

**CITY OF MIAMI GARDENS
REGULAR CITY COUNCIL MINUTES
APRIL 25, 2012**

(A) CALL TO ORDER/ROLL CALL

The City Council for the City of Miami Gardens, Florida met in regular session, Wednesday, April 25, 2012, beginning at 7:10 p.m., in the City Council Chambers, 1515 NW 167th Street, Building 5, Suite 200, Miami Gardens, Florida.

The following members of the City Council were present: Mayor Shirley Gibson, Vice Mayor Oliver G. Gilbert III, and Council members Lisa C. Davis, Andre Williams, Felicia Robinson, and David Williams Jr.

Motion offered by Vice Mayor Gilbert, seconded by Councilwoman Davis, to excuse the absence of Aaron Campbell Jr. This motion passed and carried by a unanimous voice vote.

Also in attendance were: City Manager Dr. Danny O. Crew, City Attorney Sonja K. Dickens and City Clerk Ronetta Taylor.

(B) INVOCATION

Delivered by Dr. Lester Brown

(C) PLEDGE OF ALLEGIANCE

Recited in unison.

(D) APPROVAL OF MINUTES

Regular City Council Meeting – April 11, 2012

Motion offered by Vice Mayor Gilbert, seconded by Councilwoman Davis, to approve the minutes, with necessary corrections, if any. This motion passed and carried by a unanimous voice vote.

(E) ORDER OF BUSINESS (Items to be pulled from Consent Agenda at this time)

Councilman Andre Williams pulled Item K-1 from the Consent agenda.

Dr. Danny Crew, City Manager, requested to add Item F-2 Citizen Academy under Special Presentations

Motion offered by Vice Mayor Gilbert, seconded by Councilwoman Davis, to add F-2) Citizen Academy to the Agenda. This motion passed and carried by a unanimous voice vote.

Dr. Crew also added the following items as Item L-1a and Item L-1b to be discussed together:

L-1a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO INCLUDE A PROVISION IN THE GMP#2 CHANGE ORDER WITH SKANSKA BUILDING, INC. TO ALLOW FOR A ONE TIME PAYMENT OF THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00) FOR ADDITIONAL PROJECT COST ASSOCIATED WITH MOBILIZING AND RETAINING RESOURCES DURING THE PERIOD BETWEEN GMP#1 AND THE ISSUANCE OF A NOTICE TO PROCEED FOR GMP#2; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

L-1b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO TERMINATE NEGOTIATIONS WITH SKANSKA BUILDING INC., FOR GUARANTEED MAXIMUM PRICE TWO (GMP2) FOR CONSTRUCTION SERVICES RELATING TO THE MUNICIPAL COMPLEX; AUTHORIZING THE CITY MANAGER TO PROCEED TO NEGOTIATIONS WITH THE SECOND RANKED BIDDER, SUFFOLK CONSTRUCTION COMPANY INC., FOR GMP2 IN AN AMOUNT NOT TO EXCEED FORTY FIVE MILLION DOLLARS (\$45,000,000.00); AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, AN AGREEMENT FOR CONSTRUCTION SERVICES FOR THIS PURPOSE UPON SUCCESSFUL NEGOTIATION; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE.

Motion offered by Vice Mayor Gilbert, seconded by Councilwoman Davis, to approve the Agenda with the additions. This motion passed and carried by a unanimous voice vote.

(F) SPECIAL PRESENTATIONS (5 minutes each)

F-1) Danny Crew, City Manager – Employee Recognition

Dr. Crew presented 5 year pins and certificates to the following employees for their service to the City for the past 5 years.

- Mary Soler, Parks and Recreation
- Terri Locker, Parks and Recreation
- Julie-Ann Smith, Office of the Mayor and Council
- Hillary Marshall, Office of the Mayor and Council

F-2) Citizen's Academy

Shellie Ransom, Building Code & Compliance Interim Department Director and Building

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Official, appeared before the City Council to present certificates of completion, along with Vice Mayor Gilbert, to the 2012 participants of the Miami Gardens Citizen Academy.

2012 Miami Gardens Citizen Academy Participant

Tanya Brailsford	Cecil Daniels	Renee Hicks
Marcia Holness	Ehabor Ighodaro	Tanya Y. James
Yaxley Jamison	Rosie Justilien	Carol D. Lawrence
Lonnie R. Lawrence	Priscilla McCrimmon	Joyce Moncur
John D. Pace, Jr.	Vivian L. Thomas	Horace D. Ward

(G) PUBLIC COMMENTS

Dione Burrows, 1700 NW 179th Ter. Miami Gardens, FL, appeared before the City Council and shared incident she experienced with the Miami Gardens Police Department on October 23rd, which resulted with her car being towed. Ms. Burrows opined that her truck was towed for no reason. Lastly, she indicated that she has made a constant effort to obtain an explanation from the Police Department as to the reason why her truck was towed. To this date she has not received a response from the Police Department.

