

September 16, 2014

ROLL CALL: MARY BRADLEY, MIKE COLEMAN, CARL ELLIS, KEN KERKHOFF, ANN MILLER AND OWEN ROBERTS WERE PRESENT. ALSO PRESENT WERE MAYOR BRIAN TRAUOGOTT AND CITY ATTORNEY BILL MOORE.

DEPT. HEADS: MITZI DELIUS, BRIAN WAINSCOTT, JAMES FUGATE AND ALLISON WHITE WERE PRESENT REPRESENTING THEIR RESPECTIVE DEPARTMENTS.

NOTE: Immediately prior to Council meeting, the 2014 Wastewater Facility Plan Public Hearing was held and those minutes are attached as “Exhibit A” to the official minutes of this date.

PUBLIC COMMENT

Mayor Traugott extended his “thank you” for the recent expressions of sympathy during the loss of his father.

No other public comment was received.

MOTION BY ELLIS, SECONDED BY ROBERTS TO APPROVE AND ADOPT THE MINUTES OF THE SEPTEMBER 2, 2014 MEETING OF THE COUNCIL.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

At the request of Council member Miller, City Attorney Moore gave second reading of Ordinance No. 2014-39 as follows:

**CITY OF VERSAILLES
ORDINANCE NO. 2014-39**

GENERAL TAXATION ORDINANCE

WHEREAS, the total assessment value of all real property subject to general taxation within the City as of January 1, 2014 is \$692,155,638; and

WHEREAS, the total assessment value of all personal property subject to generation taxation with the City as of January 1, 2014 is \$64,568,295; and

WHEREAS, the total assessment value of motor vehicle and watercraft property subject to general taxation with the City as of January 1, 2014 is \$50,409,416; and

WHEREAS, the City is authorized under KRS 132 to levy a tax rate on all real property within the City, as well as having the authority to levy other taxes.

NOW BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VERSAILLES, KENTUCKY, TO-WIT:

Section 1. REAL PROPERTY TAX RATE

There is hereby levied and imposed an ad valorem tax of 5.6 cents on every \$100.00 of real property assessment subject to being taxed by said City for general government purposes.

Section 2. PERSONAL PROPERTY TAX RATE

There is hereby levied and imposed a personal property tax rate of 11.41cents on every \$100.00 of personal property assessment subject to being taxed by said City for general government purposes.

Section 3. MOTOR VEHICLE AND WATERCRAFT TAX RATE

There is hereby levied and imposed a motor vehicle and watercraft tax rate of 12.0 cents on every \$100.00 of motor vehicle and watercraft assessment subject to being taxed by said City for general government purposes.

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The taxes herein levied by said City of Versailles, Kentucky, together with other revenue, license fees, services and other sources of income shall be and same are hereby appropriated from the General Fund for general government operating purposes.

This Ordinance shall become effective after passage and publication as required by law.

All Ordinances in conflict herewith to the extent of such conflict are hereby expressly repealed.

Introduced and given first reading at a meeting of the Versailles City Council, held on the 2nd day of September, 2014 and fully adopted after a second reading at a meeting of said Council held on the 16th day of September, 2014.

APPROVED:

BRIAN TRAUOGOTT, MAYOR

ATTEST:

ALLISON B. WHITE, CITY CLERK

Discussion

There was brief discussion as to prior year motor vehicle/watercraft tax rate being 16.0 cents per \$100.00 of assessment, however, the current year's budget revenues were projected to be lowered based on the lowering of this tax rate as previously discussed on September 2nd. It was recommended that the rate be lowered from 16.0 cents per \$100 assessment to 12.0 cents per \$100 of assessment.

MOTION BY ELLIS, SECONDED BY KERKHOFF TO AMEND SECTION THREE OF ORDINANCE NO. 2014-39 TO REFLECT A RATE CHANGE TO MOTOR VEHICLE/WATERCRAFT TAX RATE FROM 16.0 CENTS PER \$100.00 ASSESSMENT TO 12.0 CENTS PER \$100.00 OF ASSESSMENT.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

MOTION BY ELLIS, SECONDED BY COLEMAN TO APPROVE AND ADOPT ORDINANCE NO. 2014-39 2014 GENERAL TAXATION AS AMENDED.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

At the request of Council member Bradley, City Attorney Moore gave second reading of Ordinance No. 2014-40 Relating to the Protection of the Public Health and Welfare by Regulating Smoking of Tobacco, Alternative Nicotine Products, and Vapor Products (aka Electronic Tobacco Products) in Buildings Open to the General Public and Places of Employment.

