

Minutes
Regular Meeting
Bluff City Board of Mayor & Aldermen
April 8, 2010

Alderman Miller made a motion to call the meeting to order. Second by Alderman Carrier.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderman Miller made a motion to appoint Irene Wells to chair the meeting. Second by Alderman Weaver.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Prayer was by Alderwoman Wells followed by the Pledge of Allegiance.

Alderwoman Wells said that she would like to move the attorney's comments to the front of the meeting. Alderman Weaver made a motion to move the attorney's comments to the front of the meeting. Alderwoman Wells seconded. Alderman Miller said that he thought before they discuss what the opinion of MTAS was they should first open up the floor for citizen comments as this was definitely going to be something that the public was going to want to weigh in on. Alderwoman Wells said that she thought that they need to know about the opinion that was received from MTAS since the city is paying MTAS money and they represent most cities and the attorney has checked into this information and then MTAS agrees with the attorney, therefore she thought that they should let the attorney speak. Alderman Miller said that he did not dispute those facts what so ever, however they have a very astute audience tonight and they obviously interested in local government and he is sure that all of them read the front page article of the Piney Bluff Gazette which featured the letter in question. Alderwoman Wells said that they could not assume that everyone here read that article so she thought that the attorney needed to go over the information and then Alderwoman Wells turned the floor over to Mr. McDaniel. Alderman Miller said that there was a motion and a second and they were in the discussion and there had been no vote taken place yet. Alderwoman Wells said to take a roll call vote.

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Roll Call Vote:	Alderman Carrier	no
	Alderman Miller	no
	Alderman Weaver	yes
	Alderwoman Wells	yes

Mr. McDaniel stated that the motion failed.

Alderman Miller made a motion to proceed with citizen comments and let the folks have their say before this board attempts to take any action. Second by Alderman Carrier

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	no
	Alderwoman Wells	no

Alderwoman Wells said that it seemed to her that if they as a city pays MTAS for legal advice and our attorney agrees with the letter that they received from MTAS and if they are going to have the meeting and Mr. Gentry is still on the board she felt like he should be a part of this meeting and they should not treat him like he is not here. Alderman Carrier said that the city had a charter that they went by. Alderman Miller said that Mr. Gentry should not have stated that he resigned. Alderwoman Wells said that he did not resign. Alderman Carrier said he resigned and walked out. Alderman Miller said that this was not grade school, there are no do overs. Alderman Miller said that this should be a more professional proceeding than what it is unfortunately that just isn't the case with them as it just doesn't happen. Alderwoman Wells said that they surely should not have a member of this board talking hateful to one of the board members or anyone else. Alderman Miller said that the speech he chooses is his own and no different than Alderwoman Wells was afraid of what the citizen comments are going to be. Alderwoman Wells said that she was not afraid of what the citizen's comments are going to be. Alderman Miller said then let the people speak. Alderwoman Wells asked the citizens to raise their hands if they wanted to speak tonight. Alderwoman Wells said they would hear from these individuals before they continue the meeting. Alderman Weaver made a motion to move forward with citizen's comments. Second by Alderman Miller.

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Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderwoman Wells opened the floor for the first section of citizen comments.

