

**CITY OF UNION, KENTUCKY
REGULAR BUSINESS MEETING
MINUTES
Monday, October 3, 2011**

LOCATION: Warren S. Moore Union City Building, 1843 Mt. Zion Road, Union, KY 41091

CALL TO ORDER: Mayor Don Kirby called the Public Hearing to order at 7:00 PM.

ROLL CALL: The following members were present:

Mayor Don Kirby
Commissioner Bob Kelly
Commissioner John Adams
Commissioner John Mefford
Commissioner Bryan Miller
City Engineer Barry J. Burke, PE PLS
City Clerk Kathy Porter
Attorney Greg D. Voss, Esq.
City Events Coordinator Karen Franxman

CALL TO ORDER:

Mayor Kirby called the Regular Business Meeting of the Union City Commission to order at 7:00 p.m. Monday, October 3, 2011.

APPROVAL OF MINUTES:

All City Commissioners were provided a copy prior to tonight's meeting.

Commissioner Kelly made a motion to accept the minutes from the September 6, 2011 Commission Meeting and the motion was seconded by Commissioner Mefford. **Motion carried.**

ADMINISTRATIVE REPORTS:

City Clerk/Treasurer Kathy Porter: Commissioner Adams moved to accept the Treasurer's Report as of September 30, 2011, and Commissioner Miller seconded the motion. **Motion Carried.**

GUEST WISHING TO SPEAK:

Steve Harper addressed the commission concerning request for an endorsement for the Northern Kentucky Consensus Committee. The committee since 1989 decides which projects goes to Frankfort for lobbying. Mr. Harper asked the commission for endorsement on the projects that the committee would like to take to Frankfort.

Commissioner Miller asked if the endorsement is for State of Kentucky Funds and Mr. Harper stated that it was for state funded projects. Commissioner Miller asked why the Brent Spence Bridge is included in this listing as it is a federal funded project. Mr. Harper said it is a federal funded project but it is a project of emphasis. Mr. Burke stated that the states will also have to help contribute funds to the Brent Spence Bridge project.

Kila Hanrahan the community representative with the American Cancer Society addressed the commission. The American Cancer Society provides many different services for individuals, who have been diagnosed with cancer. These services are funded through events such as the Relay-For-Life. Boone County's Relay-For-Life will be held in June 2012.

Mayor Kirby said the city could put a link on the City's website to aid in helping get volunteers and information to the residents of Union.

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Jennifer Conley a resident of Brandsteade Court where recent edge/side drains have been installed stated that she would like to be included in the public record that is having sump pump drainage problems over sidewalks within the Hempsteade Subdivision. Ms. Conley had some pictures that she provided for Mr. Burke the City Engineer. Mayor Kirby said he would have Mr. Burke research the situation and contact Ms. Conley.

John Royse at 1838 Whispering Trail addressed the commission concerning the issue with Sanitation District 1 and the drainage situation between his home and adjacent neighbor Mr. Campbell's home (1834 Whispering Trail). Mr. Royse stated that sink holes have formed and some gravel has washed out during the last rain. Mr. Royse has talked to Sanitation District 1 telling him that pipes are not labeled on district maps as being owned by the SD1. He feels that the homeowners should not be responsible for this situation. Mr. Royse would like the city's help to push SD1 to repair these pipes.

Mr. Burke stated that most storm sewer systems have been transferred to the Sanitation District by the Union Resolution or Ordinance passed May of 2010. When the SD1 maps came in for the City of Union, not all of the storm sewers were highlighted in the SD1 green color, meaning ownership and maintenance by SD1. This includes the sewer system in question. View of the same maps also indicated that the subject storm sewer was private and not the city's responsibility. It was pointed out the mapping alone does not mean that the district or city should not accept the responsibility. Mr. Burke will follow-up with SD1 concerning this matter and will advise Mr. Royse.

EVENTS COORDINATOR:

City Events Coordinator Karen Franxman addressed the commission.

Fall-For-All is coming up on October 22, 2011 at the Community Building. The event will be held from 5:00 p.m. to 7:00 p.m. Then from 8:00 p.m. to 11:00 p.m. live music will be played, this event is a fundraiser for the Union Adopt – A- Unit. The road will be closed from 4:00 p.m. to 7:00 p.m. There will be a pumpkin carving contest this year. The committee is accepting donations for the raffles and silent auction items.