Mayor Gibson apologized to Ms Burrows for the inconvenience she is facing. She requested Ms Burrows speak with Deputy City Manager Renee Critchton in order to get a resolution in this manner. Lastly, Mayor Gibson asked that the Council is updated on how this matter is resolved.

H) ORDINANCES ON FOR FIRST READING(S)

None

I) ORDINANCES ON FOR SECOND READING(S)

None

J) RESOLUTIONS/PUBLIC HEARING(S)

None

K-) CONSENT AGENDA

RESOLUTION NO. 2012-60-1655

- K-2) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY ATTORNEY TO RETAIN THE LAW FIRM OF OLDS, STEPHENS & HARPER, P.A. FOR LEGAL SERVICES IN CONNECTION WITH THE LITIGATION MATTER OF *AGGREKO, LLC VS. CITY OF MIAMI GARDENS FLORIDA*; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY ATTORNEY)**

RESOLUTION NO. 2012-61-1656

- K-3) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AWARDED A BID TO NATIONAL CORE SERVICES CORP., D/B/A GROUNDS GROUP LANDSCAPING; AND AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER IN THE AMOUNT OF SIXTY ONE THOUSAND, FIFTY FOUR DOLLARS (\$61,054) FOR THIS PURPOSE; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

RESOLUTION NO. 2012-62-1657

- K-4) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO ISSUE A PURCHASE ORDER IN THE AMOUNT OF ONE HUNDRED SEVENTY-TWO THOUSAND, NINE HUNDRED EIGHTEEN DOLLARS AND TWENTY CENTS (\$172,918.20) TO SUNGARD PUBLIC SECTOR FOR OSSI SOFTWARE; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

RESOLUTION NO. 2012-63-1658

- K-5) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RATIFYING COUNCILWOMAN FELICIA ROBINSON'S, APPOINTMENT OF JEFFREY C. EUGENE, TO THE CITY OF MIAMI GARDENS PARKS AND RECREATION ADVISORY COMMITTEE FOR A TERM OF ONE (1) YEAR; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY COUNCILWOMAN FELICIA ROBINSON)

RESOLUTION NO. 2012-64-1659

- K-6) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ESTABLISHING AN ADMINISTRATIVE FEE FOR UNSAFE STRUCTURES HEARINGS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Motion offered Vice Mayor Gilbert, seconded by Councilman David Williams Jr. to adopt the Consent Agenda. This motion passed and carried by a unanimous voice vote.

(L) RESOLUTION(S):

RESOLUTION NO. 2012-65-1660

- K-1) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A 2013 JAZZ IN THE GARDENS EVENT; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ALL CONTRACTS AND TO RETAIN CONSULTANTS, AS MAY BE NECESSARY AND APPROPRIATE, FOR THE PRODUCTION OF THE EIGHTH ANNUAL JAZZ IN THE GARDENS EVENT TO BE HELD IN MARCH 2013; PROVIDING FOR A WAIVER OF BID PROCEDURES FOR PURCHASES MADE IN CONNECTION WITH THE EVENT; AUTHORIZING THE CITY MANAGER TO EXCEED HIS PURCHASING AUTHORITY AS MAY BE NECESSARY FOR THE EVENT; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY MAYOR SHIRLEY GIBSON)**

Councilman Andre Williams stated this Resolution authorize Jazz in the Gardens for 2013. He questioned how does this item impacts the City's future budget and whether during the budget process the Council can decide to not fund Jazz in The Gardens.

Sonja Dickens, City Attorney, stated by approving this item Council is agreeing to fund the event. However, Council can decide not to fund the event during the budget process and deal with whatever the consequences are. Nonetheless, this will not be funded till next fiscal year.

There being no further discussion, a motion was made by Councilman Andre Williams and second by Vice Mayor Gilbert to adopt this item. This motion passed by a 5-1 voice vote. Councilman Andre Williams provided the dissenting vote.

