

OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE CITY OF ST. JOSEPH, MISSOURI

June 14, 2010 - 7:00 p.m.
Office of the City Clerk

CALL TO ORDER:

The Council of the City of St. Joseph, Missouri, met in regular meeting in the Council Chamber at City Hall, on Monday, June 14, 2010, at 7:00 p.m. The meeting was called to order at 7:00 p.m. by Mayor Falkner. Notice of said meeting had been established as every other Monday at 7:00 p.m. Further notice was provided by posting the regular meeting date and time in the City Clerk's office at City Hall, and by written notice (together with a tentative agenda) three days in advance in the City Clerk's office.

ROLL CALL:

Present were Councilmembers Boyer, Falkner, Jones, Kovac, LaBass, Myers, Penland, Roach, Starr--9. Total membership--9. Five members constitute a quorum.

Also present were City Manager Vincent J. Capell, City Attorney Lisa M. Robertson, Public Works & Transportation Director J. Bruce Woody, Police Chief Christopher Connally, Financial Services Director Carolyn Harrison, Human Resources Director Diana Slater, Fire Chief Michael L. Dalsing, Parks, Recreation & Civic Facilities Director Bill R. McKinney, Health Director Debra Bradley, Planning & Community Development Director Clint Thompson, Customer Assistance Director Samuel T. Barber, Property Maintenance & Technology Services Director Steve Hofferber, Communications Manager Mary Robertson, Multi-media Coordinator Chris Clark, City Clerk Paula Heyde and Intern Justin Peacock.

Under the Council voting rotation system, Councilmember LaBass voted first.

PLEDGE OF ALLEGIANCE:

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MINUTES:

36751 By general consent, the minutes of the regular meeting held June 1, 2010, at 7:00 p.m., were approved as transcribed in the office of the City Clerk.

SPECIAL RECOGNITIONS:

36752 Proclamation – Dump the Pump Day

ACCEPTANCE OF AGENDA:

36753 It was moved by Councilmember Boyer and seconded by Councilmember Myers that the Agenda be accepted as published. Motion carried. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.

PUBLIC HEARING ON PROPOSED REVISIONS TO SEWER CHARGES:

36754 The City Council held a public hearing on Monday, June 14, 2010, at 7:00 p.m., in the Council Chamber regarding proposed revisions to sewer charges established by the City of St. Joseph, Missouri.

Residents were given an opportunity to express their views on the proposed revisions at this time.

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PUBLIC HEARING ON PROPOSED REVISIONS TO SEWER CHARGES: (Cont'd)

36755 There being no persons appearing to be heard, the Mayor declared the public hearing closed.

CONSENT AGENDA:

36756 It was moved by Councilmember Boyer and seconded by Councilmember Jones that Agenda Number 36757 through 36773 be passed by Consent Agenda. Motion carried. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.

Bills for Passage:

36757 (G.O. 2384) A Bill (#65-10) amending Section 7-259 entitled "Amendments to the 2006 UPC (Uniform Plumbing Code)" of the Code of Ordinances, having been read the first time on June 1, 2010, was read the second time and passed. (Mayor Falkner abstained on this bill.)

36758 (G.O. 2385) A Bill (#59-10) amending Section 28-1590 of the Code of Ordinances entitled "Parking prohibited at any time," having been read the first time on June 1, 2010, was read the second time and passed.

36759 (S.O. 7990) A Bill (#69-10) authorizing the purchase of services from SAK Construction, LLC to install cured-in-place pipe in various sewer lines in the amount of \$559,329.13, having been read the first time on June 1, 2010, was read the second time and passed.

36760 (S.O. 7991) A Bill (#62-10) amending the Aviation Fund budget in the amount of \$2,095.00 to provide for overtime expenses, having been read the first time on June 1, 2010, was read the second time and passed.

36761 (S.O. 7992) A Bill (#73-10) amending the Police Department budget in the General Fund to budget funds received from an insurance company for damage to a police car in the amount of \$943.00 to the Maintenance and Repair of Motor Vehicles Account, having been read the first time on June 1, 2010, was read the second time and passed.

