

James Dickens

Beth Van Duyne

Allan E. Meagher

Lewis Patrick

Lowell Cannaday

Rick Stopfer

Sam Smith

Joe Philipp

ORGANIZATIONAL SERVICE ANNOUNCEMENTS

Dr. Gabriel Bach, Professor at North Lake College, thanked the Council for allowing the candidates to express their views at the League of Women Voters Candidate Forum that was held on April 26, 2006, he also thanked the Mayor and Councilmember's for volunteering their time and all their hard work.

INVOCATION

The invocation was delivered by Pastor Ken Branam, Plymouth Park Baptist Church, of Irving, Texas.

PLEDGE OF ALLEGIANCE

Councilman Patrick led those present in the pledge.

PROCLAMATIONS AND ANNOUNCEMENTS

Mayor Gears presented a national proclamation from the American Water Works Association for Drinking Water Week establishing as May 7-13, 2006. Mayor Gears also announced that on Saturday, May 6, 2006, there will be a Wonder of Water Festival, it will be held at the Valley View Municipal Complex from 10:00 a.m. until 2:00 p.m

Mayor Gears presented the winners of the Water Utilities Department Photo Contest.

3rd Place Photo Contest – Adrianna Vega, from Irving High School 12th grade

2nd Place Photo Contest – Sime Hickson from the Academy at Irving ISD 10th grade

1st Place Photo Contest – Mallorie Herrin, from the Academy Irving ISD, 10th grade, and her model for the piece Chelsea Brock, also from of the Academy

Best In Show – Jonathan Smith, from Ranchview HS, Carrollton-Farmers Branch ISD 12th grade

Teacher Special Award goes to: Mrs. Shirley Lockett of Ranchview High School

In the Poster Contest:

3rd Place: Diana Luangphone, of Bowie MS, Irving ISD, 8th Grade

2nd Place: Grace Park, of Barbara Bush MS, Carrollton-Farmers Branch ISD, 8th Grade

1st Place: this was a group effort: Nicole Brown, Mariana Franco, Karen Martinez, Laura Martinez, and Joyce Moriya of Travis MS, Irving ISD, 8th Grade

Best In Show: Joel Perez, of de Zavala MS, Irving ISD, 8th Grade

Teacher Special Award goes to: Mrs. Donna Gooding of de Zavala Middle School

- 1 **Resolution No. 4-27-06-121** – Recognizing And Expressing Appreciation To Members Of Congress

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Councilman Dickens moved to approve the resolution as presented. Seconded by Councilman Stopfer, the motion was approved by a vote of 9-0.

CONSENT AGENDA

The consent agenda, items #1 through #34 were considered for approval. Mayor Gears asked if anyone wished to pull an item from the consent agenda for individual consideration. Mayor Gears announced that items #5, #9, #10, #26 and #33 would be pulled from the consent agenda. **Councilman Dickens moved to approve the consent agenda items #1 through #34, excluding items 5, 9, 10, 26, and #33. Seconded by Councilman Patrick, the motion was approved by a vote of 9-0.**

- 1 **Resolution No. 4-27-06-122** -- Approving The City Council Work Session Minutes Of April 5, 2006, And The City Council Meeting Minutes Of April 6, 2006
- 2 **Resolution No. 4-27-06-123** -- Authorizing The Mayor To Enter Into An Agreement With The Governor's Division Of Emergency Management To Receive Additional Funding In The Amount Of \$116,500.00 For The Urban Area Security Initiative Grant Through The FY 2005 State Homeland Security Grant Program
- 3 **Resolution No. 4-27-06-124** -- Authorizing The Mayor To Apply For, Accept, Reject, Alter Or Terminate A Violence Against Women Act (VAWA) Grant Through The Office Of The Governor, Criminal Justice Division, To Continue Funding Of The Irving Police Department's Domestic Violence Unit
- 4 **Resolution No. 4-27-06-125** -- Approving A Texas Traffic Safety Program Grant Agreement Between The City Of Irving And The State Of Texas, Acting By And

Through The Texas Department Of Transportation, For A Selective Traffic Enforcement Program (STEP) Grant In The Amount Of \$5,000.00

