

**City of South Lyon  
Joint City Council and Planning Commission Meeting  
March 1, 2021**

Mayor Pelchat called the meeting to order at 7:00 p.m.  
Mayor Pelchat led those present in the Pledge of Allegiance

Roll Call: Mayor Pelchat joined the meeting from South Lyon, MI  
Councilmembers: Kivell joined the meeting from South Lyon, MI, Dilg joined the meeting from South Lyon, MI, Kennedy joined the meeting from South Lyon, MI, and Richards joined the meeting from South Lyon, MI

Planning Commissioners: Mosier joined the meeting from South Lyon, MI, Chubb joined the meeting from South Lyon, MI, Chair Lanam joined the meeting from South Lyon, MI, Finnegan joined the meeting from South Lyon, MI

Also, present: City Planning and Zoning - Kelly McIntyre, City Manager - Zelenak, City Attorney - Hamameh, DDA Director Nate Mack, Clerk/Treasurer Deaton, Deputy Clerk/Treasurer Pieper

Absent: Councilmembers Rose and Kurtzweil and Commissioners Joseph, Kopkowski and Rose

**AGENDA**

**CM 1-1-21 MOTION TO APPROVE THE AGENDA**

**Motion by Kennedy, supported by Dilg**

**Motion to approve the agenda as presented**

**VOTE: MOTION CARRIED UNANIMOUSLY**

**PUBLIC COMMENTS - Non-agenda items**

**None**

**NEW BUSINESS**

**a. Presentation of Draft Zoning Ordinance updates**

McIntyre states that this is the Planning Commissions document, and they have been working on the Zoning Ordinance for a number of years. In fact, it goes back to when Council Member Kurtzweil was on the Planning Commission. She was part of the Commission that actually wrote and drafted this. She states that this document has gone through a couple of Attorney reviews and a few Planning Commission meetings. She goes on to say that she, along with the Planning Commission, are pleased to present this to you this evening. After the presentation, they will be happy to answer any questions and at that time, she will have direction on whether to make any additional edits or changes. Following that, the next step is to have a Public Hearing at the Planning Commission Meeting and then to the City Council where we can get this adopted on the books and we can start using this.

McIntyre refers to the power-point presentation that was given to all Council and Planning Commission members. McIntyre states that the reason they are updating this ordinance is because the last update was completed in 1995. However, she considers this update that they are reviewing now a complete overhaul, re-organizing, updating, and gives clarity and guidance. The new ordinance is also easier for users to navigate through. She states that they wanted to go ahead and show new land uses, developing trends and also some new streamlined processes and procedures. There are also some re-zonings that needed to be updated. She goes on to say that the Knolls Development needs to be properly shown and she also has some suggestions and would also like to look at expanding the Central Business District.

McIntyre goes on to discuss the comparisons between the old ordinance and the new. She states the old had a total of 7 Articles whereas the new one has 25. The new one is definitely more user-friendly, much easier to navigate through and there is a table of contents.

The ordinance has been re-organized and begins with a General Section which includes: Article 1 – Authority and Article 2 – General Provisions

From there, we go on to Districts which includes: Residential, Office, Commercial and Industrial. Next is the Approval Procedures which includes: Conditional Land Use and Planned Use Development. McIntyre goes on to add it also includes Development Review Standards and Administration.

McIntyre begins with Article 1: Title, Purpose and Scope

She states that the first and most important thing is that we need to identify the ordinance is enabled and has the authority from the Michigan Zoning Enabling Act (PA 110 of 2006). She states that we previously did not have that so we wanted to show that we are in compliance with that act.

#### **Article 2: General Provisions**

McIntyre states that they tried to make this more user friendly and adds that they have updated this with new graphics. She states that they are showing where accessory buildings can be placed on lots. They have added new provisions for Donation Boxes and where they can be placed on Commercial Property. This also includes Storage Containers (POD) and how long they can be place. In addition to these, they have added Flagpoles, Playscapes and Personal Ice Rinks.

She goes on to say that they have added a Graphic to show RV parking so that we can clearly show where RV's are to be parked. Graphics also show placements for fences in residential districts.

McIntyre goes on to talk about a new General Provision that has been added, and it is intended to regulate the character of new infill housing development. She refers to the vacant property that we have on Lake Street. The purpose of these regulations is to promote harmony in neighborhoods between new housing units and the existing buildings by assuring that new construction is of suitable character in terms of site layout, building dimensions, architectural design and building materials.