36762 (S.O. 7993) A Bill (#66-10) to repeal Special Ordinance 7952 and enact in lieu thereof an ordinance to authorize a Settlement Agreement with the Missouri Department of Natural Resources and Attorney General's office for landfill gas migration for the sum of \$2,500.00 and other considerations, having been read the first time on June 1, 2010, was read the second time and passed.

36763 (S.O. 7994) A Bill (#67-10) accepting the proposal from CBIZ, brokers for Blue Cross Blue Shield of Kansas City (BCBSKC), for health insurance coverage for St. Joseph Mass Transit (Transit) employees in the amount of \$1,436,741.00, having been read the first time on June 1, 2010, was read the second time and passed.

36764 (S.O. 7995) A Bill (#58-10) to enter into a contract amendment with the Missouri Department of Health & Senior Services in the amount of \$9,572.00 to provide childhood lead poisoning prevention services within the community, having been read the first time on June 1, 2010, was read the second time and passed.

36765 (S.O. 7996) A Bill (#71-10) to authorize a contract with Brooner & Associates Construction, Inc. in the amount of \$1,632,328 for the St. Joseph Fire Station No. 12 Project, having been read the first time on June 1, 2010, was read the second time and passed.

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CONSENT AGENDA: Bills for Passage: (Cont'd)

- 36766 (S.O. 7997) A Bill (#74-10) amending the Aviation Fund budget in the amount of \$400,000.00 and authorizing execution of Modification Number P10001 to the existing Military Construction Cooperative Agreement (MCCA) (Number W912NS-09-2-2102) with the National Guard Bureau, on behalf of the Missouri Air National Guard, to provide additional funding for the installation of taxiway access roads for the Fire Crash/Rescue Station Project – Phase I and II located at Rosecrans Memorial Airport, having been read the first time on June 1, 2010, was read the second time and passed.
- 36767 (S.O. 7998) A Bill (#76-10) amending the Sewer Fund budget and authorizing a Reimbursement Agreement with Timothy and Lindsay Minson in an amount not to exceed \$216,303.00 for the reimbursable cost associated with the upgrade design and construction of off-site sewers to serve the Timber Creek Subdivision, having been read the first time on June 1, 2010, was read the second time and passed.

Resolutions for Adoption:

- 36768 (Resolution No. 36768 - 3091) A Resolution (#79-10) authorizing the filing of an application for the Edward Byrne Memorial Justice Assistance Grant in the amount of \$26,710.00 for use by the St. Joseph Police Department, was read and adopted.
- 36769 (Resolution No. 36769 - 3092) A Resolution (#83-10) approving the city's Five (5) Year (Fiscal Years 2011/2012 – 2015/2016) Capital Improvement Program, was read and adopted.
- 36770 (Resolution No. 36770 - 3093) A Resolution (#87-10) to renew the boiler and machinery insurance coverage with Chubb through CBIZ Insurance Services in the amount of \$19,722.00, was read and adopted.
- 36771 (Resolution No. 36771 - 3094) A Resolution (#88-10) to renew property and crime insurance coverage from Great American Insurance Group through CBIZ Insurance Services in the amount of \$114,765.00, was read and adopted.
- 36772 (Resolution No. 36772 - 3095) A Resolution (#89-10) authorizing the execution of Amendment "A" to the agreement with Thomas McGee, L.C. to continue third party administration services associated with the city's self-insured workers' compensation program, was read and adopted.
- 36773 (Resolution No. 36773 - 3096) A Resolution (#93-10) authorizing the purchase of one Microsoft Exchange Server 2010 Enterprise License and 400 Microsoft Exchange Server 2010 Enterprise Device Client Access Licenses (CALs) for the amount of \$31,523.00 from World Wide Technology, Inc., was read and adopted.

***** END OF CONSENT AGENDA *****

BILLS FOR PASSAGE:

- 36774 (S.O. 7999) A Bill (#60-10) to purchase one (1) 4x4 three quarter ton regular cab truck with utility bed and lift gate for the amount of \$26,367.00 from Shawnee Mission Ford for the Water Protection Division of the Public Works & Transportation Department, having been read the first time on June 1, 2010, was read the second time and passed. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.