The city will be selling discounted ticket to Perfect North Slopes again this year.

The next meeting for the volunteer and Adopt-A-Unit committee is Wednesday, October 12, 2011 at 6:30 p.m. at the Union Community Center Building.

Union Cares for October is the Vineyard Food Pantry. A wish list is located on the City's website. The Union Cares is a program that collects items to be donated to a charity. Items can be dropped off at the city building, or if needed, someone can pick up the items for you. Karen is also now receiving requests for winter clothing.

The Union Community Theater is presenting "All Shook Up". This show is a youth show. The show dates are November 10th-12th at Ryle High School.

ECONOMIC DEVELOPMENT COMMITTEE:

Commissioner Mefford stated each commissioner received a copy of the report that Mr. Jim Parsons completed. The report documented two (2) major avenues for incentives that the city could take for financing for the Union Town Plan. The first would be an Industrial Revenue Bond (IRB). This works best for specific projects and not a development of an area. Some examples of local developments that benefitted from an IRB are Buttermilk Crossing, Newport Aquarium, and Newport on the Levee, The Ascent, The Citibank expansion, FedEx Ground project and the Toyota Distribution Building. Essentially they are used to provide Property Tax Relief for the life of the Bond. The title of the property is held by the city and then leased to the developers. The other avenue would be Tax Increment Financing (TIF). This

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may be used to assist a specific development project, or be used to promote the overall development of a large area.

Mr. Parsons has supplied the committee with a sample RFP that was used for Newport on the Levee that was sent out to developers to see who would be interested in the project.

Mayor Kirby asked about the minimum and maximum amounts for the two (2) types of incentives.

Mr. Mefford said that he would share more information at the November meeting.

PUBLIC WORKS/UNION VISIONING COMMITTEE:

Commissioner Kelly reviewed some complaints that have been received in the city over the last month. Mr. Kelly received a complaint about an abandoned car on Hempsteade Drive, the car was towed. A complaint was received concerning garbage that was placed on the curb prior to the 6:00 p.m. Wednesday night timeline. A resident had placed a mattress at the curb on Richmond Road. The mattress sat out there the whole week. A tree limb on Indian Hill was hitting busses as they were picking up and dropping off students. The tree limb was removed. Mr. Kelly mentioned the corn hole noise complaint that was brought up at the meeting in September. The resident who the complaint was on wanted his side of the story told. Attorney Voss stated he had spoken to the resident.

Commissioner Kelly mentioned the fence at Lassing Green Subdivision. He asked whether the commission felt that the fence just needed repair and touching up or if it is need of full painting. Commissioner Mefford stated he felt the fence needed painting. The landscaping contract includes the painting of the fence, but not the repairs. Commissioner Kelly stated approval is needed for the repairs. Mr. Burke stated that the contract includes \$1,000 for painting of the fence. Any other repairs would be extra work. Mayor Kirby said to get the deteriorated boards replaced and have the fence painted.

Commissioner Miller stated that a resident had been hanging his pool cover on the fence. Commissioner Mefford stated that it is one of his neighbors and stated that he did not know if the cover was damaging the fence. Mr. Burke said that the pool cover will be gone in a short time as the weather is starting to get colder. Commissioner Mefford does not know if the neighbor still uses the cover. He will ask him and respond.

Commissioner Kelly asked if the City would be adopting a fireworks ordinance. Attorney Voss stated that this is something that he is investigating.

CITY ENGINEER REPORT: Mr. Burke referenced his detailed City Engineering Report totaling 19 Items. Mr. Burke stated that the commission has previously received Report, and if there were any questions, he could respond. Mr. Burke provided an overview with an emphasis on the City Action Items to follow.

Regarding Item #1 (b) The Volpenhein Parcel, the weeds are getting over a foot high. Mr. Burke feels that the city needs to contact the landscaper to have the property mowed, as extra work to the landscaping contract. Commissioner Kelly said he would contact the landscaper. Commissioner Kelly asked if the property is in foreclosure or why the property owner has not mowed the property. Mr. Burke stated we are withholding \$500 retainage money from the sanitary sewer contractor for final restoration which has not been completed and more than likely forfeited, as compensation for the extra work.