#### **Articles 3-10 Districts**

McIntyre states that previously you had each section written out and it had a list of the uses in a different format, so now, what has been done is all the uses are listed within each section and it will also be showing the bulk regulations. So when you open up a district, you will be able to see what is allowed in each district, whether it is a permitted use or special use, along with the setbacks and requirements that are permitted. McIntyre does point out that the IRO (Industrial Research Office) has been removed as we do not have any land or property in the city for this. She states that they have also removed the Vehicular Parking District, there is one parcel in the city and that is for the Tube Mill. The Tube Mill has a parking lot across from their location. Moving forward, parking should be attached to the business.

#### **Articles 4 and 5: Residential**

McIntyre reviews an example of our residential and refers to the table showing the breakdown of each of the districts whether it is permitted and whether it is a special land use. If there are references, they would be able to go to that section for further information. She states that they also removed the cumulative districts, stating that it is easier to have this table showing the breakdowns all in one place.

#### **Article 8: Business Districts**

McIntyre states that they propose to eliminate the Community Business District, she goes on to say that there are two sections of the city that has community business districts and really they function as a general business district and they function the same. She states that they are also proposing to expand the Central Business District to comply with the Master Plan, expanding south to Reynolds Sweet and North to Able.

### **Central Business District**

McIntyre states that here is where you would find Architecture and Design Guidelines. She goes on to say that from our Master Plan, there is a PUD overlay on the entire downtown business district, this allows developers to come in get a little bit more creative.

### **Article 12: Planned Unit Development (PUD) Overlay (renamed)**

McIntyre states that this chapter is basically the same, it has its own chapter now.

### **Article 11: Conditional Land Uses (CLU) (new article)**

McIntyre states that per the City Attorney, this name will be changed. She states that this is very similar to Special Land Use, but without a public hearing. As long as the list of conditions are met, use will be permitted.

### **Article 13: Special Land Uses (SLU)**

McIntyre states that this is basically the same. This will clearly define what the general standards are.

### **Article 15: Site Plan Review**

McIntyre states that with this, they presented a table that itemizes what requires Site Plan Review. She states that a "Sketch" plan was added for minor expansions, parking lots, landscaping, etc., something that has no impact to the original site and therefore, it can now be approved administratively.

Council Member Kivell requests a clarification from McIntyre regarding how it is determined whether or not something will need to go before the Planning Commission. McIntyre states that if the Administrator feels that something needs to go before the Planning Commission, they can request that. She adds that the client also has the right to request that. McIntyre adds that this is for a Sketch Plan. Anything that is new, any special land use, and any residential development will all go to the Planning Commission no matter what.

**Planning Commissioner Kopkowski joined the meeting at 7:07 p.m.**

**Kopkowski states she is joining the meeting virtually from South Lyon**

**City Attorney, Lisa Hamameh joined the meeting at 7:25 p.m.**

### **Article 16: Rezoning, Zoning Ordinance and Master Plan Amendments (new article)**

McIntyre states that again this is a new article, stating that some of these things were spread throughout existing ordinance, but now they have been put together in one chapter. How to re-zone a property, zoning ordinance, and Master Plan amendments. She states that they have also added Conditional Land Use with specific guidelines.

### **Article 17: Nonconformities**

McIntyre states the only thing that really changed was that previously we had something called a Class A and Class B designation that the Planning Commission would designate them, this has been removed. She adds that we now have provisions for continuance of nonconforming uses of structure and land. She goes on to talk about if a non-conforming use is damaged or destroyed more than 50% or greater, then that can no longer be used and it will have to come in to conformity. This article also talks about abandonment and its criteria that the city can determine that it is the intent of the property owner to abandon it and it will have to be re-developed.

### **Article 19: Parking Lot and Loading**

McIntyre states that they updated and loaded from the Institute of Transportation Engineers. Using their standards which include maximum limit of parking, residential parking surface and maintenance requirements. She states that they also provided additional graphics to help make things easier to interpret and understand

### **Article 20: Access Management (new article)**

McIntyre states this talks about the distance between driveways and this really pertains to new construction.