- 6 **Resolution No. 4-27-06-127** -- Awarding A Contract To Cole Construction, Inc. In The Amount Of \$399,848.70 For The North Lake Ranch Park Development Project
- 7 **Resolution No. 4-27-06-128** -- Approving A Professional Services Contract With Architect Jerry Q. Jeffery And Associates, Inc. In An Amount Not To Exceed \$191,200.00 For The Design Of The Renovation And Expansion Of Lively Pointe Youth Center
- 8 **Resolution No. 4-27-06-129** -- Awarding A Contract To SOUTH-WIN, Inc. In The Amount Of \$49,316.00 For The Wyche Park -Trail Lighting Project
- 11 **Resolution No. 4-27-06-132** -- Requesting Sign Variance Case No. 0603-0083 Located At 2131, 2134 North Hill Drive And 2132, 2133 South Hill Drive -- Tom Lin, Representing Cottonwood Hill Estates, Applicant
- 12 **Resolution No. 4-27-06-133** -- Suspending Gas Reliability Infrastructure Program (GRIP) Rate Increase Surcharges Requested By Atmos Energy Corp., Mid-Tex Division, And Authorizing Cooperation With Other Cities In Review And Negotiation In Regard To GRIP Surcharges
- 13 **Resolution No. 4-27-06-134** -- Authorizing Acceptance Of The Engagement Letter Of The Law Firm Of Vinson & Elkins LLP To Represent The City Of Irving In An Expedited Declaratory Judgment Action
- 14 **Resolution No. 4-27-06-135** -- Approving An Engineering Design Services Agreement With Dannenbaum Engineering Corporation In The Amount Of \$375,120.00 For The Design Of Hard Rock Road And Pioneer Drive Paving Improvements
- 15 **Resolution No. 4-27-06-136** -- Approving Change Order No. 1 To Jackson Construction, Ltd. In The Amount Of \$32,004.83 For The Hackberry Regent, Phase II, 20-Inch Water Main Project From Ranch Trail To Regent Boulevard, West Of Beltline Road
- 16 **Resolution No. 4-27-06-137** -- Approving Change Order No 1 To McMahon Contracting, L.P. In The Amount Of \$87,966.44 For The Shady Grove Road Reconstruction Project From Shufford Street To Hilburn Court And Trinity View Paving Improvements From Shady Grove Road To Chamberlain Road

- 17 **Resolution No. 4-27-06-138** -- Approving Change Order No. 2 To Ed Bell Construction Co. In The Amount Of \$145,101.28 For The Grauwylar Road Paving, Drainage, Water And Sanitary Sewer Improvements From Bent Tree Court To Betsy Lane
- 18 **Resolution No. 4-27-06-139** -- Approving Amendment No. 1 To The Community Development Block Grant Agreement Between The City Of Irving And The Irving Community Development Corporation To Modify The Term Of The Agreement, Scope Of Work And To Increase The Amount For The Development And Construction Of Five (5) Affordable Homes
- 19 **Resolution No. 4-27-06-140** -- Approving Amendment No. 1 To The FY 2003-2004 Home Investment Partnerships Grant Agreement Between The City Of Irving And The Irving Community Development Corporation To Reduce The Amount Of The Agreement By \$300,000.00 And To Terminate The Agreement On April 27, 2006
- 20 **Resolution No. 4-27-06-141** -- Approving A Home Investment Partnerships Grant Agreement Between The City Of Irving And The Irving Community Development Corporation (ICDC) For The Development And Construction Of Five (5) New Single Family Homes In An Amount Not To Exceed \$196,950.00
- 21 **Resolution No. 4-27-06-142** -- Approving An Engineering Design Services Agreement With Deltatek Engineering In The Amount Of \$77,000.00 For Services Associated With The Rehabilitation Of The Walnut Hill Elevated Tank, Two Steel Ground Storage Tanks Located At The MacArthur Pump Station, And Tank No. 1 At The Hackberry Pump Station
- 22 **Resolution No. 4-27-06-143** -- Authorizing Staff To Negotiate A Contract With Malcolm Pirnie, Inc. For Professional Services For Rehabilitation And Reconstruction Of The MacArthur Pump Station
- 23 **Resolution No. 4-27-06-144** -- Approving Change Order No. 1 To ScoBilt Contractors, Inc. In The Net Amount Of \$27,312.00 For The Renovation Of The Historical Masonic Lodge At The Bear Creek Heritage Center
- 24 **Resolution No. 4-27-06-145** -- Rejection Of Bid For The Purchase And Installation Of Digital PTZ Cameras And Digital Video Recorders For The Irving City Jail
- 25 **Resolution No. 4-27-06-146** -- Purchases Funded In The 2005-2006 Budget
 - (A) Bids -- Award Of Bid To Medtronic Emergency Response Systems For Ten (10) Lifepak 12 Defibrillators In The Net Amount Of \$129,817 93 To Be Used By The Fire Department