1. Lon Gene Leonard stated that he lived on Cedar Street. Mr. Leonard stated that Mr. Gentry resigned his position as Mayor; therefore he forfeited his right as an alderperson and left the building. Mr. Leonard said that if that be the case then they could bring Mr. Anderson back, they could bring Mr. Bob Thomas back but no where in the charter does it state that they have to formally accept and vote on somebody's resignation. Mr. Leonard said that being said they had talked to an attorney and they would have a lawsuit and have the last election null and void if that be the case as it was a fraudulent election. Mr. Leonard said that if all of the other people that resigned are still on the board what is the difference, there is no difference. Mr. Leonard said that Mr. Gentry chose not to take the position, but he called a meeting. Mr. Leonard told Mr. Gentry that when he took the position as vice-Mayor, the next step would be to fill in for the Mayor if he can't be here and if the Mayor resigns it his job and he took the position and called a meeting. Mr. Leonard told Mr. Gentry he suggested that he do what he did the other night which was get up and go home.
2. John Bland with Mountain Homes Realty said that he was given that today was the deadline to pick up all of the external signs due to the new ordinance and it rained and he was out in his truck trying to pick them up in the rain. Mr. Bland said that he had most of his signs picked up but the sign in question was the electric bill board that he derives quite a bit of his business from. Mr. Bland said that these are pretty rough times in real estate and he advertise houses that are for sale in the area and he gets about 20% or 25% of his business off of this billboard sign so he needed this sign out there. Mr. Bland said that he had talked to Mr. Peterson and he said that it is above him and it needed to go somewhere else. Mr. Bland said that he had talked to Mr. Weaver and again it was not for that person to make that decision so he needed to know where he should go next to appeal that so that he did not have to forfeit that sign. Mr. Bland said that Mr. Peterson said that he would probably need to go to Planning/Zoning on April 13th and ask for a variance or something to be done on that, but he would need to come to this

meeting and bring it up to this panel and that would put him on the agenda on the 13th. Mr. Bland said he was not sure how it works. Recorder Dulaney said

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told Mr. Bland to call the office and they would put him on the agenda. Recorder Dulaney said for Mr. Bland to call her or Sandy as it does have to go to Planning/Zoning before it would come back to this board.

3. Gerald Williams stated that he operated the Custom's Etching & Graphics in Bluff City and he had not had the pleasure of meeting the man that came in his business the other day and told his wife that they had to take their sign down. Mr. Williams said that he had done a little research on this and there are a lot of businesses in the Piney Flats – Bluff City area that Mr. Peterson had talked to and no qualms about it his statements were that the signs come down and if you don't take down the city will take them down for you. Mr. Williams said that this bill was put into action in April, 2000 and the new ordinance he picked up at city hall had not changed one letter from what was written into the bill in 2000. Mr. Williams said that this has been 10 years and the business next to him has had his sign for over 20 years and now they are coming in and telling him that he has to take his sign down. Mr. Williams said that he was not trying to say that there was not a problem with some signs but there is a lot more they can do for the beatification of Bluff City than to run all of the businesses out of town. Mr. Williams said that if you look at the bottom of the letter that was put in the paper they came out and took a picture of his sign that was on the side of the road, and has been for 2 years. Mr. Williams said that there is a lot of people that are putting up signs that they just mark on them with little markers and he understood taking them up. Mr. Williams said that he was in the sign business and he was there cutting his own throat right now because they make signs for people that are in business and these signs are not cheap. Mr. Williams said that his main reason for being here is just like the rest of the businesses they don't get enough business to start with. Mr. Williams said that their buildings are so far off the road that if they have to put a sign on top of the buildings they might as well close the doors and after the city gets through charging permits and building and inspector fees and everything else they might as well close the doors. Mr. Williams said that Bluff City's budget is a joke to start with and they all knew that as he has read it and it is crazy that the police officers have to go out a risk their lives for the kind of money that they make but you got some people that make twice the money they do. Mr. Williams said this is just one iota of an issue that needs to be dealt with. Mr. Williams said that they had a man out there that they needed to find something for him to do and it was asked of the city attorney what could happen about the signs if the people don't do and that is how it came up in the minutes

and his answer was if the signs do not come down or meet standards we the city will take them down and charge the businesses \$50.00 per day if the signs

