

CHARLOTTESVILLE CITY COUNCIL MEETING
November 1, 2021
Virtual/electronic Meeting via ZOOM

6:30 PM REGULAR MEETING

The Charlottesville City Council met in an electronic meeting on Monday, November 1, 2021, in accordance with a local ordinance approved and re-enacted October 4, 2021, to ensure continuity of government and prevent the spread of disease during the coronavirus pandemic. Mayor Walker called the meeting to order at 6:31 p.m. and City Council observed a moment of silence. Clerk of Council Kyna Thomas called the roll, noting all members present: Mayor Nikuyah Walker, Vice Mayor Sena Magill, and Councilors Heather Hill, Michael Payne and Lloyd Snook.

On motion by Councilor Snook, seconded by Councilor Hill, Council unanimously approved the meeting agenda.

ANNOUNCEMENTS (and Update from Blue Ridge Health Department)

Dr. Denise Bonds provided an update on Coronavirus and stated that the numbers of new cases has dramatically decreased. She shared data about vaccination rates for partial and full vaccinations, and by race and ethnicity. Dr. Bonds shared information about newly available booster doses, qualifications, and locations, as well as information about the limited supply of doses for the 5-11 year-old vaccine launch and roll-out.

RECOGNITIONS/PROCLAMATIONS

Mayor Walker presented the following proclamations:

Nurse Practitioners Week, November 7-13, 2021

Darla Topley, Nurse Practitioner, accepted the proclamation.

Rotary Club of Charlottesville 100th Anniversary

Stan Gilbert, Rotary Club of Charlottesville President, accepted the proclamation. He also acknowledged Dr. Denise Bonds as the Rotary Club's Citizen of the Year for 2020.

CONSENT AGENDA*

1. MINUTES: September 20 work session
2. RESOLUTION: Appropriating General Assembly One-time Bonus Funding-for the City Sheriff's Office \$35,525.00 (2nd reading)

RESOLUTION TO APPROPRIATE

General Assembly One-Time Bonus Funding-for the City Sheriff's Office
\$35,525.00

WHEREAS, the City of Charlottesville will receive a total of \$22,607.00 from the State Compensation Board (SCB) as reimbursement for the General Assembly approved the allocation of Federal American Rescue Plan Act (ARPA) funding to the State Compensation

Board to provide a \$3,000.00 one-time bonus in FY22 for Compensation Board-funded sworn Sheriffs, sheriffs' deputies and regional jail officers;

WHEREAS, the Charlottesville Sheriff's Office has a total of eleven (11) sworn positions that meet the qualifications for the one-time \$3,000.00 bonus. Seven (7) are funded with Compensation Board funds and four (4) are fully funded by the City; who also qualify for the \$3,000.00 bonus, \$12,918.00 in City funds will be used to cover the four otherwise approved deputies to be fair and equitable for sworn members of the Sheriff's Office. We are requesting an additional \$12,918.00 to cover these positions.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that the sum of \$22,607.00 will be reimbursed by the Compensation board and \$12,918.00 in City funds will hereby be appropriated as follows:

Revenues - \$35,525.00

\$22,607.00	Fund: 105	Cost Center: 1501001000	G/L Account: 430030
\$12,918.00	Fund: 105	Cost Center: 1501001000	G/L Account: 498010

Expenditures - \$35,525.00

\$35,525.00 Fund: 105 Cost Center: 1501001000 G/L Account: 510150

3. RESOLUTION: Appropriating Fiscal Year 2022 Fire Programs Aid to Locality Funding (Firefund) - \$175,965.00 (2nd reading)

**RESOLUTION APPROPRIATING FUNDS for
Fiscal Year 2022 Fire Programs Aid to Locality Funding (Firefund)
\$175,965.00**

WHEREAS, the Virginia Department of Fire Programs has awarded a grant to the Fire Department, through the City of Charlottesville, specifically for fire service applications;

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Charlottesville, Virginia, that a total of \$175,965.00 be appropriated in the following manner:

Revenues - \$175,965

\$175,965	Fund: 209	I/O: 1900010	G/L Account: 430110
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Expenditures - \$175,965

\$175,965	Fund: 209	I/O: 1900010	G/L Account: 599999
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BE IT FURTHER RESOLVED, that this appropriation is conditioned upon the receipt of \$175,965.00 from the Virginia Department of Fire Programs.