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Number BILLS FOR PASSAGE: (Cont'd)

- 36775 (S.O. 8000) A Bill (#68-10) to amend the General Fund and CIP Sales Tax Fund budgets and authorize a contract with the Amino Brothers in the amount of \$1,315,447.86 for the Felix Streetscape Phase II Project, having been read the first time on June 1, 2010, was read the second time and passed. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.
- 36776 (G.O. 2386) A Bill (#41-10) amending Section 29-237 of the Code of Ordinances entitled "Schedule of user charges" related to sanitary sewer user fees, having been read the first time on June 1, 2010, was read the second time and passed. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Jones, Kovac--8. Nay, Falkner--1.
- 36777 It was moved by Mayor Falkner and seconded by Councilmember Penland that Bill #77-10 be amended before consideration for passage by removing the (part time) budget analyst position from the Mayor's office and go with a full time secretary. Motion carried. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.
- 36778 It was moved by Mayor Falkner and seconded by Councilmember Kovac that Bill #77-10 be amended before consideration for passage to leave \$20,000 in the Mayor and City Council's budget to hire an independent auditor to work on an as needed basis. Motion carried. Ayes, LaBass, Penland, Falkner, Jones, Kovac--5. Nays, Myers, Roach, Starr, Boyer--4.
- 36779 It was moved by Councilmember Roach and seconded by Councilmember Starr that Bill #77-10 be amended before consideration for passage to allow the 40-hour position be put back underneath the city clerk's office and the mayor still have oversight of that position. Motion failed to carry. Ayes, Myers, Roach, Starr, Boyer--4. Nays, LaBass, Penland, Falkner, Jones, Kovac--5.
- 36780 (S.O. 8001) A Bill (#77-10) adopting the Fiscal Year 2010-2011 budget for the City of St. Joseph, Missouri, as set forth in Exhibits "A" and "B," having been read the first time on June 1, 2010, was read the second time and passed. Ayes, LaBass, Penland, Falkner, Jones, Kovac--5. Nays, Myers, Roach, Starr, Boyer--4.
- 36781 (S.O. 8002) A Bill (#61-10) authorizing a contract with the St. Joseph Area Chamber of Commerce for economic development services for the total sum of \$165,000.00, having been read the first time on June 1, 2010, was read the second time and passed. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.
- 36782 (S.O. 8003) A Bill (#70-10) authorizing an Intergovernmental Agreement with Buchanan County, Missouri, the Airport Levee District, the South St. Joseph Drainage and Levee District, and the Elwood-Gladden Levee District, for the purpose of providing funds necessary for the design of Missouri River Levee System L455 and R460-471, having been read the first time on June 1, 2010, was read the second time and passed. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.

EMERGENCY BILLS FOR PASSAGE:

None.

RESOLUTION FOR ADOPTION:

None.

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Number BILLS FOR FIRST READING:

- 36783 A Bill (#78-10) amending the Police Department budget in the General Fund in the amount of \$6,000.00 in order to purchase a replacement ballistic shield for the Special Response Team, was introduced and read the first time.
- 36784 A Bill (#80-10) amending the Customer Assistance Department budget in the General Fund in the amount of \$9,300.00 to provide additional funds for microfilming, was introduced and read the first time.
- 36785 A Bill (#81-10) accepting proceeds from the sale of property and abating demolition and weed and trash liens up to \$7,329.00, plus penalty and interest, on the property located at 1207 North Seventh Street, was introduced and read the first time.
- 36786 A Bill (#82-10) to approve expenditures from the Special Business District Fund in the amount of \$6,254.58 for expenses related to the purchase of additional rock material to construct a wall at Felix Street Square, maintenance of the Gateway Park, planting the downtown planters and planting the flower beds at Felix Street Square, was introduced and read the first time.
- 36787 It was moved by Councilmember Penland and seconded by Councilmember Roach that Bill #84-10 be amended before first reading by substituting a new ordinance and explanation letter in place of the ones originally filed. Motion carried. Ayes, LaBass, Myers, Penland, Roach, Starr, Boyer, Falkner, Jones, Kovac--9.
- 36788 A Bill (#84-10) amending the Legal Department and City Clerk's Office budgets in the General Fund in the amount of \$32,000.00 in order to cover projected expenditures in the Legal Department's "Professional Services" line item for the remainder of the fiscal year, was introduced and read the first time.
- 36789 A Bill (#85-10) approving an agreement for legal services with Seigfreid, Bingham, Levy, Selzer & Gee, P.C. in regard to construction and design-related issues, was introduced and read the first time.
- 36790 A Bill (#90-10) amending Chapter 5 entitled "Animals" of the Code of Ordinances to add a new Section 5-103 entitled "Canine Good Citizen Program." was introduced and read the first time.
- 36791 A Bill (#91-10) to enter into a contract in the amount of \$3,460.00 with the Missouri Department of Health and Senior Services to provide arbovirus mosquito surveillance, was introduced and read the first time.
- 36792 A Bill (#92-10) authorizing the purchase and installation of replacement equipment to rehabilitate two (2) secondary clarifiers at the Wastewater Treatment Plant in the amount of \$1,091,300.00 from JCI Industries, was introduced and read the first time.
- 36793 A Bill (#94-10) granting a Conditional Use Permit for operation of a day nursery center at 2848 Jules Street requested by Susan Vance, was introduced and read the first time.
- 36794 A Bill (#95-10) amending Section 31-050 entitled "Accessory uses and buildings" of the Code of Ordinances, was introduced and read the first time.
- 36795 A Bill (#96-10) authorizing a contract with P. B. Hoidale Co., Inc. for the purchase and installation of an automated fuel system in the amount of \$14,899.00 for the Street Improvement, Maintenance and Repair (SIM&R) Division of the Public Works & Transportation Department, was introduced and read the first time.

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Number BILLS FOR FIRST READING: (Cont'd)

36796 A Bill (#97-10) amending Chapter 5 entitled "Animals" of the Code of Ordinances to add a new Section 5-104 entitled "Individual Management for Protection of Animal Care and Treatment (IMPACT) Program," was introduced and read the first time.

36797 A Bill (#98-10) amending Section 13-31 of the Code of Ordinances entitled "Powers" pertaining to Municipal Court, was introduced and read the first time.

REPORTS OF BOARDS & COMMISSIONS:

Filed 5/25/10: Minutes of the Disability Services Board meeting held May 5, 2010, at 3:30 p.m., in the Council Chamber at City Hall.

Filed 5/28/10: Minutes of the Building & Fire Prevention Code Board of Appeals meeting held January 13, 2010, at 4:00 p.m., in the 4th Floor Conference Room at City Hall.

Filed 5/28/10: Minutes of the Building & Fire Prevention Code Board of Appeals meeting held January 27, 2010, at 4:00 p.m., in the 1st Floor Conference Room at City Hall.

Filed 6/1/10: Minutes of the Advisory Commission on Aging meeting held May 12, 2010, at MERIL (Midland Empire Resources for Independent Living), at 3920 Pettis Road.

Filed 6/2/10: Minutes of the Planning Commission meeting held May 27, 2010, at 7:00 p.m., in the Council Chamber at City Hall.

Filed 6/3/10: Minutes of the Housing Authority meeting held March 25, 2010, at 4:00 p.m., at 502 South 10th St.

Filed 6/7/10: Minutes of the Community Police Advisory Committee meeting held June 1, 2010, at 7:00 p.m., at the Rolling Hills Public Library, 1904 N. Belt Highway.

Filed 6/7/10: Minutes of the Downtown Review Board Work Session held June 2, 2010, at 5:30 p.m., in the 4th Floor Conference Room at City Hall.

Filed 6/7/10: Minutes of the Museum Oversight Board meeting held May 10, 2010, at 6:28 p.m., in the 1st Floor Conference Room at City Hall.

COUNCIL WORK SESSIONS & COMMITTEE MEETINGS – CITY CLERK’S OFFICE:

Filed 6/1/10: Minutes of the Council Finance/Audit Committee meeting held May 24, 2010, at 4:30 p.m., in the 4th Floor Conference Room at City Hall.

REPORTS & RECOMMENDATIONS OF THE CITY MANAGER:

Filed 5/28/10: Memorandum in re: Questions from Ellis Cross.