Regarding Item #6 The Whispering Trails Flooding Issue, Mr. Burke received another call from SD1 employee named Frank Twehues, stating he advertise get an RFP for engineering firms to analyze the hydrology of this area; and, extract it out from the overall master plan of Gunpowder Creek. Per his request, Mr. Burke emailed him a copy of the city's July 2010 Storm Water Study that was completed. Mr. Burke's understanding is that the Study will be attached to the RFP.

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Mr. Burke stated that a non-public meeting with Attorney Voss and two (2) commissioners was held on September 14, 2011 with five (5) of the six (6) residents having the most serious culvert/driveway conditions along Whispering Trails. Mr. Burke's understanding from the meeting with Attorney Voss's input was: a) that the property owner's desire was to move forward with stabilizing the driveways, unless they opt out; b) that the residents rather than the city would need to contract with the contractors; c) the city's cost share offer of a maximum 15% based upon the lowest three (3) bids was still a consideration; d) the work could be completed by the end of October; and e) George Raybourne would contact Mr. Haynes, who did not attend. In addition, Mr. Burke's understanding was that Attorney Voss stated at the meeting that the safety enclosure grates should be at the city's extra cost.

Mayor Kirby asked if the residents of Whispering Trails would like to speak.

Brandon Raybourne, a civil engineer and a former resident of Whispering Trails, addressed the commission. Mr. Raybourne first thanked the city for their efforts in getting help for the residents. Mr. Raybourne was at the non-public meeting and felt that the 15% was a low number. Mr. Raybourne met with the property owners and they discussed when the problems began. The residents feel that the problem was increased when the property was developed above them. These flooding problems began in the mid-nineties. Mr. Raybourne's calculations took into consideration the amount of water that was generated by publicly-owned property and other developments named Ivy Pond and Dublin Green. Mr. Raybourne's calculations indicated that an increase of 48.7% of the water that is draining is from the two (2) subdivisions that were developed after the construction of the homes on Whispering Trails. The residents feel these developments are the main causes of the flooding issue, therefore based upon his hydrological analysis requests that the city pay 48.7% of the cost of the repairs.

Mayor Kirby asked Mr. Burke if he had any comments. Mr. Burke stated that the overall drainage area is about 165 acres. Mr. Burke agreed that there is a change in the watershed because of growth. More streets, housing, and other hard surfaces have been added since the 1985-1990 timeframe. Mr. Burke stated that the 48.7% is a combination of both public and private water beyond the responsibility of the city. Mayor Kirby further stated that Dublin Green is not within the city's corporate limits and should be eliminated from the calculations; and, a much lower percentage amount should be used as a starting point.

Mr. Burke stated that he has a concern about the 48.7% number that was calculated. Mr. Burke agrees that new construction has impacted the problem and doesn't feel the city is responsible for all of the increased storm water.

Mr. Burke stated that it was his understanding at least two (2) residents may not be interested based on the cost of the repairs.

A resident asked what happens when a resident cannot afford to repair the pipes and the pipe bursts.

Another resident asked how the city helped residents for some issues and now the city has pulled back on the support. Attorney Voss stated that this is private property. If there is a safety and/or health issue impacting the public, the city needs to come up with a way to finance it legally.

A resident asked if the engineers agree that the amount of water whether public or private has increased the amount of water that is flowing in the creek. The resident asked how they can get some help quicker. Mayor Kirby stated that the city has discussed and/or met with the State Representatives John Schickel and Sal Santoro and Sanitation District No. 1 in their office. Mayor Kirby suggested the residents impacted could contact their State Representatives and Sanitation District No. 1 themselves.

A resident asked that since Dublin Green is not within the city limits that maybe the county could help.

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The residents voiced that they will be attending the Boone County Fiscal Court meeting on Tuesday, October 4, 2011. They asked if a representative from the city could be a voice. Mayor Kirby said that he would contact Judge Executive Gary Moore and let him know that the residents would be in attendance and, what issue that they will be bringing forward.