- (B) Bids -- Award Of Bid To Burst Communications, Visual Interactive Dynamics, And Full Compass Systems, Ltd. For Audio/Video Equipment In The Net Amount Of \$27,781.00, To Be Used By The Community Affairs Department
 - (C) Bids -- Renewal Of Bid With Trend Offset Printing For Printing Of Resident Newsletters In The Net Estimated Amount Of \$22,457.60 For The Period Of June 1, 2006, Through September 30, 2006, And \$48,596.93 For The Period Of October 1, 2006, Through May 31, 2007, Subject To Funds Being Appropriated In Fiscal Year 2006-2007, To Be Used By The Community Affairs Department
 - (D) Bids -- Renewal Of Bid With Baker & Taylor, Inc. For Library Books And Audio/Visual Materials With Electronic Ordering Interface In The Net Estimated Amount Of \$146,747.50 For The Period Of April 1, 2006, Through September 30, 2006, And \$146,747.50 For The Period Of October 1, 2006, Through March 31, 2007, Subject To Funds Being Appropriated In Fiscal Year 2006-2007, To Be Used By The Libraries Department
- 27 Ordinance No. 8629** -- Authorizing The Abandonment Of A 3-Foot Portion Of A 6-Foot Utility And Drainage Easement On Lot 35, Block A, Pembroke Addition, Located At 1943 Pembroke Street
- 28 Ordinance No. 8630** -- Authorizing The Abandonment Of Raspberry Road Right-Of-Way And Adjacent Utility Easements At The Intersection Of Las Colinas Boulevard And La Villita Boulevard
- 29 Ordinance No. 8631** -- Relinquishing Extraterritorial Jurisdiction Of The City Of Irving To A Tract Of Land Generally Located In The Right-Of-Way Of Irving Boulevard From The Trinity River Westward 200 Feet In Favor Of The City Of Dallas
- 30 Ordinance No. 8632** -- Amending Section 21-88 Of Chapter 21 Of The Code Of Civil And Criminal Ordinances Of The City Of Irving, Texas, By Adding A Speed Limit Of 50 MPH On IH-635 North And South Frontage Roads From East City Limit To Olympus Boulevard
- 31 Ordinance No. 8633** -- First Reading -- Granting A License To SLA Environmental Services, Ltd. For An Exploratory Soil Boring/Ground Water Monitoring Well Or Wells
- 32 Ordinance No. 8634** -- First Reading -- Granting A Franchise To E.P.D.A., Inc. dba Alamo Cab Company To Operate A Taxicab Service In The City Of Irving, Texas

- 34 Ordinance No. 8636** -- Zoning Case #5613 -- Granting ML-20 (Light Industrial) Uses -- An Approximately 22.232 Acre Tract Located On The East Side Of Valley View Lane, North Of Rock Island Road -- Sharon Barbosa-Crain, Applicant

This concludes the consent agenda approving items #1 through #34, excluding items #5, #9, #10, #26 and #33.