**Article 21: Landscaping and Tree Preservation**

McIntyre states that this is pretty much the same. She states that we currently already had a good Tree Preservation Ordinance which is included. What was not very clear, was the landscaping requirements. Very specific landscape requirements for buffers along streets and parking lots had to be provided along with greenbelt standards

**Article 22: Lighting (new article)**

McIntyre states that all light fixtures need to be fully shielded and pointed downward. We also have foot candle measurements so that lighting doesn't exceed certain foot candles at property lines. She adds that architectural lighting cannot be placed around the exterior of their buildings.

**Article 23: Administration**

McIntyre states that this is common in all zoning ordinances and it establishes the authority of the Zoning Administrator. She adds that the provisions include the requirements for public hearings and for Performance Guarantees.

**Article 24: Zoning Board of Appeals**

McIntyre states that they have updated the membership, decreasing from 7 board members to 5. She states that they also added very specific standards for Dimensional Variance and Use Variance. They were previously not clearly written out in our current ordinance.

**Article 25: Definitions**

McIntyre states that there are new definitions that have been added, and they have eliminated some out of date definitions. She added that they are also providing new graphics.

Mayor Dan Pelchat opens up the floor for any questions from the Council or Commissioners.

Council Member Kennedy confirms with McIntyre that under the non-conforming structure, she talked about damage that is less than 50% and verified that a repair would be allowed. He then goes on to question the zoning on parking lots and further references the parking lot across from Michigan Seamless Tube. Kennedy asks McIntyre if we do away with that parking lot, how would that property be zoned? Kennedy goes on to explain, based on the discussion that they previously had regarding Holly Hills, if MST was going to add an addition, he would much rather see it go to the back of that property than across the street and next to McHattie Park.

McIntyre states that because the adjacent property is residential, so it would go to the residential zoning district. She adds that it would be an existing non-conforming, but if you want to do anything else with it, other than a parking lot, it needs to conform to residential zoning district.

Kennedy questions the terminology on the Central Business District and is that term inter-changeable with DDA or are they two different things and if so, can you describe the differences between the two. McIntyre states that it is not inter-changeable, the Central Business District does not include all of the DDA. The DDA is a separate body, it can be commercial business or a general business. But more than likely they overlap, but they do not have to be the same.

Kennedy confirms with DDA Director, Nate Mack the property that is considered DDA.

Chair Lanam wants to just make sure that the Sketch Plan is not for new construction, it is not an expansion of the foot print, it may be in a strip mall and it may be taking over an adjacent suite not changing their use. Lanam goes on to confirm with McIntyre regarding lighting and if it is Christmas lighting would there be a special permit. McIntyre states that we do allow seasonal lights and they have a standard time line, which she believes is 30 days after the holiday.

Councilmember Kivell confirms with McIntyre that landscape lighting that wash up on the building is allowed.

Councilmember Kennedy refers to the exterior lighting section and questions if these ordinances are going to help avoid the situation that Council had between Witch's Hat and the sign that the Car Wash had put in. McIntyre says yes and no, and explained that they have gone out to that sign and tested the lighting. She advised that the foot candles for that sign are in compliance. However, what's not in compliance is the glow from that sign that comes off of the LED lighting. She states that there are standards that are written for that and we will need to invest in some of the sophisticated light measuring equipment to measure the output from the LED's. McIntyre adds that the situation Kennedy referenced was a unique situation and something like that should never happen again.

Councilmember Richards questions McIntyre regarding the Master Plan and extending the business district from Lake Street and Liberty Street down to Warren Street.

McIntyre states that there wouldn't be any expansion from East to West. She does see the current district does go to Washington Street.

Richards questions if they will be going over each Article with any questions they may have. McIntyre advises that they will be doing that and adds it will only be for content matter only. McIntyre adds that a Zoning Ordinance is a working document, there may be amendments along the way as situations come up. But she hopes to capture all the potential possibilities along the way.

Councilmember Kivell states that with the expansion of the CBD, one of the potential consequences of that is that it alleviates some of the responsibility for on-site parking. He asks McIntyre if the city will end up taking on the responsibility for fulfilling whatever parking might end up being necessary that will no longer end up being their responsibility, is there something planned, or are you waiting to see if the problem presents itself.

McIntyre states that some of the business that currently exist, and that are in the general business district, do not supply on-site parking, they rely on street parking. She goes on to say that there is a provision in the ordinance that says if there is on street or municipal lot parking within 300 feet, they are exempt from having to supply on-site parking.