Another resident asked if the 15% city help is negotiable. Attorney Voss stated that it would be up to the commission. Commissioner Kelly asked if the 28.6 % that Mr. Raybourne listed just for Ivy Pond was coming from the public streets; or, if he was also including within the private drainage. He stated that he included both the public and private hard surface runoff in the calculation. Mr. Raybourne stated that the city of Union pays the Boone County Planning Commission to review all new developments to ensure they are not affecting other properties.

Mr. Burke stated that he had previously spoken to Mr. Raybourne about his calculations including a pond that is in Dublin Green, outside of Union's jurisdiction. Mr. Burke stated that this pond does not have an overflow structure, but, just an earthen swale, which overtops without any retention (wet) at the high water level. The property owners via their lot layouts collectively own the pond; and, it was not dedicated to public use nor accepted for maintenance by a public entity. No regulations to the contrary were in place at the time the pond was created or expanded.

A resident asked how long the 15% option to cost share would be available. Mayor Kirby stated that there was not a limit put on the offer. Attorney Voss stated that it would be contingent on the contractor's bids. Another resident asked if the offer was contingent on whether one or all of the resident's would take the offer. And Mayor Kirby said that it would not matter if all or one of the residents accepted the offer.

Mayor Kirby stated what is out there for the homeowners is a contribution from the City of 15% and the balance can be possibly financed by the city and added to the property owner's tax bills.

Commissioner Kelly stated he would like to see if the county would also be willing to work with the residents. Mayor Kirby said he would contact Judge Moore.

Regarding Item #9, the Union Village Street Lighting Plan – Public Financing. At the last meeting we needed to go back to Duke Energy to amend the agreement and hold a public hearing for the residents to voice their opinions and concerns. Mr. Burke has received the amended agreement which was extended through December 26, 2011. The lump sum fee of \$36,191.96 is the same; the changes that were added were for the city's administrative costs, of \$3,500. Mr. Burke has prepared a Comprehensive Report that is to be made available to the 149 affected Union Village HOA homeowners. The Report identifies the statutory requirement, the purpose, the scope, the background of the gas light system and the cost up to this point. The city's responsibility of paying the electric and maintenance cost of the new electric lighting system. The cost to the city would be \$5.85 per light. There are a total twenty (20) lights. Mr. Burke searched for the best interest rate for a ten (10) year term, as requested by the HOA. The interest is 4.4% for ten (10) years. The Special Assessment cost for each HOA resident will be \$33.15 per year. There is an option for the HOA property owner to pay the full amount up front by a deadline which would be \$267.76. These owners paying 100% of the total would be removed from the Assessment Roles. Additionally if an owner chooses to begin paying the assessment after the deadline, then the total due would be \$331.50 less the sum of any amount previously paid via annual assessments. The Comprehensive Report was acknowledged to be acceptable by Commissioner Miller; Mr. Burke then asked the commission for permission to move forward with the public hearing and the certified mailing of the legal notice to the 149 owners. Copies of the Comprehensive Report with the attached Exhibits will be made available to the owners upon request. Mr. Burke asked a HOA representative if the electric light layout plan, prepared by Duke Energy had been approved by the HOA. The representative stated that it has been approved.

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Commissioner Miller asked if we knew how many would like to pay the full amount up front. The HOA representative and Mr. Burke stated that they felt at least two (2) and possibly five (5) were willing to pay the full amount.

Commissioner Miller made a motion to accept the Comprehensive Report and the proposal to publically finance street lights for the Union Village HOA residents. Commissioner Kelly seconded the motion.
Motion Carried.

Mayor Kirby stated that a public hearing needs to be scheduled. Mayor Kirby scheduled the meeting for Monday, October 24, 2011 at 7:00 pm at a location to be decided.

Regarding the Edge/Side Drains recently completed along Brandsteade Ct., Ms. Jennifer Conley (10086) again stated she had a similar problem for sidewalk drainage a safety problem. Mr. Burke, as observed in the field, agreed that Ms. Conley has a moderate problem; however, the other 7 or 8 properties where an edge system would have to be constructed at a cost of around \$15,900 did not justify the benefit. Mr. Burke suggested a delay in repairs at this time. This issue can be revisited over time. Mayor Kirby asked how the street pavements around the problem area are; and, if they are scheduled for maintenance in the new budget. Mr. Burke stated that the Brandsteade Court's Overall Condition Index (OCI) was listed as a 78 and will be ready for repair in the Fiscal Year 2013/2014 or later, depending upon the budget. Ms. Conley asked what type of steps she could take to prevent falls during the winter. Mr. Burke suggested in the interim the discharge pipe causing the problem could be physically backed up by cutting it off. In addition, one could create a dry well or a rain garden to reduce the full quantity of water toward the sidewalk. Commissioner Adams also suggested contacting the Boone County Extension Office for educational help in this regard.