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don't come down. Alderwoman Wells asked him if he had talked with Planning/Zoning. Mr. Williams said no that from what they were told from the guy going around he had only been to two or three businesses and one man threw him out of his business and Mr. Williams said that he didn't know that he wouldn't have done the same thing if he had been there when he came in his business. Mr. Williams said that Mr. Peterson made no money telling people to take signs down but the only way he can make more money on the sign ordinance is to issue a permit to put the signs back up. Alderwoman Wells said that she thought they needed to do is have Mr. Williams meet with the city manager and maybe a member from the Planning/Zoning and they can suggest how they might take care of this without him having to take the sign down but she could not make any guarantees as the city does have sign ordinances but she felt like he could get together with the city manager, the attorney or someone from Planning/Zoning and maybe work out something. Mr. Williams said that he understood what she was saying but his problem is that the man has already been around, but he had not received a letter and he said that he would receive a letter to take the signs down. Mr. Williams said that he would like to know where his sign is in violation. Mr. Williams said that it said in 14-503 which was in effect in April of 2000, that a sign area is an area within a single continuous perimeter enclosing the extreme limits of the sign but the sign area shall not include any structural elements not in the part of the sign and then they talk about a free standing signing and his is not a free standing sign as a free standing sign stands on the ground by itself and is not anchored to the ground so why is his sign that has two posts in the ground and is in between those two posts considered a free standing sign. Mr. Williams said that they were being told to take the sign down within seven (7) days or you will start getting charged. Mr. Williams said that there were people that were struggling just trying to make rent. Alderwoman Wells said that she understood and asked Mr. Williams for his phone number and she would have someone to call him tomorrow. Mr. Williams said his phone number was (423) 956-2878. Mr. Williams said that the business beside him had flapper signs like they put up at car lots. Mr. Williams said that their issue was that if there is a sign ordinance that you are going to put into effect or start telling the businesses that they can't advertise, well everybody knows what happens when you can't advertise how much money are going to make. Mr. Williams said that he was not speaking for everybody but he was speaking for himself said that his problem was that the city had an ordinance that was written (10) ten years ago and it has not been changed

so why could they not as civil people do something to tell these people that there is an ordinance that they need to start enforcing so you have within (6)

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six months to a year to comply and then you have people that can go out there that just spent \$5,000.00 on a sign and they can re-coup that in time enough to do what they need to do but you come in and say you have seven (7) days. Mr. Williams asked why the ordinance was re-enacted. City Manager, Don Weaver said that people in that area are complaining of the signs being down there. Mr. Williams asked if he could get a copy of those complaints. Mr. Weaver said that he was talking about verbal complaints. Alderman Miller said that the complaints that Mr. Weaver was talking about were completely verbal and here say. Alderman Miller said that he wanted to apologize to Mr. Williams and all of the other business owners of Bluff City as he thought the sudden enforcement of those ordinances was unfair. Alderman Miller made a motion to suspend the sign ordinance until such time the Planning/Zoning Commission can review the ten year old ordinance and revise it. Alderman Miller encouraged Mr. Williams and the other private business owners to take an active role in this and they can move this legislation in a way that is pro business but still accomplishes the goal of what the ordinance is set out to do. Second by Alderman Carrier.

Roll Call	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

4. David Smith asked J.C. Gentry if he was on any heavy medication when he resigned and as far as he was concerned he had resigned and he did not think that this board should go any further on anymore business until Mr. Gentry gets up from that seat and leaves because if not he was coming up there and getting in a seat as he has as much right to be up there as he does. Mr. Gentry said that according to MTAS letter—Mr. Smith said that he did not want to hear what MTAS said that Mr. Gentry was a grown man and been in this long enough and he had resigned and as far as he was concerned that was it with him, when he got up and walked out and left us holding the bag and nobody here to represent us. Mr. Smith told Mr. Gentry that he was sorry and he let them down.
5. Connie Leonard of 314 Main Street stated that she had the same concern as to why Mr. Gentry is sitting on the board tonight. Ms. Leonard said that Mr. Gentry took the office as alderman and took the office as vice-mayor and according to the

charter the vice-mayor takes over as the mayor in the event that the mayor is no longer in the position, steps down, put out of office or whatever. Ms. Leonard said

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that Mr. Gentry was vice-mayor and took the position as mayor and at the meeting that night he did not once state that he did not want the position as mayor and he had the entire meeting to do that as he had the entire meeting to do that so why did he not then. Ms. Leonard said that Mr. Gentry accepted congratulations from other aldermen and citizens and talked to the press and acted in the following weeks in the capacity of mayor and then he decided to resign. Ms. Leonard asked Mr. Gentry if he thought that he could go right back into the alderman position and has never happened in Bluff City before and if that is what is happening here then she wants to know why and could somebody answer that. Alderwoman Wells asked Ms. Leonard if she was finished. Ms. Leonard said no she just asked a question. Alderwoman Wells told Ms. Leonard to go ahead and finish with what she had to say and then they would let the attorney speak. Ms. Leonard asked Mr. Gentry if he did not understand the position as vice-mayor when he took it several years and did he understand the position of mayor when he took. Mr. Gentry stated that there was no mayor opening to take.