RESOLUTION NO. 2012-66-1661

- L-1) L-1a) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO INCLUDE A PROVISION IN THE GMP#2 CHANGE ORDER WITH SKANSKA BUILDING, INC. TO ALLOW FOR A ONE TIME PAYMENT OF THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00) FOR ADDITIONAL PROJECT COST ASSOCIATED WITH MOBILIZING AND RETAINING RESOURCES DURING THE PERIOD BETWEEN GMP#1 AND THE ISSUANCE OF A NOTICE TO PROCEED FOR GMP#2; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)**

Or

L-1b) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER TO TERMINATE NEGOTIATIONS WITH SKANSKA BUILDING INC., FOR GUARANTEED MAXIMUM PRICE TWO (GMP2) FOR CONSTRUCTION SERVICES RELATING TO THE MUNICIPAL COMPLEX; AUTHORIZING THE CITY MANAGER TO PROCEED TO NEGOTIATIONS WITH THE SECOND RANKED BIDDER, SUFFOLK CONSTRUCTION COMPANY INC., FOR GMP2 IN AN AMOUNT NOT TO EXCEED FORTY FIVE MILLION DOLLARS (\$45,000,000.00); AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, AN AGREEMENT FOR CONSTRUCTION SERVICES FOR THIS PURPOSE UPON SUCCESSFUL NEGOTIATION; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew explained the City has been in negotiation with Skanska for the construction part of the City Hall Project. The underground portion of the contract has been completed from a bid that was awarded last September. He explained the process of the Guaranteed Maximum Pricing (GMP), which the City negotiates with the contractor for the maximum price to build the project. Part of this process requires the contractor to bid out for all of the other aspects of City Hall, such as electrical, plumbing, mechanical, and the different trades that are involved in building the New City Hall. He added the process has taken significantly longer than anticipated and there have been additional concerns with regard to contract language.

Manager Crew said while most of the negotiations have been concluded. However due to the longer anticipated process time in negotiation the City requested the contractor go out to bid a second time to get more up to date bids. Based on the bids that were received last month staff now sees that the City is currently over the budget for the project. After review of the budget, staff has concerns and problems with certain things and is unable to reach an agreement with Skanska.

Manager Crew let it be known that subsequently these items were placed on the Agenda he did meet with Skanska to negotiate. This resulted in his ability to negotiate the over budget items to lowest the City and Skanska can agree on; which he is now recommending to Council as item L-1a.

Manager Crew further clarified that Resolution Item L-1a would basically compensate Skanska for the four month period that was anticipated the project would have been negotiated; meaning that negotiations were anticipated to be completed by December instead of April. He reiterated that this has been a very complicated negotiation and it took longer than expected.

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Manager Crew indicated the alternative to this item would be Resolution Item L-1b which would declare an impasse and move on to the second place bidder at the time the City Hall project was out to bid.

Motion offered by Vice Mayor Gilbert, seconded by Councilwoman Davis to approve Item L-1A.

Kevin Lawler, N-K Venture and City's Real-estate Advisor for the Municipal Project, appeared before the City Council. He added to Manager Crew's statement that the City did a second round of bid proposals for the GMP on April 5th. City staff is diligently reviewing the proposals, and are still in the process of reviewing.

Mr. Lawler went over the possible merits and case for paying or not paying the contractor additional expenditure. He shared in detail the history, communications, and working relationship between the City and Skanska during negotiations that has led up to this point. He clarified the position of the City and Skanska respectively regarding the concerns, which has led to the over budgeted expenditures. He provided points within the contract, which led to the staff's position regarding the expenditures and recommended to the city manager to negotiate the over budgeted expenditures from \$690,000 to \$200,000, which was denied by Skanska and has resulted in both sides coming before the Council today.

Mr. Lawler commended Manager Crew's ability to negotiate over budgeted expenditures down; however he cautioned that the project is still over budget and that every additional dollar paid to the contractor would be taken away from the building in some form or another. He believed this is a policy decision on whether the City would like to pay the contractor additional money.

Vice Mayor Gilbert stated in terms of the general conditions, he understood Skanska pulled a lot of those cost out for subcontractors and are absorbing those costs. He questioned whether the City should make any allowances to allow them to distribute that cost back to the subcontractor since the City is not compensating them for pulling that cost away from the subcontractors.

Mr. Lawler in response to Vice Mayor Gilbert's comments said it is customary that the general conditions are requirements of a contractor for the entire site.

Vice Mayor Gilbert questioned whether the fact the City does not have permitted plans affect the pace at which the negotiations are taking place.

Mr. Lawler replied absolutely not and shared his opinion on why it has no effect on the negotiations.

Manager Crew added there is \$2.5 million in their contract for general conditions, which the City is paying. Skanska is asking for additional funding.