4. RESOLUTION: Amending the FY 2021-2022 Substantial Action Plan and appropriating HOME-ARP (American Rescue Plan) funding (2nd reading)

RESOLUTION
Amending the FY2021-2022 Substantial Action Plan and Appropriating HOME-
American Rescue Plan Funding

BE IT RESOLVED, that the Charlottesville City Council hereby approves the FY2021-2022 Substantial Action Plan Amendment for the 2018-2022 Consolidated Plan as presented on the October 18, 2021 City Council Meeting. All HOME-ARP funding of \$2,452,270 shall be included into the City of Charlottesville Annual 2021-2022 Action Plan.

5. RESOLUTION: Appropriating American Rescue Plan funds - \$1,192,836 (2nd reading)

RESOLUTION APPROPRIATING FUNDING FOR
American Rescue Plan for Eligible Local Activities
\$1,192,836

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that the sum of \$1,192,836 from American Rescue Plan funding is hereby designated to be available for expenditure for costs associated with following eligible purposes and amounts:

Information Technology Department.	\$175,904.
Upfit of Market Street Parking Garage Space.	\$400,000.
Department of Social Services – Emergency Shelter.	\$15,000.
COVID testing for City Employees.	\$500,000.
Human Services Support for Community Resource Hotline and Housing Navigation.	\$80,751.
Communications Department – Zoom Renewal.	\$1,181.
Treasurer’s Office – Continuation of Ambassador Program.	\$20,000.
TOTAL.	\$1,192,836.

Revenues - \$1,192,836

Fund: 207 Cost Center: 9900000000 G/L Account: 430120

Expenditures - \$1,192,836

Fund: 207	I/O: 1900437	G/L Account: 599999	\$177,085
Fund: 207	I/O: 1900438	G/L Account: 599999	\$400,000
Fund: 207	I/O: 1900439	G/L Account: 599999	\$15,000
Fund: 207	I/O: 1900440	G/L Account: 599999	\$500,000
Fund: 207	I/O: 1900441	G/L Account: 599999	\$80,751
Fund: 207	I/O: 1900442	G/L Account: 599999	\$20,000

6. RESOLUTION: Appropriating funds for the Virginia Department of Education Special Nutrition Program Child and Adult Care Food Program - \$50,000 (carried)
7. RESOLUTION: Appropriating funds for Safe Routes to School Program (SRTS) Non-Infrastructure Grants - \$39,000 (carried)
8. RESOLUTION: Establishing interim hearing procedures for the Police Civilian Review Board

**RESOLUTION
APPROVING HEARING PROCEDURES FOR THE
CHARLOTTESVILLE POLICE CIVILIAN REVIEW BOARD**

BE IT RESOLVED by the Council of the City of Charlottesville THAT pursuant to Virginia Code Section 9.1-601(D) the following procedures are approved for the performance of the duties of the Charlottesville Police Civilian Review Board under the provisions of City Code §2-452(c) and §2-461:

1. Hearings and Meetings.

- a. The PCRB may, from time to time, hold meetings for such purposes as it deems advisable and consistent with the authority granted to it by ordinance of the City of Charlottesville ("the City"). Meetings shall be conducted in accordance with Robert's Rules of Order or such other procedures as the PCRB may adopt. Any PCRB-adopted procedures shall control.
- b. The PCRB may, from time to time, upon receipt of information relating to a Complaint, as defined herein, conduct a Hearing related to that Complaint, as authorized within Chapter 2, Article XVI of the City Code and these Procedures. The PCRB may receive information relating to a Complaint from any person or entity provided the information is submitted to the PCRB in writing and the person making the submission provides their name, address, and telephone number.
- c. For the purpose of these procedures:
 - i. A "Complaint" shall mean a complaint from a civilian regarding the conduct of law-enforcement officers and civilian employees of a law-enforcement agency serving under the authority of the City ("Civilian Complaint"); or
 - ii. "Information relating to a Complaint" shall mean (i) incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law-enforcement officers or civilian employees of a law-enforcement agency serving under the authority of the City ("Police Conduct Complaint"); or