Discussion

City Attorney Moore noted that Council member Miller has presented a significantly modified Ordinance No. 2014-40 since it was given first reading on September 2nd, however there were minor changes that could be changed for the purpose of second reading.

MOTION BY MILLER, SECONDED BY COLEMAN TO AMEND ORDINANCE 2014-40 TO REVISE SECTION (J) TO INCLUDE THE WORD "CHURCHES" AND REVISE SECTION (B) DELETING THE WORD "PRIVATE CLUBS" AND CORRECTING A TYPO ON PAGE FOUR, SECTION 9, ADDING THE WORD "OF".

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

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MOTION BY MILLER, SECONDED BY KERKHOFF TO APPROVE MINOR LANGUAGE AMENDMENTS TO ORDINANCE NO. 2014-40 AND TO FURTHER AMEND ORDINANCE NO. 2014-40 TO INCLUDE OTHER SIGNIFICANT CHANGES IN ANOTHER FIRST READING OF SAID ORDINANCE.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

At the request of Council member Ellis, City Attorney Moore gave first reading of revised Ordinance No. 2014-40 An Ordinance Relating to the Protection of the Public Health and Welfare By Regulating Smoking of Tobacco, Alternative Nicotine Products and Vapor Products (aka Electronic Tobacco Products) in Buildings Open to the General Public and Places of Employment as follows:

**CITY OF VERSAILLES
ORDINANCE NO.2014-40**

TITLE; AN ORDINANCE RELATING TO THE PROTECTION OF THE PUBLIC HEALTH AND WELFARE BY REGULATING SMOKING OF TOBACCO, AND VAPOR PRODUCTS (AKA ELECTRONIC TOBACCO PRODUCTS) IN BUILDINGS OPEN TO THE GENERAL PUBLIC AND PLACES OF EMPLOYMENT.

Whereas, the elected representatives of the City of Versailles have determined that it is necessary and appropriate to address the health issues created by the smoking of tobacco and vapor products, which contain nicotine, in places of employment and places open to the general public;

Now, therefore, BE IT ORDAINED IN THE CITY OF VERSAILLES, KENTUCKY as follows:

Section 1. Definitions: The following words and phrases, whenever used in this Ordinance, shall be construed as defined in this Section:

- (A) "Buildings" means any structure open to the public that is enclosed on all sides and top from weather, whether or not windows and doors are open. If a person owns, leases or possesses only a portion of the building, the term building applies to the ownership, leasehold or possessory interest as well.
- (B) "Business" means a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold, professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
- (C) "Dwelling" means any place used primarily for sleeping overnight and conducting activities of daily living, including, without limitation, house, duplex, town home, apartment, mobile home trailer, a hotel or motel room, but not a hotel or motel lobby, common elevator, common hallway or other common area. A dwelling does not include a hospital room, hospice facility or nursing home room.
- (D) "Employee" means a person who works in consideration for direct or indirect monetary wages or profit, or who volunteers his or her services for an entity.
- (E) "Employer" means a person, business, partnership, association, corporation, including a municipal corporation, trust, or non-profit entity that employs the services of one or more individual persons. A private club which employs exclusively from within or operated solely by member volunteers is not an employer. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.