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Councilman Andre Williams asked what is the GMP and to clarify the specs of this type of contract in laymen's terms.

Mr. Lawler stated GMP stands for the Guaranteed Maximum Price. He continued to explain the complexity of a GMP contract.

Councilman Andre Williams asked if the contractor is asking for additionally money outside of what has been previously negotiated.

Mr. Lawler responded yes.

Councilman Andre Williams questioned is it fair to say that Skanska is asking for money to complete this project.

Councilwoman Davis questioned whether the City would still be behind as far as building the City Hall should they terminate the contract with Skanska and award it to Suffolk, the second rank bidder.

Mr. Lawler responded yes to some extent. He continued to share the risks of continuing with Skanska or moving forward with Suffolk, which he had mentioned in a previous memo he provided to the City. He emphasized and shared a very methodical process in which the City must do and is doing to get the budget back in line.

Councilwoman Davis asked whether the GMP was still not completed.

Mr. Lawler responded no.

Councilman David Williams Jr. commented that Skanska was recommended by Mr. Lawler originally.

Mr. Lawler provided an explanation on what led Skanska to becoming the first ranked bidder originally by the ranking committee. He shared his disappointment with Skanska because what the City is experiencing is different from what was proposed.

Councilman David Williams Jr. questioned if litigation is anywhere in the possibility of liability.

Mr. Lawler responded yes it is a liability.

Mayor Gibson shared her concern with the project being over budget and the numerous financial concessions made to Skanska in this process, which is becoming a recurring situation. She expressed understanding that GMP 1 has not been completed and there are still ongoing negotiations for GMP 2. However she does not understand how the City has cost factors because of GMP2 when it has not been finally negotiated and GMP 1 not completed. She continued to question whether spending thousands over the budget would result in the scope of

the contract to change in order to remain on budget?

Manager Crew responded yes there would be some items with regards to the designs, which would have to change in order to remain within the budget. He continued to provide examples.

Mayor Gibson shared she is uncomfortable with the situation with Skanska and believes there will be continued issues with Skanska. She indicated her position with moving forward with the second bidder.

Councilwoman Robinson questioned the benefit of continuing with Skanska or moving forward with a company the City has no knowledge of.

Mr. Lawler went over the benefits of continuing with Skanska or moving forward with Suffolk.

City Attorney Sonja Dickens brought awareness to the Council of the three options in resolving the issues tonight, which would be to either pay the additionally fee, terminate with Skanska while moving forward with Suffolk, or do not pay the additional fees while moving forward with Skanska.

Councilman David Williams Jr. questioned theoretically in any negotiations would you not expect disagreements because that is the nature in which makes it a negotiation.

Mr. Lawler explained what he calls a constant dynamic tension with regards to construction where there are always issues. In this situation there has been a pattern since the outset, where there was a misunderstanding which certainly was not on the City's part. He agreed with Councilman David Williams Jr. that normally there is a give or take and then there is closure; however in this experience the City may think there is closure on something and it does not go away.

Russ Sheppard, Senior Vice President for Skanska, along with other members of the Skanska team appeared before the City Council. Mr. Sheppard went over and provided an explanation of a detailed timeline of the ongoing negotiations and deliverables with relation to GMP 2. He believes tonight the City and Skanska are in agreement with GMP2.

Mr. Sheppard continued to provide a lengthy explanation for two issues regarding the cost of 4.7 months of continued representation of Skanska on the project and the additional general conditions and recalled Skanska side regarding the negotiations. He believes Skanska has acted responsibly to the City of Miami Gardens. Lastly, Mr. Sheppard stated GMP 1 is not complete based on standing works based on revisions of the Fire Department Review, which is totally outside of Skanska control. He stated that he understood the GMP 2 has been agreed, and shared some cost savings efforts by Skanska.

Mr. Sheppard concluded Skanska is still committed to the original schedule, local

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participation for small business, and Skanska stands ready to move forward with the work of GMP 2.

Mayor Gibson questioned whether there were any directives to continue to proceed on items for GMP 2 despite not all of the drawings and other items needed for GMP 2.

Mr. Sheppard provided an explanation of Skanska initiative to move forward on certain items in anticipation of GMP 2.

Mayor Gibson recalled the correlation of GMP 1 and GMP 2 of the City Hall Project.

Mr. Sheppard added that GMP 1 is not a predecessor of GMP 2.

Mayor Gibson asked what was being worked on with regards to GMP 2.

Mr. Sheppard shared the initial expenditures of GMP 2 that included the development of a site logistic plan, safety health and environmental plan, the GMP estimate itself, site establishments, and mobilization of staff.