- a. Right to advisor/representative of choice. Throughout the Hearing process, all parties may consult with and be represented by legal counsel or another individual advisor/representative of their choosing.
- b. Role of advisor/representative in meetings. The parties may be accompanied by their respective advisors at any meeting or proceeding related to the Hearing which right shall not include the right to be present during investigative interviews or be privy to other investigative efforts of PCRB related to the Complaint. While the advisors may provide support and advice to the parties at any meeting and/or proceeding, unless the advisor is also an attorney licensed by the Virginia State Bar, the nature of their participation in the proceedings on behalf of a party shall be determined by the Board. No advisor or representative may in any manner disrupt such meetings and/or proceedings. Virginia licensed attorneys shall conduct themselves in any meeting or hearing proceeding held under these Procedures in accordance with the Rules of Professional Conduct of the Supreme Court of Virginia.

3. Investigation.

- a. Upon receipt of a Complaint, the PCRB shall compile or cause to be compiled a Written Record related to the Complaint. The Written Record shall include:
 - (i) Material from the City Police Department which the PCRB shall request by notifying the Chief of Police of the Complaint. Within 10 (ten) business days of receipt of a request from the PCRB, the Chief of Police shall cause to be delivered to the PCRB:
 - (A) a complete copy of any internal affairs investigation file regarding the conduct or matter that is the subject of the Complaint. The file shall be redacted to preserve the confidentiality of any information related to a juvenile pursuant to Virginia Code Section 16.1-301, as amended, and to protect other information required by law to be confidential;
 - (B) the complete complaint history including any final disciplinary action taken against any officer or civilian employee who is the subject of the Complaint; and
 - (C) any material or evidence utilized or collected by the Police Department during its internal affairs investigation related to the Complaint unless the Chief of Police, upon concurrence of the Charlottesville Commonwealth's Attorney, determines that the material or evidence is the subject of an active criminal investigation, or the Chief of Police, upon concurrence of the City Attorney notifies the PCRB that the material or evidence is at issue in a pending civil action. In either such case, proceedings of the PCRB shall be suspended until notice of the conclusion of the criminal investigation or civil action or other basis to resume PCRB proceedings,
 - (ii) any additional information provided by a party to the PCRB that the party

believes to be relevant to a Complaint at any time prior to the commencement of the Hearing.

- b. Investigative material from the City Police Department and information provided by a party to the PCRB shall be presumptively confidential and may not be disclosed by the PCRB except upon a certification by vote of the PCRB that it is germane to a Hearing, serves the public interest to be disclosed in a Hearing, or, in the interest of fairness and due process, must be made available to the parties to the Hearing.

Upon the PCRB's receipt of a Virginia Freedom of Information Act ("FOIA") request for investigative information or records from the Charlottesville Police Department, or for personnel information or records of a police officer, the PCRB shall refer the request to the City's FOIA Officer (foia@charlottesville.gov) and the Chief of Police shall have the duty to respond to that request and the right to determine whether any discretionary exemption(s) will be asserted in accordance with applicable law.

4. Policies Governing Hearings.

- a. Presumption of Lawful Conduct. The Hearing and related investigation are neutral fact-gathering processes. All accused parties are presumed, until findings are made to the contrary, to have acted lawfully and in accordance with applicable policies and procedures. That presumption may be overcome only by a PCRB finding that there is sufficient evidence, by a preponderance of the evidence, that the party acted unlawfully or in violation of applicable policies or procedures.
- b. Participation by the Parties and Witnesses. In the absence of a lawfully issued subpoena, no party or witness is required to participate in a Hearing but the PCRB may infer from a party's or a witness's voluntary absence from a Hearing, despite notice and a request to appear, that their truthful participation would have been adverse to the interests of such voluntarily absent party or witness. The application and/or weight of any such inference shall be determined by a standard of objective reasonableness under the circumstances.
- c. Prior or Subsequent Conduct. Prior or subsequent conduct of a party may be considered in determining pattern, knowledge, intent, motive, or absence of mistake. The determination of relevance of such conduct will be based on an assessment of whether the previous or subsequent conduct was substantially similar to the conduct under investigation or indicates a pattern of unlawful conduct or conduct that violates applicable policies or procedures.
- d. Relevance. The PCRB may determine in any Hearing the relevance of any proffered evidence and to include or exclude certain types of evidence from the Hearing or from consideration by the PCRB.
- e. Rules of Evidence. Virginia's Rules of Evidence, contained in Part II of the Rules of the Supreme Court of Virginia and in the Code of Virginia and in applicable case opinions are not binding in Hearings but may be the basis for arguments in support of the

admission or exclusion of evidence which the PCRB may consider in determining, in its discretion, whether to admit evidence.

