

REGULAR MEETING OF THE EMERSON CITY COUNCIL  
 WEDNESDAY, FEBRUARY 10, 2021 – 6:00 P.M.  
 THIS MEETING WAS HELD ELECTRONICALLY  
 THROUGH ZOOM DUE TO CORONAVIRUS

Mayor Pro-Tem Mike Branigan called the regular meeting of the Emerson City Council to order on Wednesday, February 10, 2021, 6:00 p.m. through an electronic meeting within Zoom. Pledge of allegiance was recited.

Roll Call: Present: Councilperson Mike Branigan, Ann Roth, Larry Johnson, Randy Gray and Bob Huntsman

Absent: None

Moved by Councilperson Roth, seconded by Gray to approve the agenda

Roll Call: Ayes: Councilperson, Huntsman, Roth, Johnson, Gray, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Johnson, second by Gray to approve consent agenda:

\*Minutes from regular meeting of November 12, 2020, December 9, 2020, and January 13, 2021

\*Minutes from special meeting of January 20, 2021

\*Warrants for January 2021

\*Financial Reports for July 2020 through January 2021

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to approve claims for February 2021 in the amount of \$16,012.00

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
 Nays: None

Motion Carried.

Visitors opportunity to speak: None

Moved by Councilperson Roth, seconded by Johnson for Attorney Bri Sorensen to continue the process for abandonment of 411 King Street

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
 Nays: None

Motion Carried.

Fire Department Report – Liz Ungry, Chief:

\*Engine 81 repairs are complete

\*Engine 80 has been repainted and some service has been completed by Randy Knop

\*Thanks to city hall for staff for providing their monthly reports

Moved by Councilperson Roth, seconded by Gray to approve the Emerson Volunteer Fire Department Officers:

Chief: Liz Ungry

Asst Chief: Randy Knop

1<sup>st</sup> Captain: Mike Higgins

2<sup>nd</sup> Captain: Jay Ungry

3<sup>rd</sup> Captain: Rob Dillon

Treasurer: Rob Dillon

Secretary: Liz Ungry

EMS Director: Zennith Wilber

Asst EMS: Britnee Hedlund

Motion Carried.

Moved by Councilperson Roth, seconded by Gray to hire Lana Moyers as Part-Time Deputy City Clerk

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Gray, seconded by Branigan to approve Resolution No 2021-01  
**RESOLUTION SETTING HOURLY RATE FOR DEPUTY CITY CLERK**

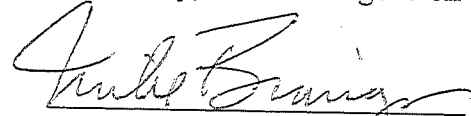
WHEREAS, salaries of employees of the City of Emerson, Iowa must be set by resolution of the City Council; and

WHEREAS, The Emerson City Council is offering the position of Deputy City Clerk for City of Emerson to Lana Moyers.

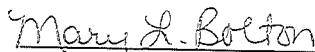
NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Emerson, Iowa, that the following hourly wage is hereby approved for this individual.

Lana Moyers as Deputy City Clerk  
\$ 19.50 per hour

PASSED by Emerson City Council on the 10th day of February, 2021 and signed on the 10th day of February, 2021.

  
Mike Branigan, Mayor Pro-Tem

ATTEST:

  
Mary L. Bolton, City Clerk

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Roth to approve Resolution No. 2021-02  
**RESOLUTION CLARIFYING EFFECTIVE DATE FOR CITY OF EMERSON  
CLERK AND DEPUTY CLERK**

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to purchase a laptop for City Clerk and do City Hall computer upgrades

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Gray to approve Resolution No. 2021-03  
**RESOLUTION AMENDING THE CITY OF EMERSON PERSONNEL POLICY**

**MANUAL CHAPTER 4 – EMPLOYEE BENEFITS AND SERVICES – 4.1 –  
HOLIDAYS**

Roll Call: Ayes: Councilperson Huntsman, Johnson, Gray, and Branigan  
Nays: None  
Abstained: Councilperson Roth (due to personal connection with part-time maintenance)

Motion Carried.