Alderman Miller said kind of like there was no mayor opening for Todd Malone to be mayor when Tom Anderson resigned. Alderman Miller stated that he could not have his cake and eat it too. Mr. Gentry stated that there had been an election since then. Alderman Miller said maybe so but that also means that when Tom Anderson accepted the mayorship that it was done improperly and it also meant that when Todd Malone originally accepted the mayorship from Tom Anderson it was done improperly and we can't have our cake and eat it too. Mr. Gentry said that according to this letter it was.

Ms. Leonard asked what letter was that. Mr. Gentry said MTAS. Ms. Leonard said that MTAS was an advisory committee. Alderman Miller said that yes it was. Ms. Leonard asked if the board was using MTAS as the legal representative for the city. Alderman Carrier said no they go by the charter. Ms. Leonard said that MTAS was an advisory committee and if the board was going to use them as a legal representative she would like to know where the MTAS representative was tonight to back what Mr. Gentry was saying because the citizens are going to hold MTAS legally responsible for the boards decisions tonight as well as the city attorney and all of the board. Ms. Leonard said she thought that according to the past the city attorney's role is to act in the best interest of the town and not the best interest of your friends on the board and to advise the board to conduct

business in the best interest of the town for the welfare of the town and if in the event of a lawsuit by individuals or citizens against the board of Mayor &

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Aldermen due to poor judgment and/or personal agendas by the Board of Aldermen and the Board of Mayor & Aldermen acts upon that advice from the city attorney can the citizens hold the city attorney liable as well as the Board of Mayor & Aldermen. City Attorney Shawn McDaniel stated that the city attorney is answerable to the Board of Mayor & Aldermen. Ms. Leonard said that the city attorney's salary is paid by the citizens. Ms. Leonard asked where was the MTAS legal representative tonight for the boards decisions. Ms. Leonard asked who was the MTAS person that Mr. McDaniel talked to that advised him of this legally. City Attorney, Shawn McDaniel said that he could go into the presentation that he made. Alderwoman Wells told Mr. McDaniel to go ahead. Alderwoman Wells asked Ms. Leonard if she was finished as Mr. McDaniel was reading to make his presentation. Ms. Leonard said that he could make his presentation and she would finish later. Alderman Miller asked if anyone else wanted to speak before they move on.

City Attorney, Shawn McDaniel said that after the last Special Called Meeting. City Recorder if they were moving this section up. Alderwoman Wells said yes. City Recorder Dulaney said she needed a motion to move it up. Alderwoman Wells said that they had moved it up before and never had a motion. City Recorder Dulaney said that is took a motion to move it earlier in the meeting. Alderman Weaver made a motion to move the report from the city attorney up on the agenda. Second by Alderwoman Wells.

Roll Call Vote:	Alderman Carrier	no
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

City Attorney, Shawn McDaniel said that after the last Special Called Meeting he was concerned that Alderman Gentry's resignation was taken by some members of the board to mean that Mr. Gentry had resigned as an alderman as well. Alderman Miller said that it was just not some members of the board it was every outlet of press that reported on that event which reported that exact same thing so to say that some members of the board misconstrued his resignation is cherry picking his facts. Alderwoman Wells asked if they could let the attorney speak. Alderman Miller said no not if he is going to speak in that manner. Alderwoman Wells said that he had not interrupted him so let the attorney finish.