Regarding Item #6 Hempsteade Drive Mr. Terry Grey at 10227. The sidewalk has become unsafe and is in need of repairs. The responsibility for sidewalk improvement is the property owner. However, the City of Union in the past has repaired sidewalks when an unsafe situation surfaces. Mr. Burke received two (2) quotes for this repair. The low bidder was TMS Construction, Inc. and the quote was about \$612. Mayor Kirby stated to have the sidewalks repaired.

Regarding Item #8, Hempsteade/Glenfield Court, regarding Mr. Warren Hanson at 10184 Glenfield Court, this issue was excessive storm water generated in part from a previous building addition from the rear yard of an adjacent new neighbor. Mr. Hanson stated that excessive storm water drainage has damaged and undermined his driveway. Mr. Burke advised that the cause of the problem also shows signs of undermining the curb and public street. Mr. Burke has made contact with the new neighbor, the Tierney's. Ms. Tierney stated that the sun room was put on the house in 1997, by the previous owner. The Tierney's recognized that there is an issue and would be willing to remedy the problem. Mr. Burke and Ms. Tierney received four (4) estimates to perform the work within both the public right-of-way and on the Tierney's private property. Mr. Burke had the portion for public and private right-of-way separated in the price quotes. Ms. Tierney stated she had a couple of issues with the lowest bid on her property, from Spillman Lawn Care, Inc. for \$1,200. This bidder was a landscaper, and not a plumber and that he seemed a little too conservative and would not go deep enough with the pipes. Mr. Burke advised that the lowest bids for both phases of the work came from Spillman and he was inclined to recommend him, subject to Ms. Tierney's input.

Commissioner Miller asked which contractor Ms. Tierney would feel more comfortable. Ms. Tierney stated she would feel more comfortable with a certified tapper, Ed Morehead Plumbing, whose quote for both phases of the work was more evenly distributed, but slightly higher.

Following some discussion with Tierney's input, Mr. Burke's recommendation was to hire Ed Morehead Plumbing to complete both phases of the project.

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Commissioner Mefford made the motion to approve Ed Morehead Plumbing to perform the work and Commissioner Adams seconded the motion for \$6,700, \$3,000 of which will be the city's responsibility within the limits of the public-right-of-way. **Motion Carried.**

Regarding Item #9 Lewis Lane, residents advised of broken curbing and suggesting that the damages may be caused by sump pump line discharges. Mr. Burke upon observation found one (1) illegal sump pump discharge line at 1018 Bayswater Drive, located closer than 20 feet back of the curb, by regulation. Mayor Kirby stated that we need to contact Brad Horn with Code Enforcement. The curb and gutter repairs was estimated to cost approximately \$1,400.

Commissioner Adams made the motion to have the broken curb repaired. Commissioner Mefford seconded the motion. **Motion Carried.**

Mr. Burke received a call from a resident that lives on the older portion of Old Union Road. The Boone County resident's vehicle (Joyce Tolliver) had dropped off the shoulder causing a flat tire. The resident does not want any compensation; however she would like the problem at the intersection of the two (2) Old Union Roads repaired so the issue does not happen again. These repairs, to include widening of the pavement turning radii, can be commingled with some ongoing street repairs with a reputable contractor. Attorney Voss asked if this was a minimum standard problem, not addressed when the new roadway intersection was built by the KYTC. Mr. Burke stated it was.