Moved by Councilperson Johnson, seconded by Huntsman to approve the 1<sup>st</sup> reading of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa Relating to Chapter 18, Section 05, Publication

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Gray to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa Relating to Chapter 18, Section 05, Publication

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Gray to adopt Ordinance No. 364 **ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EMERSON, IOWA RELATING TO CHAPTER 18, SECTION 05, PUBLICATION**

**BE IT ORDAINED**, by the City Council of the City of Emerson, Iowa, that

**SECTION 1. SECTION MODIFIED.** Section 18.05.2 of the Code of Ordinances of the City of Emerson, Iowa, is repealed and the following adopted in lieu thereof:

**18.05.2. PUBLICATION.** Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

Houghton State Bank – Emerson Branch

Emerson Post Office

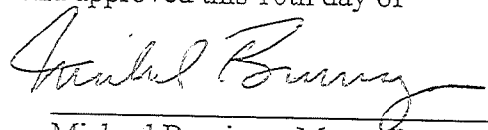
Emerson City Hall – posted in the kiosk outside city hall. If unable to post in kiosk, posted on city hall door

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than ten (10) days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the ten days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

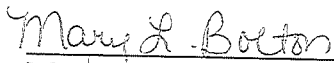
**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final pass, approval, and publication as provided by law.

Passed by the Council on the 10th day of February, 2021 and approved this 10th day of February, 2021.



Michael Branigan, Mayor Pro-Tem

ATTEST:



Mary L. Bolton, City Clerk

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Roth to approve Resolution No. 2021-04  
**RESOLUTION RE-EVALUATING THE CITY'S POLICY REGARDING THE  
EMERSON CITY COUNCIL AGENDA PROCESS**

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Gray to approve the 1<sup>st</sup> reading of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa by Adding a New Section Pertaining to Penalties

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa by Adding a New Section Pertaining to Penalties

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Johnson to adopt Ordinance No. 365  
**ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
EMERSON, IOWA BY ADDING A NEW SECTION PERTAINING TO  
PENALTIES**

**BE IT ENACTED** by the City Council of the City of Emerson, Iowa:

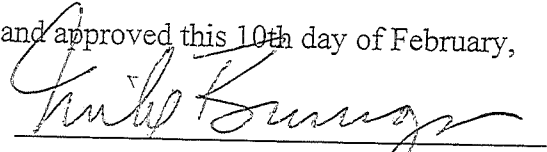
**SECTION 1. NEW SECTION.** The Code of Ordinances of the City of Emerson, Iowa is hereby amended by adding a new Section 55.21 to Chapter 55, entitled PENALTY, which is hereby adopted to read as follows:

**55.21 PENALTY.** Any person who fails to perform an act required by the provisions of this chapter or who commits an act prohibited by the provisions of this chapter shall be guilty of a simple misdemeanor punishable by fine as provided by Iowa Code section 903.1(1)(a) or shall be guilty of a municipal infraction punishable by a civil penalty as provided by Chapter 4 of this Code.


**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 10th day of February, 2021, and approved this 10th day of February, 2021.

  
 \_\_\_\_\_  
 Mayor Pro-Tem

ATTEST:

  
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 City Clerk

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Gray, seconded by Branigan to approve the 1<sup>st</sup> reading of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa by Adding a New Chapter Pertaining to Dangerous and Vicious Animals.

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Johnson, seconded by Branigan to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa by Adding a New Chapter Pertaining to Dangerous and Vicious Animals

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Huntsman to adopt Ordinance No. 366  
**ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
 EMERSON, IOWA BY ADDING A NEW CHAPTER PERTAINING TO  
 DANGEROUS AND VICIOUS ANIMALS**

**BE IT ENACTED** by the City Council of the City of Emerson, Iowa:

**SECTION 1. NEW CHAPTER.** The Code of Ordinances of the City of Emerson, Iowa is hereby amended by adding a new Chapter 55A, entitled **DANGEROUS AND VICIOUS ANIMALS**, which is hereby adopted to read as follows:

**CHAPTER 55A**

**DANGEROUS AND VICIOUS ANIMALS**

**55A.01 Definitions**

**55A.03 Dangerous Animals Exception**

**55A.02 Keeping of Dangerous and Vicious Animals Prohibited**

**55A.04 Seizure, Impoundment and Disposition**

**55A.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. "Dangerous animal" means the following animals: †
  - A. Badgers, wolverines, weasels, skunk and mink.
  - B. Raccoons.
  - C. Bats.
  - D. Scorpions.
  - E. Opossums.
  - F. Piranhas.
  