Alderman Miller said that he did not work for Mr. McDaniel he worked for the board. City Attorney, McDaniel said that he contacted the Municipal Technical Advisory Service to supplement his own research and so did Alderman Miller and spoke to Mr. Sid

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Hemsley who is a Senior Legal Consultant with MTAS. Attorney McDaniel said that Mr. Hemsley was willing to come to a board meeting to answer any questions that the board had about his opinion and he could arrange that if the board wishes it. Attorney McDaniel said that Mr. Hemsley's conclusion was and he agreed that Alderman Gentry's resignation from the Office of Mayor was meaningless because the Office of Mayor was never vacant because the board had never accepted Mayor Todd Malone's resignation and there is a 1919 case from the Tennessee Supreme Court, which is still good law today, says that it is well settled that a resignations are not complete until accepted by a competent authority. Attorney McDaniel said that Mr. Hemsley also asserts in his opinion that Mr. Gentry as Vice-Mayor has every right to call a Special Called Meeting and proceed that he was not acting as the Mayor and quoted directly that the same was true with respect to Mr. Gentry's resignation again that there was no vacancy in the Office of Mayor for him to fill therefore his resignation from the office was legally meaningless and as he had pointed out under Article 3, Section 7 of the City Charter that the Vice-Mayor has the right to decline the Office of Mayor at such time there is a vacancy of Mayor then he is entitled to refuse to accept it and keep his position as an alderman. Attorney McDaniel said that he had also contacted MTAS and done his own research and it appeared that in addition to this 1919 case there is also legal authority to address the concern on the prior mayor's resignations not being accepted that the appointment of a mayor acts as the acceptance of a resignation. Alderman Miller said that neither Tom Anderson or Todd Malone was an appointed mayor they simply accepted the position as vice-mayor and they were not appointed by the board so Attorney McDaniels assertion that they were appointed and that made it nice and legal is factually incorrect so he did not think that Attorney McDaniel had addressed this concern at all and had not begun to address the concern that Tom Anderson did not vacate his seat as an alderman because he could not accept the mayor because there was not vacancy as mayor because Bob Thomas was still the mayor and so every act that Tom Anderson took while he was the mayor was by the very same legal opinion null and void as would every decision and every signature of Todd Malone prior to his election as mayor may be null and void as would Mr. Weaver's appointment to this board because there was no vacancy to that vacant alderman position as well to originally Mrs. Wells appointment to the board as there was no vacancy there and thus every vote that they have taken in that time frame while Tom Anderson and Bob Thomas were duly elected would be null and void. Attorney McDaniel said that he would find them the legal authority and present to them. Alderman Miller said that by what Attorney McDaniel was saying they would have to back up years and they may have to do it for every single Mayor that has ever resigned.

Attorney McDaniel said that he did not believe that to be the case and he would do the research and present it. Alderman Miller said that is why that legal opinion just does not

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work. Alderman Miller told Alderman Weaver not to cite random events but name something specific if he was going to interject an opinion then back it up. Alderman Weaver asked Alderman Miller if he was saying he never had. Alderman Miller said he had asked for a salary study which didn't happen and a water rate study which hasn't happened but he had never asked for a legal opinion from MTAS but what he had requested was a study from other municipalities. Alderman Weaver said that at one meeting Alderman Miller said that he smelled a stink and he believed this was the same thing. Alderwoman Wells said that our prior attorney also used that let's get the opinion from MTAS and this is MTAS's opinion. Alderman Miller said that this is a non binding opinion because it is just that it is an opinion as they are not a judicial authority. Alderwoman Wells said that we did not need to be paying MTAS the money that we are paying them if we are not going to pay attention to our attorney. Alderman Miller said that he was not arguing that we should not pay attention to them but he was stating that their opinion is not legally binding to the board of the city as MTAS is not a governing official of Bluff City and do not make decisions or correct our actions. Alderwoman Wells said that according to our charter J.C. Gentry did not have to accept mayor. Alderman Miller said he didn't and yet he did and when posed with the option of either sir the meeting is null and void or you have accepted the mayorship, what did Mr. Gentry state, he stated fine I resign and Mr. Gentry accepted that the meeting was valid and he did not want to be mayor and he resigned. Alderman Miller said that when Mr. Gentry was presented with those two choices from the city attorney that was the one that he accepted. Alderman Miller said that he even stated after the meeting that he did not expect that to happen he just expected the meeting to be null and void but instead Mr. Gentry he very briskly jumped the gun and acted irrationally and resigned. Alderman Miller said that he could not take that back nor could he offer Mr. Gentry a do over on the part of the people. Alderwoman Wells said that to appoint a mayor was farther down on the agenda and he was not given time to get there. Alderman Miller said that Mr. Gentry had weeks to say that he did not want to be the mayor and he had the previous Special Called Meeting and the beginning of the meeting where he could have said before we get started he was just there to preside and did not mean that he was the mayor. Alderman Miller said that Mr. Gentry had opportunity after opportunity after opportunity and yet he chose to accept none of those and he thought that Mr. Gentry was more interested in what his title was instead of what his responsibilities were. Alderwoman Wells asked Attorney McDaniel what his suggestion was to this. Attorney McDaniel said that there was nothing that he could do other than give the board the legal advice that he has given. Attorney