Filed 5/28/10: Mayor and City Council Update, May 28, 2010.

Filed 6/2/10: Memorandum in re: Planned retirement.

Filed 6/7/10: Memorandum in re: Acting City Manager (June 7-8, 2010).

DELEGATIONS, PETITIONS:

None.

COMMUNICATIONS:

Filed 5/26/10: E-mail from Keith Evans, 5214 Mockingbird Lane, in re: Budget analyst.

Filed 5/26/10: E-mail from Henry Allison in re: Mayor's office may get budget position.

Filed 5/27/10: Memorandum from Gerald McCush, Community Development Manager, in re: CDBG-R review committee.

Filed 5/27/10: City Weekly, May 27, 2010.

Filed 5/28/10: St. Joseph Area Chamber of Commerce Weekly Board Report, May 28, 2010.

Filed 5/28/10: Letter from J. Bruce Woody, Public Works & Transportation Director, to Kevin Mohammadi, Chief of Compliance, Division of Environmental Quality, Missouri Department of Natural Resources, in re: Submittal of Combined Sewer Overflow Control Facilities Plan.

Filed 5/28/10: Memorandum from Sam Barber, Customer Assistance Director, in re: 715 South 8th Street – William Guenther's property.

Filed 6/1/10: Memorandum from Lisa Robertson, City Attorney, in re: Status of City Intervention, Missouri-American Water Company ("MAWC") Water Rate Case.

Filed 6/1/10: Memorandum from Debra Bradley, Health Director, in re: Tobacco control grants.

Filed 6/1/10: E-mail from J. Bruce Woody, Public Works & Transportation Director, in re: Kansas City's LTCP (Long Term Control Plan).

Filed 6/1/10: Memorandum from Councilmember Starr in re: Budget Analyst position.

Filed 6/2/10: Memorandum from Diana Slater, Human Resources Director, in re: New position.

Filed 6/2/10: E-mail from Amy Myer, 5509 South 14th St., in re: City Charter.

Filed 6/3/10: City Weekly, June 3, 2010.

Filed 6/3/10: Memorandum from Mayor Falkner in re: Absent from the City (June 6 - 8, 2010).

Filed 6/4/10: Municipal Division Reporting Form, May, 2010.

Filed 6/4/10: St. Joseph Area Chamber of Commerce Weekly Board Report, June 4, 2010.

Filed 6/8/10: E-mail from Mark Meyer, 5509 South 14th, in re: Opinion of City Charter and employees under Mayor/Council.

Filed 6/8/10: E-mail from Mark Meyer, 5509 South 14th, in re: Budget analyst.

OTHER BUSINESS:

City Manager's Report - None.

PUBLIC COMMENT:

Steve Holdenried, 2125 S. 11th St., asked who is responsible for making sure all the Councilmembers follow the legal document of the City Charter? He said ultimately the city manager is responsible to make sure the councilmembers follow the document. The city manager is bound by the City Charter to challenge councilmembers if they make decisions that aren't exactly correct. He would like to clear this up because it's coming from the press, and that's not always correct, which says that Mayor Falkner favors a strong mayor form of government. Mayor Falkner said he believes the only form of government for a city this size is a city manager form of government.

NOTES:

Agenda No. 36752 - Mayor Falkner read the contents of the proclamation and presented it to Public Works & Transportation Director J. Bruce Woody.

Agenda No. 36776 - Teresa Moylan, 2008 James St., asked how costs are allocated to residential, commercial and industrial users. Last year the table showed that 100% of the cost is going to the primary users and industrial users weren't going to pay for any of it. She wonders what the percentage is for this year. Mr. Woody explained that cost of service based rate setting is the rate payer pays for only the component of service the city provides to them.

Craig Brown, Black & Veatch representative, said Table 19 of last year's study shows the application of the rate increase across the different customer classes. He listed last year's and this year's rates for the different customer classes. Ms. Moylan asked to see the table that shows the different projects and what percentage is charged to the primary users and what percentage is charged to secondary users. Mr. Brown said that only users that receive primary treatment pay for the CSO/LTCP; wholesale customers' user fees don't include a cost component for the LTCP because they don't use the collection system. Ms. Moylan said, that according to this, in 2015 wastewater treatment will cost \$68.00 each month.