- 5 Resolution No. 4-27-06-126** -- Approving Amendment No. 1 To The Household Hazardous Waste Interlocal Agreement Between The City Of Irving And Dallas County In The Amount Of \$20,000.00 To Provide A Program In Which Residents Can Properly Dispose Of Household Chemicals

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Nancy Wilson, Irving Citizens Group, 2911 Bryn Mawr, spoke in opposition

Acting City Manager Sandy Cash stated that the City Of Irving has held this annual event in the city for many years, and this protects the City by providing a place for residents to safely dispose of household waste.

Councilman Philipp moved to approve the resolution as presented. Seconded by Councilman Cannaday, the motion was approved by a vote of 9-0.

- 9 Resolution No. 4-27-06-130** -- Temporary Use Permit #G0604-0063 -- To Allow The Extension Of The S-P-1 (R-AB) Service Area Into The Parking Lot At On The Border Restaurant Located At 1220 Market Place Boulevard -- Gus Staats, Applicant

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

Nancy Wilson, Irving Citizens Group, 2911 Bryn Mawr, spoke in opposition.

Councilman Philipp moved to approve the resolution as presented. Seconded by Councilman Patrick, the motion was approved by a vote of 9-0.

- 10 Resolution No. 4-27-06-131**-- Requesting Sign Variance Case No. 0603-0079 Located At 698 East Airport Freeway -- Terry Waldrum, Representing Don Herring Mitsubishi, Applicant

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

Nancy Wilson, Irving Citizens Group, 2911 Bryn Mawr, spoke in opposition.

Councilman Dickens moved to approve the resolution as presented. Seconded by Councilman Stopfer, the motion was approved by a vote of 9-0

26 Ordinance No. 8628 -- Budget Adjustment To The 2005-2006 Fiscal Year Budget

- I. General Fund
- II. General Fund Non Bond Capital Improvement Program Fund
- III. Equipment Replacement Fund
- IV. General Interest And Sinking Fund
- V. New Lien Water And Sewer Interest And Sinking Fund
- VI. Historic Preservation Fund
- VII. Compensated Absences Fund
- VIII. Emergency Management Grant Fund
- IX. Miscellaneous Donation Fund

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

The following registered his opposition, but did not wish to speak.

Don Van Slyke, 2617 Castle Street

Councilman Philipp moved to approve the ordinance as presented. Seconded by Councilman Patrick, the motion was approved by a vote of 9-0

33 Ordinance No. 8635 -- First Reading -- Granting A Franchise To US Cab LLC dba US Cab Company To Operate A Taxicab Service In The City Of Irving, Texas

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

The following registered her opposition, but did not wish to speak

Nancy Wilson, Irving Citizens Group, 2911 Bryn Mawr

Councilman Cannaday moved to approve the first reading of the ordinance as presented. Seconded by Councilwoman Van Duyne, the motion was approved by a vote of 9-0.

ZONING CASES AND COMPANION ITEMS

- 35 Resolution No. 4-27-06-147** -- Zoning Case #5611 -- Granting S-P-1 (Detailed Site Plan) For R-AB (Restaurant With The Attendant Accessory Use Of The Sale Of Alcoholic Beverages For On-Premises Consumption) Uses -- Approximately 1,619 Square Feet Located At 255 East Grauwlyer Road, Suite 138 -- Gabriel Ventura, Applicant

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

Cruz Dominquez, 209 S. Jefferson Street, representing the applicant, presented this case. He noted that this is an existing restaurant in a shopping center that is requesting permission to sell liquor by the drink. He stated that this request is in compliance with the law.

Gabriel Venture, the applicant, addressed the Council in Spanish and also requested approval of his case.

Manager Of Current Planning Steve Reed, briefly reviewed the case and stated that the request is in compliance with all distance requirements from a nearby school and church. Therefore, staff has issued a technical approval of this request.

Acting City Manager Cash stated that his recommendation is denial due to the close proximity of an elementary school, a church and a Salvation Army store front. Additionally this commercial area is located just to the west of a railroad overpass that also creates a safety issue for the school children. Based on the unique geographical issues surrounding this case, he recommends denial

Councilman Philipp stated that they have received letters, text messages, and phone calls, from church representatives, school representatives, The Salvation Army, private citizens and former Mayors all expressing their concerns particularly for the school children.