McDaniel said that he could not physically pick up Mr. Gentry and remove him from his chair and if somebody wants to remove him then they will have to file a court form to do

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it. Alderman Miller said that Mr. Gentry is not a voting alderman and he in front of God, several news outlets and a room full of citizens stated that he resigned. Alderman Miller made a motion that the opinion from MTAS is just that and is a non binding letter from an attorney in Knoxville and is not a binding, legal, judicial opinion for this city and is something that the city is not required to take. Alderman Miller said that if the board were to take that opinion it was his understanding that the board would have to vote to accept that opinion. Attorney McDaniel said that Alderman Miller was absolutely right. Alderman Miller said then it remains an opinion unless they have a motion to move forward with accepting that opinion then the board needs to move on with business and Mr. Gentry take his seat in the audience. Alderman Weaver made a motion to accept the legal opinion of MTAS. Second by Alderwoman Wells.

Roll Call Vote:	Alderman Carrier	no
	Alderman Miller	no
	Alderman Weaver	yes
	Alderwoman Wells	yes

Attorney McDaniel stated that the motion failed. Alderman Miller said no that the vote failed.

City Recorder Dulaney said that Alderwoman Wells said that the city paid MTAS but the city does not pay them. Alderman Miller stated that if anyone is under the impression that the city paid MTAS for this opinion that it incorrect. Alderwoman Wells said that they do represent just about all of the cities and since she has been on the board it has been many times that when an opinion came up they say that MTAS says this and this is what we should follow. Recorder Dulaney said that all cities use MTAS as an advisory state and is set up by the state and they have people on staff in various areas from legal to financial. Alderwoman Wells said that the city has taken their advice on other things while she has been on the board. Recorder Dulaney said that some we have and some we haven't but MTAS does not represent the city they are just advisors. Alderman Weaver asked why they went to these classes. Alderman Weaver asked if they were saying that they were wasting tax payer's money. Alderman Miller said just like in March when Alderman Weaver and Alderwoman Wells did not show up for the meeting as they wasted a lot of

tax payers money and just like they wasted \$10,000.00 in tax payer money when he refused a Special Called Meeting to avoid the fine for the gas.

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storage tanks when it could have been addressed with a resolution and avoided that fine. Alderman Weaver said he did not think he wasted anything as he was not physically able to come. Alderman Miller said that he might not have been as his reasons are his own. Alderman Miller told Alderman Weaver if he found himself medically incapable of coming to the meeting then he should resign as he had missed he was sure somewhere of the neighborhood of 40% of the meetings. Alderwoman Wells told Alderman Miller that he had encouraged more people to resign than anybody she knew. Alderman Miller said yes because they did not take the job serious. Alderwoman Wells said that is how he did Todd Malone just continuous, continuous, continuous about resigning. Alderman Miller said that he had an opinion just like her and he will express that opinion. Alderman Miller said that he did not force Todd Malone to resign and Todd Malone said that he was going to resign if he did not get a city manager but he resigned even after he got a city manager and he never told him to resign after that meeting and he never once again mentioned that Todd Malone resigned. City Attorney McDaniel said that if there is an MTAS issue between the board members then somebody somewhere is going to have to file a lawsuit to get it decided one way or another. Alderman Carrier asked Attorney McDaniel if he knew anything about the Charter and asked him if there was anything in the charter where it says that they have to accept their resignations as it does not say it in there. Attorney McDaniel said that it has been the law in the State of Tennessee for close to 100 years. Alderman Carrier said that they had a charter to go by. Attorney McDaniel suggested that the board move on with the agenda. Alderman Miller asked Attorney McDaniel if he knew why Mr. Gentry was not voting, was it because he was not a voting member of the board and because he is not up there as a member of the board. Alderman Miller said that Mr. Gentry needed to have a seat as this is a circus. Alderman Miller told Attorney McDaniel that this was a circus and he knew it and he knew that this opinion was non binding and that is why he had not pressed that Mr. Gentry should not get a vote from the beginning as he knew there was no legal precedent. Alderwoman Wells said that there were two members of the board that feel that way and they there are two members of the board that do not feel that way. Attorney McDaniel said that he could not make Mr. Gentry move and the only thing he knew was to go ahead with the agenda. (There were members of the audience making comments wanting Mr. Gentry to leave) Alderwoman Wells told Mr. Gentry to just sit there.