2. "Vicious animal" means any of the following: (1) Any animal that has attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals without provocation shall exist and such propensity is known or ought reasonable be known to the owner thereof; (2) Any animal that has been trained for dog fighting, animal fighting, or animal baiting, or is owned or kept for such purposes; or (3) Any dog trained to attack human beings upon command or spontaneously in response to human activities except dogs owned by and under the control of the police department, a law enforcement agency of the State of Iowa or the United States or a branch of the armed forces of the United States.

**55A.02 KEEPING OF DANGEROUS AND VICIOUS ANIMALS PROHIBITED.** No person shall keep, shelter, or harbor any dangerous or vicious animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City Limits.

**55A.03 DANGEROUS ANIMALS EXCEPTION.** The keeping of dangerous animals shall not be prohibited in the following circumstances: The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

**55A.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.**

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of

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† EDITOR'S NOTE: Certain other dangerous animals, listed in Chapter 717F.1, paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.

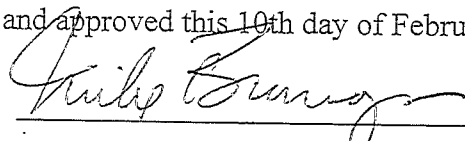
5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor or peace officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed (or of the Council after appeal) constitutes a simple misdemeanor.

**55A.05 PENALTY.** Any person who fails to perform an act required by the provisions of this chapter or who commits an act prohibited by the provisions of this chapter shall be guilty of a simple misdemeanor punishable by fine as provided by Iowa Code section 903.1(1)(a) or shall be guilty of a municipal infraction punishable by a civil penalty as provided by Chapter 4 of this Code.

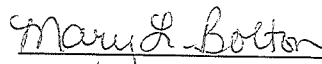
**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 10th day of February, 2021, and approved this 10th day of February, 2021.

  
 \_\_\_\_\_  
 Mayor Pro-Tem

ATTEST:

  
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 City Clerk

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Gray, seconded by Johnson to approve the 1<sup>st</sup> reading of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa by Repealing Sections 55.13 and 55.14, Pertaining to Animal Control

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Huntsman to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings of the proposed Ordinance Amending the Code of Ordinances of the City of Emerson, Iowa by Repealing Section 55.13 and 55.14, Pertaining to Animal Control

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan  
 Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Huntsman to adopt Ordinance No. 367  
**ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF  
 EMERSON, IOWA BY REPEALING SECTIONS 55.13 AND 55.14, PERTAINING  
 TO ANIMAL CONTROL**

**BE IT ENACTED** by the City Council of the City of Emerson, Iowa:

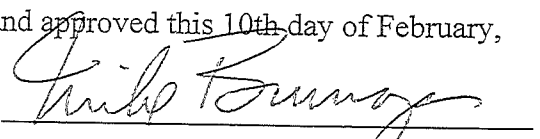



**SECTION 1. SUBSECTION REPEALED.** The Code of Ordinances of the City of Emerson, Iowa is hereby amended by repealing Section 55.13 and 55.14.

**SECTION 2. SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**SECTION 3. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 10th day of February, 2021, and approved this 10th day of February, 2021.

  
\_\_\_\_\_  
Mayor Pro-Tem

ATTEST:  
  
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City Clerk

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan  
Nays: None

Motion Carried.

Mayor asked for a 3 minute recess, returning at 7:06

At 7:06 Mayor reconvened the meeting with all council present.

Moved by Councilperson Johnson, seconded by Branigan to approve the Law Enforcement Contract with Mills County for July 1, 2021 through June 30, 2022.

Discussion: Attorney questioned of any hourly or daily requirement. Council discussed the contract and will ask for clarification on the wording regarding animal control and their assistance, also see if Sheriff might be able to join in March meeting.