- (F) “Health Care Facility” means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals, Optometrists, Podiatrists, Veterinarians, County Health Departments or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and all specialists within these professions. This definition shall include, but is not limited to, all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- (G) “Place of Employment” means an area under the control of a public or private employer that employees normally frequent or may need to access during the course of employment, including, but not limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias and hallways. A private residence is not a “place of employment” unless it is used as a childcare, adult day care, or health care facility.
- (H) “Private Club” means an establishment which maintains selective members, is operated by the membership and does not provide food or lodging for pay to anyone who is not a member or a member’s guest.
- (I) “Public Place” means an enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks, bars, churches, educational facilities, health care facilities, hotels and motels, laundromats, polling places, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, schools and retail stores. “Public place” also means shopping malls, sports arenas, theaters, waiting rooms, parks and playgrounds, but shall not include unenclosed adjacent parking lots and access ways that are a reasonable distance from areas where smoking is prohibited, as defined within Section 6. A private residence is not a “public place” unless it is used as a childcare, adult day care, or health care facility.
- (J) “Service Line” means an indoor or outdoor line in which one (1) or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.
- (K) “Shopping Mall” means an enclosed public walkway or hall area that serves to connect retail or professional establishments.
- (L) “Smoking” means inhaling, exhaling, burning, or carrying any electronic cigarette, lighted cigar, cigarette, pipe, or other lighted tobacco product or any other lighted substance intended for smoking, whether otherwise legally possessed or consumed in any manner or in any form.
- (M) “Sports Arena” means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.
- (N) “Vapor Product” means any noncombustible product that employs a heating element, battery, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size and including the component parts and accessories thereto, that can be used to delivery vaporized nicotine or other substances to users inhaling from the device. “Vapor product” includes but is not limited to any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and every variation thereof, regardless of whether marketed as such, and any vapor cartridge or other container of a liquid solution or other material that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar product or device. Vapor product does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act.

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Section 2. Application of Ordinance to City-owned Facilities:

All facilities, including buildings and vehicles, that are owned, leased or otherwise operated by the City of Versailles, shall be subject to the provisions of this ordinance.

Section 3. Prohibition of Smoking in Public Places:

Smoking is prohibited in all public places as defined in Section 1(J), above within the city limits of Versailles, Kentucky.

Section 4. Prohibition of Smoking in Places of Employment:

- (A) Smoking is prohibited in all enclosed places of employment. This prohibition includes, but is not limited to common work areas, auditoriums, classrooms, conference and meeting rooms, elevators, hallways, maintenance areas, attics, crawl spaces, health care facilities, cafeterias, employee lounges, stairs, restrooms, and service lines within city limits of Versailles, Kentucky.

Section 5. Prohibition of Smoking in Outdoor Arenas and Stadiums:

Smoking is prohibited in all service lines and in the seating areas of all outdoor arenas, stadiums and amphitheaters within Versailles, Kentucky.

Section 6. Reasonable Distance:

Smoking is prohibited within a reasonable distance of not less than three (3) feet, from any outside entrance to or open windows of any area in which smoking is prohibited by this ordinance and from the air intake of a ventilation system serving an enclosed area where smoking is prohibited, in order to insure tobacco smoke does not enter that enclosed area through entrances, windows, ventilation systems or other means.

Section 7. Where Smoking Not Regulated:

Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall be exempt from the provisions of Sections 3 and 4:

- (A) Private residences and dwellings, except when used as a licensed childcare, adult day care or health care facility.
- (B) Private clubs that employ from within or whose only employees are member volunteers; provided that when such clubs are being used for functions or on occasions to which the general public is invited, the prohibitions set out in Sections 3 and 4 shall apply.

Section 8. Declaration of Establishment as Nonsmoking:

Nothing in this ordinance may be construed as preventing an owner, operator, manager or other authorized person in control of any establishment, facility or outdoor area from declaring the entire campus or property associated with that establishment, facility or outdoor area smoke free. Enforcement of any such restrictions exceeding the scope of this ordinance would be the responsibility of the authorized person in control of the affected establishment, facility or outdoor area.

Section 9. Enforcement:

- (A) Enforcement of this Ordinance shall be the responsibility any and all sworn law enforcement officers who may be assigned to work within the City of Versailles, if so directed by their superiors. Enforcement shall be primarily done on a complaint basis but can be done at any time witnessed by an enforcement official.
- (B) Notice of the provisions of this Ordinance shall be given to all applicants for a business license in the City of Versailles by the appropriate clerk.

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- (C) Owners, managers, operators or employees of establishments regulated by this Ordinance shall inform persons seen violating this Ordinance of the requirements of this Ordinance. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance, he or she shall immediately direct the person or persons in violation to extinguish the item being smoked.