Councilmember Kivell asks if we have given any consideration to what Northville does, where they pool money and if you are in the CBD, you can buy into City Municipal Parking. McIntyre advises that they have not, but they can look in to it. Kivell states that he was hoping that they could flesh out the problems before they arise.

Councilmember Richards questions how long each person will have to speak on each Article as they go through them. McIntyre states that everyone should have their chance, if they need to go on, or meet separately to finish the discussion.

Councilmember Richards states he does not see anything about Garage Sales. McIntyre states that those are addressed in the code of ordinance not zoning.

### **McIntyre starts with Article 1 – Title, Purpose and Authority**

City Attorney Hamameh states that she and McIntyre have had some pretty extensive conversations this afternoon about some of her suggested changes and wonders if those should be discussed as well.

McIntyre states – no questions on Article 1

### **Article 2 – General Provisions – No Comments**

**Article 3 – Accessory Buildings and Structures** – City Attorney Hamameh, page 2-7, Section 102-14 Determination of similar uses, paragraph B says that if an applicant is aggrieved by an interpretation by the Zoning Administrator, they can petition for an amendment. We talked about adding, or apply to the ZBA. The other change in Article 2, is when we talk about temporary building structures, Section 102-46, Paragraph A-2, where it talks about moving storage pods being allowed as long as there is an active building permit. Hamameh states that permits are good for a year, so does that mean the pod can stay for a year and with that said, this brings up all kinds of other situations. So they will be revisiting this.

Councilmember Kennedy asks about the temporary carports that people put up and where or if that is addressed. McIntyre states that this is the section to discuss it. She states that she and the City Manager

discussed this. She states that they are allowing car canopy's at this point. However, they must be behind the front plane of the house, or in the side or rear yard. But they must be 3 feet from the side or rear yard and they have to be 10 feet from the structure. Doing the math, this makes it virtually impossible to have one, so we will need to look at this. Accessory use, we say, needs to be 10 feet from the main structure. So perhaps, that is not a requirement of a car canopy. Kennedy confirms that if there is an attached garage, the canopy cannot go in front of the garage.

Councilmember Kivell references page 2-18, 102-30, B-2 – Building Materials - For existing buildings material replacement should closely match the character of the existing or original materials used on a structure. Kivell asks if there is a façade re-do on a building, similar to the buildings downtown, is this a general comment or why would we be trying to push to keep like materials similar to what the original was. McIntyre states that she believes the intent is that if you are replacing the materials, and there is value in allowing different building material and we can add that it can be looked at by the Planning Commission. We do not want an entire metal building next to the brick buildings downtown. There is a little bit of discretion involved. She states that they can come up with language a little more clear.

Councilmember Richards, page 2-15, Sec 102-26 Bottom of the page where it talks about lot splits. Sentence 3 says that new lots may not be accessed by an easement. How is this supposed to be interpreted?

McIntyre states that this pertains to a commercial or industrial office, non-residential uses. They must have direct access to a public road.

Councilmember Dilg - Home Occupations, page 2-13, No person other than a member of the family residing in the dwelling shall engage in the conduct of a home occupation.

Does this mean that you cannot Airbnb your house?

McIntyre states that an Airbnb is not a home occupation.

Dilg questions (E.) what it means that there is no signs on any structures. McIntyre states that you are not allowed to have any signs in your yard or in front of your house saying that you do upholstery, for example. It must maintain the character and residential feel of a residential neighborhood.

Dilg goes on to (G.) where it says you cannot live in an accessible structure. She references a few of the homes on Lake Street that have a Mother-in-law house in the back and asks if people can live in those or is this saying they cannot.

McIntyre clarifies that this is regarding a home occupation, and that you cannot conduct that in a home or an accessory structure.

Councilmember Kivell references 102-40, on 227, it says that if you are doing a development that has 20 or more lots or dwelling units, that you have a responsibility for some recreational obligations. Then it goes on to say that the Planning Commission may modify this recommendation when it is determined that an alternative recreation facility is provided in close proximity, however, a contribution to the maintenance fund for those recreational facilities shall be made. Kivell states that it makes no mention of what that contribution unit price might end up being. Is that something that is in our fee schedule?