- f. Expert Consultation(s). The PCRB may consult disinterested medical, forensic, technological, or other experts, as defined by applicable law, when expertise on a topic is needed in order to achieve a fuller understanding of the issues presented by the Complaint.
- g. Virginia Freedom of Information Act. As a body empowered by the City Council to perform the functions set forth in Chapter 2, Article XVI of the City Code, the PCRB is subject to the requirements of FOIA , both as to access to PCRB records and as to requirements for open, public meetings. The PCRB shall exercise any discretion available to it under applicable FOIA provisions in the interest of transparency as dictated by the balance of public and private interests specific to any particular Complaint.

5. Conduct of Hearings.

- a. Information Provided to Decision Maker. Prior to the Hearing, the PCRB shall review the Written Record.
- b. Purpose of the Hearing. The Hearing is an opportunity for the parties to address the PCRB about issues relevant to the Complaint.
- c. Order of Hearing.
 - i. The PCRB shall hear any motions or requests of the parties regarding the conduct of the Hearing at the commencement of the Hearing and may rule on them or defer ruling upon them as the PCRB determines to be appropriate.
 - ii. Each party may make an opening statement at the commencement of the Hearing subject to reasonable time limitations that the PCRB may impose.
 - iii. The PCRB and the parties may call witnesses or seek to introduce documentary or other evidence not already part of the Written Record. The PCRB shall determine the order in which parties shall present evidence.
 - iv. The parties may submit written questions to the PCRB to pose to witnesses, whether in the nature of "cross examination" or "direct examination" and the PCRB members may pose questions to any witnesses. The PCRB may permit examination, including cross examination, of witnesses by party representatives who are attorneys licensed by the Virginia State Bar. The PCRB shall determine whether any question is inappropriate for submission to a witness or rule on the propriety of questions allowed to be posed directly to witnesses.
 - v. At the conclusion of the presentation of evidence, the parties may make closing arguments to the PCRB within any reasonable time limitation the PCRB may impose.

- d. Notice of Hearing. The PCRB shall provide written notice to the parties of no less than 14 days of the date, time, and location of the Hearing. The hearing may be continued by the PCRB from time to time until completed.
- e. Location of Hearing. A Hearing may be conducted with all parties physically present in the same geographic location or, at the discretion of the PCRB, any or all parties, witnesses, or other participants may appear at the Hearing virtually, with technology enabling participants simultaneously to see and hear each other. Members of the PCRB must be physically present in the same geographic location, except as may otherwise be authorized by FOIA or other provisions of state law.
- f. Pre-Hearing Conference. The PCRB may convene a Pre-Hearing Conference during which preliminary matters related to the Hearing are discussed and/or resolved. The parties will be provided advance written notice of the date, time, and location of the pre-hearing conference.
- g. Recording of Hearing. The PCRB shall make arrangements to create either an audio or audiovisual recording of the Hearing, or a transcript of the Hearing prepared by a court reporter present at the Hearing.
- h. Determination by the PCRB. After the Hearing, the PCRB will objectively evaluate all relevant evidence, both from the Written Record and presented during the Hearing, and make a written finding within the time and in the form provided by the enabling Ordinance, for each allegation of misconduct in the Complaint:
 - i. Whether there was a preponderance of evidence that the misconduct alleged in the Complaint occurred;
 - ii. Whether the PCRB concurs with any finding by the Charlottesville Police Department concerning the misconduct;
 - iii. Whether the PCRB finds that the Charlottesville Police Department's investigation, if any, of the Complaint is incomplete or unsatisfactory and, if so, in what regard;
 - iv. With respect to any Civilian Complaint or Police Conduct Complaint, to the extent permitted by City Ordinance, whether the PCRB wishes to consult with the Chief of Police and/or the supervisors of a police officer/employee whose conduct is a subject of the complaint, to make disciplinary recommendations, applying the Police Department Disciplinary Matrix, in cases that involve serious breaches of Police Department policies and professional standards, and other determinations as may be provided by City ordinance, any of which to be implemented by the City official/employee with ultimate supervisory authority over officers and employees of the Police Department.