Virginia Weigum, 5113 Mockingbird Lane, said the sewer charge is a mandate from the federal government and is unconstitutional. She asked if the city has challenged that and if the mayor has had a chance to look over the documentation showing how it was unconstitutional that was provided to him. Mayor Falkner said he did not receive any information. Mrs. Weigum said the city is missing the boat if it doesn't join in other cities and fight this. Mayor Falkner said they will do anything in their power to try to reduce this cost. Mrs. Weigum said she thinks St. Joseph needs to be another state of Arizona and start combating all of these mandates.

Donald Sherwood, 415 N. 10th St., said past city councils, not this one or the one last one, tapped into sewer funds to use on other items and he would suggest that we not do that in the future. That's why he thinks a special CPA is needed to watch how the money is being spent.

Agenda No. 36777-80 - Councilmembers Boyer and Starr went on record as saying that they were not aware of the Mayor's proposal to add funds for an independent auditor to the Mayor & City Council's budget until the Mayor announced it.

Sarah Hochschwender, 1114 N. 6th St., asked if the mayor will have control of the secretary if it's placed under the City Clerk's purview. City Manager Vincent J. Capell said that would depend on the city clerk. Typically, if a person is in a department, they report to the department director, in that case

NOTES: (Cont'd)

it's the city clerk. Mrs. Hochschwender asked if the rest of the Council understands that specific distinction. She asked Mr. Capell to name the other councilmembers besides the members of the Council Personnel Committee who requested the legal opinion regarding issues on the city charter resulting from the budget discussions. Mr. Capell said he thinks that's been made a public record. He wouldn't need any direction from any councilmember; he could request the opinion on his own authority. He felt it was necessary because the question had been asked several times.

Marilyn Tindle, city employee, said she has worked for the city for 39 years and she is being laid off. It's the loyal and decent city employees that make the city council, city manager and department directors look good and if they look good, the community is proud of what you have done. She is very proud of the city and the work she has done but she doesn't think the budget process has favored city employees this year.

Agenda No. 36781 - Ted Allison, President & CEO of the St. Joseph Area Chamber of Commerce, said he is asking for renewal of a contract that is part of a public/private partnership. It's not just about the money; it's about working together to try to improve the local economy and continue to attract new jobs.

Kenneth Reeder, 1801 E. Randolph St., said he thinks the Chamber can be asked to sacrifice also and use these funds for other things that are more needy at the present time as it's a very insignificant amount of the Chamber's budget.

Mr. Allison said the Chamber's economic development budget is right at \$800,000 per year and the City's contribution to the Chamber is not an insignificant figure and would mean the removal of probably two employees along with the related services. They raise approximately \$400,000 of private money each year to match the public money. Their supporters do that with the confidence that the Chamber will be working in partnership with the city and county.

Donald Sherwood, 415 N. 10th St., asked Mr. Allison how much the Chamber is working with the Bond Center located at Missouri Western State University. Mr. Allison said he works with Dr. Clapp's institute every week; they provide support services for many of his clients that are in that facility. Dr. Clapp is very much a part of the Chamber's economic development team.

Steve F. Haskey, 2502 N. 32nd St., said economic development was one of his platforms during the past council campaign. The city is getting a bargain at \$165,000 for what the Chamber does for the city. If the Council doesn't want to have to go through what it just went through over this budget, extra effort is necessary to increase economic development to bring new jobs to the city to increase the overall tax base to pay for the things the city needs. He would suggest, in the future, giving the Chamber more money. We need to applaud the Chamber for what they do and work hand in hand with them and the County to bring more jobs and revenue to this city.

Agenda No. 36782 - Mayor Falkner said there is one more signature to obtain on the agreement to be attached to this ordinance to move forward but he is asking the Council to go ahead and vote on this bill tonight with the understanding that the other signature will be obtained.

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ADJOURNMENT:

36798 By general consent, the Council adjourned.

The meeting adjourned at 9:02 p.m.

Paula Heyde, CMC, City Clerk