Alderwoman Wells opened the public hearing on Ordinance 2010-001. Alderman Miller asked Alderwoman Wells if she was directing Mr. Gentry to remain a board member as she is stepping into a liable area as if she is demanding that a private citizen remain behind the board. Alderman Weaver said that Alderman Miller's view mattered but theirs

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didn't. Alderman Miller said no it doesn't because Mr. Gentry resigned and his view is protected by the charter and Mr. Gentry's very statement that he resigned. Alderman Miller said that you can't change history it already happened and it was not his view it happened. Alderman Miller told Alderman Weaver that his very seat, because of the Supreme Court Decision, is in jeopardy and if it is Alderman Weaver's conviction and he holds that to be true then he should have a seat. Alderman Miller said that Alderman Weaver is not a duly elected member of the board as he was appointed. Alderman Miller said that he felt that Mr. Gentry left the town in a serious jam and he couldn't resent the fact that he resigned more than anyone but the fact is he resigned and he doesn't get a second try, he quit and not only quit but he got up and walked away. Alderwoman Wells said that they would go ahead with the public hearing. Alderman Miller said that they could not continue with a public hearing while there is a private citizen behind the dais otherwise he was going to invite everyone in the room to sit up there as his guest. Alderman Miller told Alderwoman Wells that if Mr. Gentry was her guest then he was about to have a lot of people up there as his guest. Alderwoman Wells said that Mr. Gentry was not her guest he was an alderman. Alderman Carrier said that he was not an alderman. Alderman Miller said that Mr. Gentry is obviously not an alderman otherwise he would be getting to vote this entire time and he is not voting because he is not an alderman and that why Mr. Gentry has not been allowed to vote. Alderman Weaver said that was Alderman Miller's opinion. Alderman Miller said no not only his opinion but the city attorney's as well and that is why he has not gotten the opportunity to vote because in the city attorney's opinion as well he is not a voting member of this member and as long as he remains in what is a vague judicial fine print limbo it doesn't mean that he has the right to remain behind the dais while everyone else out there as to remain seated in the general assembly. City Attorney, Shawn McDaniel said that there is no provision that he had to make the man move and Mr. Miller wants the man to move it is his decision. Alderman Miller said that it would be because what is commonly referred to as questionable ethics among politicians. far it goes) (Audience member said or if he would speak and tell them why he should be on the board) Alderman Miller said that Mr. Gentry has said a word because he had be coerced into coming back because maintaining the voting majority is more important to his colleagues than actually working together on city business. Alderman Miller asked Mr. Gentry to do the right thing leave as he had made a statement and he needed to be a man about it as decisions have consequences and he

made his. (Mr. Gentry left the dais) Alderman Miller told Alderwoman Wells if he had upset her plans for the evening he sincerely apologized. Alderwoman Wells said that she had no plans for the evening but she was saying that he was the cause of him leaving the last time because he did not understand that if he was holding the meeting he was automatically the mayor. Alderman Miller said he could not help it if Mr. Gentry does or does not understand.