6. Informal Resolution.

At any time after receiving a Complaint and before issuance of the written findings required at

the conclusion of a Hearing, the PCRB and any party may propose an informal resolution of the Complaint which may be adopted if all parties and the PCRB agree to such a resolution.

Mayor Walker opened the floor for comment on the Consent Agenda:

- Larycia Hawkins shared concern about Item #8.

Mayor Walker asked for a separate vote on Item #8.

Councilor Hill asked Councilor Snook to summarize Item #8 for clarity. He advised that the interim procedures will allow the Police Civilian Review Board to address the one case that has been filed for a hearing.

On motion by Councilor Snook, seconded by Councilor Hill, Council by the following vote APPROVED the Consent Agenda, removing Item #8 for a separate vote: 5-0 (Ayes: Hill, Magill, Payne, Snook, Walker; Noes: None).

On motion by Councilor Snook, seconded by Councilor Hill, Council by the following vote APPROVED Item #8 on the Consent Agenda: 4-1 (Ayes: Hill, Magill, Payne, Snook; Noes: Walker).

CITY MANAGER RESPONSE TO COMMUNITY MATTERS and to COUNCILORS

Deputy City Manager Samuel Sanders provided an update on the following items:

1. Side street maintenance near the Downtown Mall is a function of the Parks and Recreation Department. They have been short-staffed and have requested additional equipment to do a better job.
2. Regarding a requested 4-way stop on Rose Hill Drive. Traffic Engineer advised there is a traffic study underway for Walker Upper Elementary School which may help with information for the area near Burley Middle School. He advised that there is a traffic calming petition process.

COMMUNITY MATTERS

1. Myra Anderson spoke about the need for an official mental health response committee, as mandated in Marcus Alert legislation and recommended by the Marcus Alert Workgroup two weeks prior.
2. John Hossack, city resident, spoke about the need to address affordable housing and suggested eliminating the Medium Intensity Residential zoning model in the Future Land Use Map (FLUM).
3. William Emory spoke about 22 houses on the South side of Chesapeake Street, advising that most were built by blue-collar workers and that Medium Intensity Residential zoning would be detrimental to stable housing in this area.
4. Tyler Magill, city resident, expressed concern about a local demonstration by The Lincoln Project during a Virginia Gubernatorial campaign, and suggested that the City

- demand funds from The Lincoln Project to be put toward equity initiatives.
5. Kimber Hawkey, city resident, asked that Council place the Comprehensive Plan's FLUM update on hold.
 6. Michael Grinnell, member of the Charlottesville Sister Cities Commission, requested support for the Board's operating budget request.
 7. Ben Heller, city resident, offered suggestions regarding the FLUM.
 8. Adrienne Ward, member of the Charlottesville Sister Cities Commission, requested support for the Board's operating budget request.
 9. Tanesha Hudson suggested that the city implement a prohibited personnel policy. She spoke about Black pain and Black leadership pain in the City of Charlottesville.
 10. Andrew Shelton expressed concern about a demonstration by The Lincoln Project during a Virginia Gubernatorial campaign and asked that Council issue an official statement renouncing the event.
 11. Martha Smythe, city resident, spoke in opposition to up-zoning.
 12. James Groves, city resident, spoke about the need to eliminate natural gas consumption.
 13. Sally Duncan shared concerns about a demonstration by The Lincoln Project surrounding a Virginia Gubernatorial campaign and asked that Council demand an apology and compensation from The Lincoln Project for the exploitative event.
 14. John Ertl, city resident and representative of the Amalgamated Transit Union, requested approval to serve as representative to transit workers and spoke of the urgency to adopt a collective bargaining ordinance.
 15. Roy van Doorn, representative of the Charlottesville Albemarle Convention and Visitors Bureau (CACVB), spoke of the proposal to reorganize the board makeup. He added that independent restaurants in the hospitality industry remain in dire straits and asked that undesignated ARPA funds be used to help. He asked for changes to the terms Mayor and Vice Mayor.
 16. Amalia Garcia-Pretelt, city resident and local law student, shared concerns about increased patrols by university police and a distrust of Chief Longo. She asked that the city review its agreement with University Police Department and consider rescinding its jurisdiction.