Section 10. Violations and Penalties:

- (A) A person who smokes in an area where smoking is prohibited, by the provisions of this Ordinance, shall be guilty of violating the Nuisance Ordinance and punishable by a fine not exceeding fifty dollars (\$50.00).
- (B) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of this Ordinance shall be guilty of a violation, punishable by:
 - (1) A fine not exceeding fifty dollars (\$50.00) for a first violation.
 - (2) A fine not exceeding one hundred dollars (\$100.00) for a second violation within one (1) year from a previous offense date.
 - (3) A fine not exceeding two hundred and fifty dollars (\$250.00) for the third and each additional violation within one (1) year from a previous offense date.
- (C) Violation of this Ordinance is declared to be a public nuisance, which may be abated by the City of Versailles or its designated agents by restraining order, preliminary and permanent injunction, or other means provided for by law. The City of Versailles may recover the reasonable costs of any court enforcement action seeking abatement of this nuisance.
- (D) Each day on which a violation of this Ordinance occurs shall be considered a separate and distinct violation. Multiple violations witnessed in a single observance shall also be considered separate and distinct violations.

Section 11. Other Applicable Laws:

This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Section 12. Severability:

If any provision, clause, sentence, or paragraph of this Ordinance or its application to any person or factual context shall be held invalid, that invalidity shall not affect the remaining provisions of this Ordinance, which may be given effect independent of the provision or application declared invalid.

Introduced and given first reading at a meeting of the Versailles City Council, Versailles, Kentucky held on the 16th day of September 2014, and fully adopted after the second reading at a meeting of the said City Council held on the 6th of October 2014.

VERSAILLES CITY COUNCIL

BY: _____
Brian Traugott, Mayor

ATTEST:

Allison White, City Clerk

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At the request of Council member Ellis, City Attorney Moore gave first reading of Ordinance No. 2014-41 Confirming the Sale and Awarding a Non-Exclusive Franchise to Kentucky Utilities Corporation for a Term of (10) Years for Electric Franchise for the Placement of Facilities for the Transmission, Distribution and Sale of Electrical Energy Along and Under Public Right-of-Way Within the City of Versailles, Kentucky, in Return for Payment to the City of Versailles of the Sum of Two Percent (2%) of Franchisee's Gross Receipts Per Year from the Franchisee's Sale of Electricity to Electric Consuming Entities Inside the City of Versailles' Corporate Limits and Reserving the Right to Increase Said Franchise Fee to Up to Three Percent (3%) of Franchisee's Gross Receipts Per Year from the Franchisee's Sale of Electricity to Electric-Consuming Entities Inside the City of Versailles' Corporate Limits.

At the request of Council member Bradley, City Attorney Moore gave first reading of Ordinance No. 2014-42 Confirming the Sale and Awarding a Non-Exclusive Franchise to Columbia Gas for the Placement of Facilities for the Transmission, Distribution and Sale of Gas for Heating and Other Purposes Within the Public Rights-of-Way of the City of Versailles for An Initial Ten (10) Year Period with Up to Two (2) Additional Extensions of Time of Five (5) Years Each, in Return for Payment to the City of Versailles of the Sum of At Least Two Percent (2%) of Each Franchisee's Gross Annual Revenues from the Sale, Distribution and Delivery of Gas Within the City of Versailles and an Option to Increase the Fee to An Amount Not to Exceed Five Percent (5%).

Assistant Public Works Director Paul Simmons presented the following bids for the purpose of Utility Cut Repairs for the Fiscal year 2014-15 as part of the Municipal Aid Road Fund project:

Asphalt, Paving and Maintenance	\$29,515.00
C&R Asphalt	\$31,236.00

MOTION BY KERKHOFF, SECONDED BY BRADLEY TO APPROVE THE BID AS PRESENTED BY ASPHALT, PAVING AND MAINTENANCE IN THE AMOUNT OF \$29,515.00 FOR THE PURPOSE OF UTILITY CUT REPAIRS FOR FISCAL YEAR 2014-15 AND AS PART OF THE MUNICIPAL AID ROAD FUND PROJECTS.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

Assistant Public Works Director Paul Simmons presented the following quotes for the purpose of purchasing a leaf box:

The ODB Company	\$6,200.00
Municipal Equipment	\$7,140.00
TEBCO of Kentucky	\$12,862.00

MOTION BY BRADLEY, SECONDED BY ROBERTS TO APPROVE THE QUOTE AS PRESENTED BY THE ODB COMPANY IN THE AMOUNT OF \$6,200.00 FOR THE PURPOSE OF PURCHASING A LEAF BOX.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

Assistant Public Works Director Paul Simmons presented the following sole quote for the purpose of purchasing salt for the 2014-15 fiscal year:

Detroit Salt Co.	\$79.60 per ton
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MOTION BY MILLER, SECONDED BY COLEMAN TO AUTHORIZE ASSISTANT PUBLIC WORKS DIRECTOR TO PURCHASE UP TO 1,000 TONS OF SALT FROM DETROIT SALT CO. AT A PRICE OF \$79.60 PER TON.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

Utilities Director Mitzi Delius noted that a typo appeared in her previous quotes presented on September 9th for the purpose of purchasing a submersible pump for the wastewater treatment plant and further requested that the council rescind those quote award to RA Ross & Associates and the correct quotes would be presented.