The following registered her opposition, but did not wish to speak:
Nancy Wilson, 2911 Bryn Mawr

The following spoke in opposition of this item:

Jack Singley, 2825 Alan-A-Dale, Superintendent of the Irving Independent School District

After Council discussion, **Councilman Philipp moved to deny this zoning case. Seconded by Councilman Patrick, the motion was approved by a vote of 9-0.**

INDIVIDUAL CONSIDERATION

- 36 Resolution No. 4-27-06-148** -- Public Hearing -- To Receive Citizen Comments On A Proposed Change In Use Of All City Of Irving Park Property Whereby The City Would From Time To Time Lease City Park Property For Subsurface Mineral Development To Allow Extraction Of Natural Gas And Other Minerals Without The Disturbance Or Use Of The Surface Of The Park Land, And To Determine Whether There Is Any Feasible And Prudent Alternative To Such Change Of Use

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition.

Acting City Manager Cash explained that this is the required public hearing that has been advertised in accordance with state law to receive public comments on the City's intent to lease park land to be used by private drilling companies for gas and minerals. Item #37 is the companion item which identifies the land tracts.

The following spoke in favor of this item:
Genie Mitchell, 2220 Spanish Trail

Deputy City Attorney Charles Anderson clarified that the City's "drilling ordinance" does provide a minimum distance of three hundred feet between a well and an existing home, school, hospital or other building that is occupied. If it is less than three hundred feet, there this be approved by a $\frac{3}{4}$ vote of the Council and will require a permit issued by the City before a well can be drilled

Councilman Dickens moved to approve the resolution as presented. Seconded by Councilman Cannaday, the motion was approved by a vote of 9-0.

- 37 Resolution No. 4-27-06-149** -- Notice Of Intention To Lease Land For Mineral Development

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Councilman Dickens moved to approve the resolution as presented. Seconded by Councilman Stopfer, the motion was approved by a vote of 9-0.

- 38 Resolution No. 4-27-06-150** -- Public Hearing -- To Receive Citizen Comments On A Proposed Change In Use Of Portions Of Mountain Creek Preserve, Campión Trails, Twin Wells Golf Course, Trinity View Park and River Hills Park Whereby The City Would Convey Necessary Easements To The Trinity River Authority For The Construction Of The Elm Fork Relief Interceptor, Segment EF1 Project, An 102" Sanitary Sewer Main, And To Determine Whether There Is Any Feasible And Prudent Alternative To Such Change Of Use

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Acting City Manager Cash presented this item and stated that Item #39 is a companion item.

Councilman Dickens moved to approve the resolution as presented. Seconded by Councilman Cannaday, the motion was approved by a vote of 9-0.

- 39 Resolution No. 4-27-06-151** -- Approving An Interlocal Agreement Between The City Of Irving And The Trinity River Authority For The Conveyance Of Sanitary Sewer And Temporary Construction Easements Through Mountain Creek Preserve, Campión Trails, Twin Wells Golf Course, Trinity View Park And River Hills Park For The Trinity River Authority's Elm Fork Relief Interceptor, Segment EF1 Project

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Councilman Philipp moved to approve the resolution as presented. Seconded by Councilman Stopfer, the motion was approved by a vote of 9-0.

- 40 Resolution No. 4-27-06-152** -- Expressing The Intent Of The City Council Not To Impose The Facilities Use Tax Even If Authorized By The Special Election Of May 13, 2006

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Mayor Gears stated that this resolution formally establishes the City Council's intent to not implement the facility use tax that is a part of proposition one on the ballot for the Special Election to be held on May 13, 2006.

Councilman Cannaday moved to approve the resolution as presented. Seconded by Councilman Patrick, the motion was approved by a vote of 9-0.

APPOINTMENTS AND REPORTS

41 Resolution No. 4-27-06-153 -- Appointments To Boards, Commissions, And Committees a) Zoning Board Of Adjustments And Appeals

Mayor Gears introduced the item and asked if anyone wished to speak in favor or opposition. There were no speakers.

Councilman Dickens moved to appoint Don Robinson to a two year term as a member of the Zoning Board Of Adjustments And Appeals – said term expiring November 2007. Seconded by Councilman Philipp, the motion was approved by a vote of 9-0.