Commissioner Kelly made the motion to make the repairs for safety at the Old Union Road(s) intersection. Commissioner Miller seconded the motion. **Motion Carried.**

Regarding the Union Village Entrance Landscape Improvements. There are actually two (2) edge drains along Braxton Road at this location. It is Mr. Burke's understanding that the HOA is considering improvements to the landscaping along the sidewalk in front of the entrance sign. In June 2009, the city put edge drains for sidewalk safety fronting Mr. Fred Wilkinson's property residing at Sherman Court fronting Braxton Road. Mr. Wilkinson still has problems with excessive water on his lot. After several unsuccessful calls to Mr. Wilkinson, Mr. Burke authorized R.E.B.T. Construction, Inc. on September 15, 2011 to interconnect his yard drain with the edge/side drain system along the sidewalk installed in 2009. Unfortunately, some of the work was constructed on private property. Mr. Wilkinson indicated he would like to have the contractor remove the interconnection and the city provides an upgraded catch basin. Mr. Burke advised Mr. Wilkinson and the City of Union could share the cost of adding the upgraded catch basin. The estimated cost is approximately \$500.00, with Mr. Wilkinson's share of the cost to 50% or \$250.

Commissioner Mefford asked why the city would be willing to share the cost for this catch basin 50/50 when the cost share for the residents of Whispering Trails is only fifteen percent (15%). Mayor Kirby said that this issue is different than the Whispering Trails and would be a preventable measure for public sidewalk safety.

Commissioner Miller made the motion to install the new catch basin on Mr. Wilkinson's property. Commissioner Mefford seconded the motion. **Motion Carried.**

Regarding Item #18, the Union Baptist Church sanitary sewer lateral crossing Old Union Road has caused the center of the north bound lane to settle causing uneven pavement and complaints especially from a motorcyclist. Mayor Kirby asked what the estimate for the repair. Mr. Burke implied that the cost would be superficial and minimal, say \$500, if repaired by our local contractor currently doing work within the city.

Commissioner Kelly asked if that would be a continual problem. Mr. Burke said with sewer laterals they

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have a tendency over time to sink and it could be an ongoing problem, unless repaired.

Commissioner Kelly made the motion to repair the pavement settlement problem along Old Union Road at this location. Commissioner Adams seconded the motion. **Motion Carried.**

Commissioner Miller asked about a noise complaint from a Lakepoint Drive resident with excessive dump truck braking along SR 536 (Mt. Zion Road). Attorney Voss said the city has no control over them.

PLANNING AND ZONING: Mr. Jim Longano was not present and had no report for the City of Union this month.

OLD BUSINESS:

- Second Reading of **ORDINANCE NO 2011-007** – AN ORDINANCE LEVYING AND FIXING THE TAX RATES OF THE CITY OF UNION, KENTUCKY, FOR THE FISCAL YEAR 2011-2012, LEVYING SAID TAX UPON REAL, AND TANGIBLE PROPERTY; FIXING THE DATE OF PAYMENT, DISCOUNT PAYMENT, DELINQUENCY AND INTEREST CHARGES; FIXING THE PURPOSE THEREFORE; AND SETTING FORTH THE PROCEDURE FOR COLLECTION OF TAXES. Commissioner Mefford moved to approve and Commissioner Miller seconded the motion. **Motion Carried.**

NEW BUSINESS:

- **RESOLUTION NO. 2011-014** – A RESOLUTION OF THE CITY OF UNION, KENTUCKY IN SUPPORT OF NORTHERN KENTUCKY CONSENSUS COMMITTEE 2012 PRIORITIES. Commissioner Adams moved to approve and Commissioner Mefford seconded the motion. **Motion Carried.**

Commissioner Miller asked about the Plantation/Arbor Springs leaking retention pond. Mr. Burke stated that the plats indicate responsibility for repairs is the highway department, since they maintain the easement for the discharge control structure.

ANNOUNCEMENTS:

Next City Commission Meeting: Monday, November 7, 2011

Union Recorder will come out in November.

Trick or Treat hours are Monday October 31, 2011 from 6:00 to 8:00 pm.

Commissioner Miller asked about the serving and selling of alcohol at City Events. Attorney Voss stated that we would be better off having someone to come in and serve the beer. Mayor Kirby said we need to find out what the cost for adding a rider to our insurance.

No further business came before the Commission. Commissioner Kelly moved to adjourn the meeting at 9:30 p.m. Commissioner Mefford seconded the motion. **Motion carried.**

Signed this 7th day of November 2011

APPROVED:

ATTEST:

Don Kirby, Mayor

Kathy Porter, City Clerk/Treasurer