Councilor Snook commented about the mental health workgroup and potentially adding a related item to the city's legislative agenda. He responded to comments about The Lincoln Project publicity stunt and stated that these activities are not welcome.

Councilor Hill agreed that a response from Council was needed to address The Lincoln Project publicity stunt.

Mayor Walker responded to comments about the FLUM, the CACVB, the structure of local government, increased police patrols, and about the pain and suffering of residents beyond the Lincoln Project incident and August 2017.

The meeting recessed at 8:18 p.m. and reconvened at 8:34 p.m.

ACTION ITEMS

9. PUBLIC HEARING/ORDINANCE: Closing, vacating and discontinuing a portion (0.038 acre) of the public street right-of-way for Seminole Court (carried)

City Attorney Lisa Robertson summarized the request and the process for handling a right-of-way vacation request.

Mayor Walker opened the public hearing. There were no speakers.
Mayor Walker closed the public hearing.

Councilor Snook asked whether the City would be giving up anything of value with this transaction. Ms. Robertson advised that the amount of property is minimal.

Mayor Walker asked how the developer would use the land. Ms. Robertson did not know, and again advised of the small size.

Council agreed to move the item forward to the November 15 Consent Agenda for the second reading.

10. RESOLUTION: Food Equity Initiative annual report and resolution of support

Misty Graves, Interim Director for Human Services introduced the Cultivate Charlottesville group. The presenters were Richard Morris and Jeanette Abi-Nader.

Mayor Walker acknowledged the need to consider all the requests that come in through the Vibrant Community funding process.

Ms. Abi-Nader explained the program as a city government support program.

Councilor Snook expressed concern about the resolution presented and a desire for a more structured budgeting process.

Mayor Walker suggested an overall review of the city's contractual obligations.

Ms. Graves shared that the directive to do this work came from City Council and she clarified that the resolution is requesting to keep the funding in the General Fund as a line item for the next three years.

Councilor Payne expressed an interest in exploring suggestions during the budget process, and any overlaps with the Climate Action Plan.

On motion by Vice Mayor Magill, seconded by Councilor Payne, Council by the following vote APPROVED the resolution: 3-2 (Ayes: Hill, Magill, Payne; Noes: Snook, Walker).

RESOLUTION
EXPRESSING CITY COUNCIL SUPPORT FOR THE FOOD EQUITY INITIATIVES
BUDGET REQUEST FOR FISCAL YEARS 2022-23, 2023-24 AND 2024-25

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE THAT the Food Equity Initiative, which has been funded by City Council for each of the past three fiscal years, has served the Charlottesville community well and remains an important initiative. Therefore, this Council hereby expresses its support of continued funding in the amount of \$155,000 per year for the next three fiscal years, and Council hereby directs that the amount of \$155,000 be included within the City Manager's Proposed FY23 general fund budget.

Mayor Walker made comments about looking at the budget through a neutral lens and a fair process without emotion attached.

GENERAL BUSINESS

There were no items of general business.

OTHER BUSINESS

There were no other business items for consideration.

MATTERS BY THE PUBLIC

- Rosia Parker, city resident, expressed the need for Council to support Cultivate Cville.
- Joy Johnson, city resident, spoke about fairness and equity in the budgeting process, as related to outside agencies, specifically related to housing.
- Tanesha Hudson spoke about Black leaders who have left employment with the city, and about specific councilor support for the termination of Police Chief RaShall Brackney.
- Larycia Hawkins spoke in support of the "Swords into Plowshares" proposal from the Jefferson School African American Heritage Center.

Councilor Snook asked about a timeline for disposition of the statues.

Deputy City Manager Ashley Marshall advised that the applications have been published and Council would need to decide. Council expressed the desire to review the item at a meeting prior to calendar year-end.

The meeting adjourned at 10:19 p.m.

BY Order of City Council

BY Kyna Thomas, Clerk of Council