42 City Manager's Report

Acting City Manager reported that:

- Still waiting to hear on the Presidential Library, site and the City of Irving is still in the running,
- Future land use plans for the Texas Stadium site are on going;
- Byron Nelson will be held May 7-14, 2006,
- The city of Irving received the distinguished budget presentation award from the Government Finance Officers of America for the fiscal year 2005-2006, this is the 18th year the City of Irving has received this award;
- Mr. Cash thanked the Mayor and Council for allowing him to serve as the Acting City Manager for these few months. He added that they made his job easy, and he thanked them from the bottom of his heart.

43 Mayor's Report

Mayor Gears stated that it has truly been a great experience for the City to have Mr. Cash as Acting City Manager, and, on behalf of the Council he thanked Mr. Cash for his talent and his commitment to the City.

44 Committee And Liaison Report/Meetings

Councilman Philipp reported the outcome of the annual audit. He stated that Deloitte and Touche presented the City of Irving with an unqualified report which is positive for the City.

Councilman Philipp also stated that the City of Irving has one of the finest Arts Center in the metroplex, and urged all to attend one of the many entertaining events.

Councilman Dickens announced that there will be a Community Services Committee meeting on Wednesday, May 17, 2006, at 10:00 a.m.

Councilman Meagher announced that a "Paper Shredding Event" will be held at City Hall on Saturday, April 29, 2006 from 9:00 a.m. to 3:00 p.m. and each resident will be allowed to bring two boxes of paper. This is sponsored by Keep Irving Beautiful and the City of Irving.

46 The meeting adjourned at 8:15 p.m.

CITIZEN FORUM

Don Van Slyke, 2617 Castle Street, addressed the Mayor and Council regarding the Special meeting that was held on January 16, 2006, and asked questions regarding the legality of the meeting and the vote taken.

Jerry Wicker, retired employee, addressed the Mayor and Council about problems he has had with the current City insurance carrier Aetna Health Care Insurance. He asked that a new insurance carrier be considered by Council.

Claudia Martinez and Alfonso Martinez, 2729 Wrangler, addressed the Mayor and Council about their dog Chico being picked up by Animal Control and then being euthanized forty-five minutes later.

Cindy Boase, 1623 Milner Road, also addressed the Mayor and Council regarding the euthanization of the Martinez pet. Ms. Boase stated that this is the second incident like this.

Nancy Wilson, 2911 Bryn Mawr, stated that Police Officer Dan Miller was found not guilty and stated that the city should rehire him and reimburse him for any lost wages. She also asked the Mayor and Council to move forward against a complaint that the Irving Citizens Group filed against certain members on the Planning and Zoning Commission. She also added her concerns about the Animal control issues.

Betty Yarbrough, 204 W. 7th Street, also addressed the Animal Control issues. She stated

that they needed someone who is bilingual to assist citizens who do not understand English.

Leroy Brodowski, 2840 Alan-A-Dale, addressed the Mayor and Council regarding the Briery Road City Maintenance Facility and its negative impact on his neighborhood

Michael Brodowski, 2838 Alan-A-Dale also addressed the Mayor and Council on the Briery Road City Maintenance Facility.

Lucia Rottenberg, 2220 Indian Creek, addressed the Mayor and Council on the lack of handicap parking at the Central Library for voters.

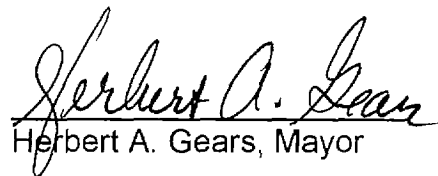
Donald Heyden, 205 King Richard, also addressed the Mayor and Council on the building plans in regards to the Briery Road City Maintenance Facility and the negative impact to the neighborhood.

John Danish, 1113 Capital Court, addressed the Mayor and Council and spoke in favor of the passage of Propositions #1 and #2 at the Special Election to be held on May 13, 2006.

ATTEST:



Janice Carroll, TRMC
City Secretary



Herbert A. Gears, Mayor