Moved by Councilperson Johnson, seconded by Huntsman to withdraw the motion, table any action to next meeting and get clarification on the animal control

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Gray, seconded by Johnson to do the 3-step program with Lawn World Then amending motion to include killing weeds in playground sand areas and basketball fencing area.

Discussion continued about doing an auto renewal if they agreed to the sand and basketball area. Attorney suggested to let all motions die and make a new motion.

Moved by Councilperson Gray, seconded by Johnson to do the 3-step program for \$1,373.70 with Lawn World, if they include the killing of weeds in playground sand areas and the basketball fencing area. Also signing the auto renewal if they agreed to the other areas.

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

It was asked to also ask them for a quote on mole treatment

Moved by Councilperson Branigan, seconded by Johnson to set City of Emerson Annual Spring Clean-up for April 22, 23, 24 of 2021.

Roll Call: Ayes: Councilperson Gray, Huntsman, Roth, Johnson, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Roth, seconded by Gray to approve Resolution No. 2021-05  
**RESOLUTION APPOINTING AN INDIVIDUAL AND AN ALTERNATE TO REPRESENT CITY OF EMERSON WITH THE IOWA COMMUNITIES ASSURANCE POOL**

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

Mayor Pro-Tem Branigan announced this as the time and place to conduct a Public Hearing on the Proposed Tax Levy for July 1, 2021 – June 30, 2022

No oral or written comments.

Hearing closed.

Moved by Councilperson Johnson, seconded by Gray to approve Resolution No. 2021-06  
**RESOLUTION FOR APPROVAL OF MAXIMUM PROPERTY TAX DOLLARS FOR FISCAL YEAR ENDING JUNE 30, 2022**

Roll Call: Ayes: Councilperson Huntsman, Roth, Johnson, Gray, and Branigan  
Nays: None

Motion Carried.

Moved by Councilperson Gray, seconded by Roth adopt the proposed budget for July 1, 2021 through June 30, 2022 and to set date of March 10, 2021 for Public Hearing

Roll Call: Ayes: Councilperson Johnson, Gray, Huntsman, Roth, and Branigan  
Nays: None

Motion Carried.

Distribution procedures of city employee payroll checks were discussed.

Discussion took place on what to do with the sewer plant generator. Councilperson Gray will contact Brady Smith with Big Iron to see about options. There is also an army surplus generator at the west well that might be sold for scrap. This will be on next agenda.

Public Works maintenance report was provided in council packet with no further information.

Mayor report by Mayor Pro-Tem Branigan: commented about all the snow received and thanked the volunteers who have helped in snow removal, along with thanks to Todd Franks for the nice job on the streets with snow removal. Also asks that all citizens keep an eye on their neighbors in this extremely cold weather and everyone stay safe.

Clerk's report: was provided in the council packet but additional information included:

\*reminded and asked any volunteers to stop in city hall to complete the city's volunteer form for city's insurance purposes

\*The new alcohol license for "Old Road Café" was issued by state

\*Questioned the damage to the basketball court fence that was damaged by a MidAmerican pole that fell on it last summer. Has been discussing with ICAP and will obtain a quote for fence repairs

Additional items as may come before the Council:

\*Councilperson Gray questioned of returning city council meetings back to in person in city hall. (This will be on next agenda)

Items for upcoming agenda:

\*meetings in person or zoom

\*Law Enforcement Agreement

\*Public Hearing and adoption of budget

\*Sewer generator

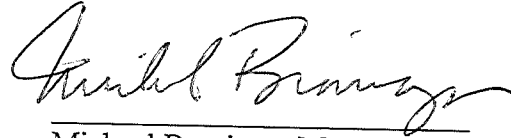
Moved by Councilperson Huntsman, seconded by Gray to adjourn the meeting.

Roll Call: Ayes: Councilperson Roth, Johnson, Gray, Huntsman, and Branigan

Nays: None

Motion Carried.

Meeting Adjourned.



Michael Branigan, Mayor Pro-Tem

ATTEST:

Mary L. Bolton  
Mary L. Bolton, City Clerk