McIntyre states that it is not in our fee schedule and it would be commensurate to what it would cost to create a recreational area on that property. It would be a one-time contribution and we would have to have the applicant, or the developer provide us with an estimate for theoretical plans and what it would cost.

Kivell questions what account would those funds go to? McIntyre states that this pertains to the maintenance of McHattie Park, so that would be DPW, but we would have to talk to the finance director to look at this a little more closely.

McIntyre states that the advantage for doing this is that the developer would be able to add more houses.

#### **Article 4 - Single Family District**

Councilmember Kivell refers to 4-3 and just clarifies that there is no R4

Councilmember Kennedy refers to page 4-8, impervious surfaces including but not limited to and then you have all the verbiage there. Kennedy states that this does not read verbatim what was approved when the City Council approved that on September 10, 2018. He states that he brought that to McIntyre's attention previously and verifies that the change has been made.

**Article 5 – Multiple Family District**

**Article 6 – Manufactured Housing**

McIntyre states that this is the state requirements and standards. There is no point in trying to recreate or revise this.

**Article 7 – Office**

McIntyre states that we have office in our zoning, but we do not have any office districts currently in our city.

**Article 8 – Business Districts**

**Article 10 – Industrial**

**Article 11 – Conditional Land Uses – being changed to Site Development Standards for Specific Uses**

**Article 12 – PUD**

**Article 13 – Special Land Use**

**Article 15 – Site Plan Review**

Councilmember verifies with McIntyre that there is no Article 14. McIntyre states that it is intentionally left blank.

Councilmember Richards states that he completely understood Article 15 with one exception, the part that says one year completion of a site plan. He states that many developed properties whether commercial use or home use, that the contractor did not intend to live in, took more than one year to complete. McIntyre explains that this gives the applicant one year to start the project. After they get site plan review, if they do not initiate construction, then they lose site plan approval. They can apply for a one-year extension and can advise the circumstances to the Planning Commission. After it expires, they will need to re-apply with a new site plan. McIntyre states that maybe they will need to further clarify what an active building permit is and what kind of progress should take place.

**Article 16 - Re-Zoning Master Plan Amendments and Conditional Re-Zoning**

Councilmember Kivell, 102-215, page 16-6, E. The Reversion of Zoning. It says if a re-zoning or conditional re-zoning become void as outlined above, then the zoning classification of the property shall revert back to the previous zoning classification. The reversion process shall be initiated by the City Council by requesting the Planning Commission proceed with consideration of re-zoning of the land to its former zoning classification. The procedure for considering and making this reversionary re-zoning shall be the same as it applies to all other zoning requests. Kivell questions why if you have a situation where they haven't fulfilled what they were trying to accomplish within the timelines that were allotted. Why would we end up having to go through all the additional hurdles to put it back to what the zoning had been prior to this project coming forward?

McIntyre states that she does agree with Kivell, however, she will confirm with the City Attorney.

City Attorney Hamameh states that they put this language in here because we don't know how much time will lapse between the time approval is obtained and when it's reverted. Master Plans might change, other uses might change, and you may not want it to go back to the original zoning 20 years down the line.

**Article 17 – Non-Conforming Uses of Structures and Lots**

Councilmember Kennedy, 17-4, page 2, confirms with McIntyre that we deleted that reference to Article 14, as there is no Article 14.

Councilmember Richards states that there are a lot of non-conforming lots and structures on lots throughout the city. Richards's states that in no cases should it be allowed or discounted that the changes or the approval of non-conforming devalue adjacent properties.

McIntyre states that it is already existing, the use is already there, the structure is already there, so it has no effect on the adjacent property. What this is saying is that it can continue. We don't want to and never want to create non-conforming situations.

#### **Article 18 – Condo Standards**

McIntyre states these are quite simple and basically says you need to follow site plan review standards as if it were a commercial or other development. Everyone uses condominium development standards instead of the subdivision act which goes through the preliminary plot.

#### **Article 19 – Off Street Parking and Loading**

Councilmember Kennedy, page 18-1, Residential Parking, #2 No parking should be permitted in required yards on a regular basis on lawns or other unpaved areas

Kennedy states that this needs to be specifically called out because we don't want somebody determining what regular means.

Councilmember Kivell asks what the determination was. McIntyre states that parking on the grass is not permitted at all.

Councilmember Dilg questions if there is anything mention regarding parking across the sidewalk.

City Manager Zelenak states that this is within the Michigan Vehicle Code.