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MOTION BY ELLIS, SECONDED BY MILLER TO RESCIND QUOTE AWARD TO RA ROSS & ASSOCIATES FOR THE PURCHASE OF A SUBMERSIBLE PUMP FOR THE WASTEWATER TREATMENT PLANT.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

The following quotes were submitted for the purchase of a submersible pump for the wastewater treatment plant:

KLM	\$2,455.50
Straeffer Pump & Supply	\$3,419.00

MOTION BY BRADLEY, SECONDED BY COLEMAN TO APPROVE THE QUOTE PRESENTED BY KLM IN THE AMOUNT OF \$2,455.50 FOR THE PURPOSE OF PURCHASING A SUBMERSIBLE PUMP FOR THE WASTEWATER TREATMENT PLANT.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

MOTION BY BRADLEY, SECONDED BY ROBERTS TO AUTHORIZE THE MAYOR TO EXECUTE THE MEMORANDUM OF AGREEMENT WITH THE LEXINGTON FAYETTE URBAN COUNTY GOVERNMENT FOR THE PURPOSE OF CONSIGNMENT, PROCESSING AND MARKETING OF RECOVERED MATERIALS (LEXINGTON RECYCLING CENTER).

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

DEPARTMENT HEAD/COMMITTEE REPORTS

Mayor Traugott announced that the regularly scheduled October 7, 2014 meeting of the Council would be changed to October 6, 2014 at 5:30 p.m. due to a scheduling conflict.

Mayor Traugott announced the Cops and Joggers event to be held on September 27th at 8:30 a.m., with registration beginning at 7:00 a.m. Mayor Traugott noted proceeds will go to "Cops for Kids" program.

Mayor Traugott informed the Council that Mayor Bozarth had proposed Tuesday, September 23rd as a alternative date for the joint Midway/Versailles City Council work session. It was agreed that date was good with everyone and that Council member Miller would confirm a location/time. (Later determined to be held at KCTCS Headquarters at 300 North Main Street at 6:00 p.m.)

Water/Sewer Committee reported that they heard the presentation of the Wastewater Facilities Plan Update presentation prior to the meeting.

Cemetery Committee reported that the Rose Crest pavilion is well underway and will be a nice addition to the cemetery when completed.

MOTION BY ELLIS, SECONDED BY COLEMAN TO APPROVE THE GENERAL LEDGER DISTRIBUTION LIST (BILLS) DATED SEPTEMBER 16, 2014 AFTER THEY HAVE BEEN PROPERLY REVIEWED AND APPROVED BY THE APPROPRIATE DEPARTMENT HEAD, MAYOR AND CITY TREASURER.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

MOTION BY MILLER, SECONDED BY ELLIS TO ENTER INTO EXECUTIVE SESSION TO DISCUSS POTENTIAL LITIGATION.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

MOTION TO RETURN FROM EXECUTIVE SESSION TO REGULAR MEETING OF COUNCIL, FURTHER NOTING THAT NO ACTION WAS TAKEN DURING EXECUTIVE SESISON.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

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Council member Miller noted that full Council would like to request that the City Attorney pursue collection of funds that the City had spent on demolition of the Versailles Shopping Center. Also, the Council further requested that the Mayor and City Attorney proceed with having the deed restrictions lifted from the former Versailles Shopping Center property.

MOTION BY ELLIS, SECONDED BY COLEMAN THAT THE MEETING OF THE COUNCIL ADJOURN.

The vote was as follows: Bradley, Coleman, Ellis, Kerkhoff, Miller and Roberts voting aye.

APPROVED:

BRIAN TRAUGOTT, MAYOR

ATTEST:

ALLISON B. WHITE, CITY CLERK