Mayor Gibson shared she is very pleased with the complement of Skanska's team, however she still has concerns with the fact the project come in over budget.

Vice Mayor Gilbert questioned whether there is only one contract involved with GMP 2. Tonight's item deals with a change order to the original contract (GMP-1)

Keith Jennings, member of the Skanska Management Team, stated Vice Mayor Gilbert is correct it is on the contract. Somehow someone from the City has decided to go away from contract language.

Vice Mayor Gilbert stated we are using the term contract for GMP 2 and notice to proceed interchangeably when in fact they are not interchangeable terms. After listening to the meeting tapes and reviewing the contract he understands there are obligations under contract for GMP 2, which are independently of the change order. He continued to state that is not to say you cannot bill something until we issue a notice to proceed.

Mr. Sheppard concurred with Vice Mayor Gilbert

Attorney Dickens clarified there has not been a breach of contract by the City. Additionally, she concurred with the statement of Vice Mayor Gilbert and added the City has not financial obligation with respect to GMP 2 because the City has not issued a change order.

Vice Mayor Gilbert asked if every contract provision has been followed by every party.

Mr. Sheppard responded that deliverables have been missed on both sides.

Vice Mayor Gilbert stated regardless of what happens today everyone in the room needs to be better at what they do from both sides. The fact this is brought up again is an irritant to him. Vice Mayor Gilbert than questioned what is the City's current rental cost.

Manager Crew responded approximately \$70,000 a month.

Vice Mayor Gilbert opinioned the City Manager should be directed to attend all future status meetings for the City Hall Project.

Mayor Gibson, with clarification from Attorney Dickens, made it known what item is currently before the Council for vote (Item L-1A)

There being no further discussion, Item L-1a passed and carried by a 4-2 vote.

Vice Mayor Oliver Gilbert III	Yes
Councilwoman Felicia Robinson	Yes
Councilman Andre Williams	No
Councilman David Williams Jr.	Yes
Councilwoman Lisa C. Davis	Yes
Mayor Shirley Gibson:	No

Vice Mayor Gilbert stated if GMP 2 cannot be worked out real soon the Contract will be terminated and he expects the City Manager to be fully involved in this process.

A motioned was made by Vice Mayor Gilbert, seconded by Councilwoman Robinson to defer Item L-1B to May 23, 2012 City Council Meeting.

(M) REPORTS OF CITY MANAGER/CITY ATTORNEY/CITY CLERK

Dr. Danny Crew, City Manager, reported the Miami-Dade County Board of Commission will hear the City's Agreement regarding the CITT resolution on Monday. He stated that it is important to have members of the City Council present at the meeting.

Manager Crew gave recognition to Assistant City Manager Daniel Rosemond who had a featured article in the National City and County Manager Magazine.

(N) REPORTS OF MAYOR AND COUNCIL MEMBERS

Councilman David Williams Jr., stated he had a great meeting with the Senior Staff of the School with regards to bringing more resources to our science camp and afterschool programs. They have agreed to register for some grants on our behalf for our schools.

Vice Mayor Gilbert question whether the expected CITT funds would be able to be used to repave sidewalks.

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Manager Crew responded yes and shared future sidewalk projects once the funds are received.

Councilwoman Davis announced that she is sponsoring the second annual mother's day contest the deadline to submit essays is May 1, 2012.

Mayor Gibson reported on the upcoming Taste in the Gardens sponsored by the Miami Gardens Kiwanis, NW Relay for Life Event, and Deputy City Manager Renee Crichton farewell celebration.

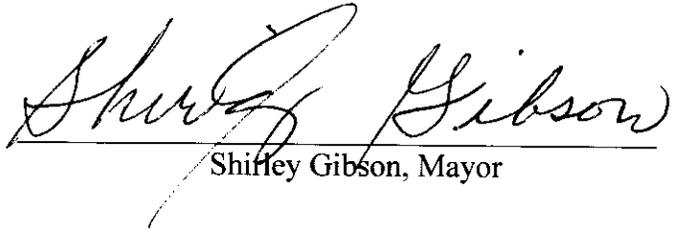
(O) WRITTEN REQUESTS, PETITIONS & OTHER WRITTEN COMMUNICATIONS FROM THE PUBLIC

None

(P) ADJOURNMENT

There being no further business to come before this Body, and upon a motion being duly made, the meeting adjourned at 9:18 p.m.

Attest:


Shirley Gibson, Mayor


Ronetta Taylor, MMC, City Clerk