#### **Article 20 – Access Management**

#### **Article 21 – Landscape Standards and Tree Replacements**

McIntyre addresses Councilmember Richard's concerns and advises that no one should just be clear cutting a lot. If someone is working on a lot, they would need to get a tree removal permit.

#### **Article 22 – Lighting**

#### **Article 23 – Administration and Enforcement**

#### **Article 24 – Zoning Board of Appeals**

Councilmember Richards questions why this is included in our presentation at all. McIntyre advises that the Zoning Board of Appeals is who the applicant or developer can go to if the Planning Commission says no, or if someone comes to the City and the Zoning Administrator and they don't meet the setbacks, this gives them an avenue of recourse. They can go to ZBA and ask for a variance.

Councilmember Kivell adds that they are also a detached board from Planning and they are looking at it with fresh eyes.

Councilmember Kennedy questions if someone can be on the Planning Commission and on the ZBA?

McIntyre states that they can and that creates a liaison, in fact the City Council is permitted to have a representative on the ZBA. She states that there is very specific criteria and if it meets the criteria, it is approved. So while it might not have been approved during Planning Commission because it did not meet the setbacks, if all the standards for the dimensional variants are met, then it can be approved.

Kennedy questions what kind of training the ZBA members have had. McIntyre states that there is a very specific list of criteria. We provide training, and in fact all of our Planning Commissioners are going to be doing training this week, ZBA members as well. She adds, it is not a personal opinion it's because it meets the criteria. Kennedy questions if this information is documented to someone, and who does the ZBA report to. City Attorney advises that this would be the Circuit Court.

City Manager Zelenak advises that any sort of decision that is made by the ZBA. They have to state why they are re-zoning it and the planner usually gives the reasons and what the findings are. Zelenak goes on to explain the decision process.

Attorney Hamameh advises that this is all documented in the meeting minutes and if there was an appeal, on the Circuit Court level, the only thing that can be considered is the record on appeal. Which would include Kelly's review, the application that was submitted, anything that was presented to the ZBA as part of the package, their discussion and the meeting minutes.

Chair Lanam confirms with McIntyre that when you have the Planning Commission liaison, there are times when they have to abstain from voting.



Commissioner Mosier also confirms that minutes are kept.

Councilmember Kivell questions who has standing to be able to go to Circuit Court?

Attorney Hamameh advises that it is the aggrieved party and there is a lot of case law that defines what an aggrieved party is. She adds that technically it can be a member of City Council, but you really don't want to do that.

Attorney Hamameh advises that they cannot distinguish between a place of worship and any other place assembly. Churches need to be treated the same way we treat theaters. So we will need to be make sure we are being consistent throughout that application. With that said, in the Industrial District, you are not allowing any place of worship or place of assembly, and if that is something that needs to be talked about, this is probably the time to do it.

The discussion continues and Hamameh goes on to explain that the Zoning Ordinance divides everything up into districts, what activity can be in each particular district. In the Industrial District, both I1 and I2, a place of worship and a place of assembly is not allowed in those districts. We do allow for government office and other government uses and what we see sometimes in litigation is a place of worship will challenge an ordinance because something similar is allowed but their use is not. Hamameh states that she and McIntyre have talked about removing some of the government uses from the industrial just to eliminate that argument. Kivell states that he doesn't believe that we lose tax revenue as a product if they are using a property that actually earns money then we don't lose the revenue from the tax from that. Hamameh clarifies that some assembly uses could also be commercial uses.

Councilmember Kennedy along with Mayor Pelchat compliments all the work that was put in to this and it looks pretty good.

Mayor Pelchat adds he appreciates all the hard work that was done on this and thanks the Planning Commission, City Attorney Hamameh and City Planner, Kelly McIntyre.

**ADJOURNMENT**

**CM 1-2-21 MOTION TO ADJOURN**

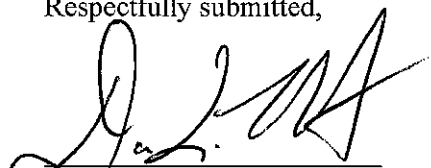

**Motion by Dilg, supported by Kennedy**

**Motion to adjourn meeting at 8:52 p.m.**

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Respectfully submitted,

  
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Dan Pelchat, Mayor  
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Judy Pieper, Deputy Clerk