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Alderwoman Wells opened the public hearing at 8:00 p.m. for Ordinance No. 2010-001, and ordinance prohibiting commercial vehicles on certain residential streets. City Attorney, Shawn McDaniel read Ordinance No. 2010-001. Gerald Williams said that he had been a truck driver for 25 years he did not dispute what the ordinance said but if the city needed a new piece of machinery are they going to charge the man \$50.00 for sitting out on the street to bring it to them just because he can't get into the parking lot. Alderman Miller said that the ordinance specifically excludes deliveries. Alderwoman Wells closed the public hearing at 8:05 p.m.

Alderman Miller made a motion to approve Ordinance No. 2010-001 on second reading. City Attorney McDaniel read the ordinance. Second by Alderman Carrier.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderwoman Wells said that the next item on the agenda was the appointment of a Bluff City Board of Mayor & Aldermen member to the Planning Commission to replace Mr. Gentry. Aldermen Miller asked if any member of the board wanted to be a part of the Planning/Zoning Commission and if not he would put himself up for the seat on the Planning/Zoning as he realized this is a seat that needed to be filled so that the commission can move forward with business.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderwoman Wells presented Resolution No. 2010-009, a resolution to authorize the application of a Community Development Block Grant (CDBG) and approving matching

funds, to the board for consideration. City Attorney McDaniel read Resolution No. 2010-009 which authorized the mayor submit an application requesting \$435,470.00 of CDBG Funds with matching funds of \$43,070.00 to be provided by the City of Bluff City. Alderman Carrier made a motion to approve Resolution No. 2010-009. Second by Alderman Miller.

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Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderwoman Wells opened the floor for discussion on the appeal of Order and Assessment issued by the Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks. City Attorney McDaniel said that the city needed to file an appeal of their decision within the next few days and he had already done the appeal and he just needed the board's approval to file the appeal. Alderman Miller asked why they needed to file the appeal. Attorney McDaniel said to save the potential fine. Alderman Miller asked why the fine was originally assessed. Attorney McDaniel said that he did not know. City Manager Weaver said since 1999. Recorder Dulaney said that it was an underground storage tank at the city garage and when the state enacted the underground storage tank law and it was required to be removed and the owner of the tank was responsible for removing it which was Superior Oil but since then a new law was passed that required the property owner to remove the tanks. Recorder Dulaney said that TDEC had sent Mayor Malone a letter regarding this approximately 6 months ago. Recorder Dulaney said that Mayor Malone told her to contact the engineers which she did and the engineer gave Mayor Malone a cost of \$4,000.00 for the soil sampling to see if we could drain the tank and fill it up with sand but this was never taken care of and this order was delivered to the former mayor's home address and he received on March 20, 2010 and he gave it to the city manager who brought it to city hall on the following Monday and it basically states that the city is going to have to pay the \$5,000.00 civil penalty unless the city attorney can get that appealed and then there increments to the order that could cost up to \$20,000.00. Alderwoman Wells asked City Attorney McDaniels if he knew the procedures to follow in order not to pay the additional fines. Attorney McDaniels said that we could file the appeal and he thought he could make a very good argument that the fine should not be imposed as he and the city engineer had talked about remedial action and other things that they could do that would keep the city from having to pay the graduated fee scale. City Manager Weaver said that

he believed that the city engineer also said that he would go and present the appeal free at no charge. Alderman Carrier made a motion to appeal the order of assessment issued by the Tennessee Department of Environment & Conservation. Second by Alderman Miller.

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Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderwoman Wells opened the floor for discussion/action on authorizing funds to do soil samples and remove the gas storage tank at the city garage. Recorder Dulaney said that this was the \$4,000.00 that she had spoke of from S&ME for the soil samples. Alderman Miller asked what the cost of removing the gas tank was. Recorder Dulaney said no not at this point as they have to wait until they can the results of the soil samples before they will know what will be required. Alderman Miller asked what the timeline was for the soil samples. Alderwoman Wells said that she thought it said two (2) weeks. Alderwoman Wells asked City Attorney McDaniel if he had read over the contract. Attorney McDaniel said that the complaint had specific deadlines but he did not know how long the soil samples would take to get back. Alderman Miller made a motion to authorize the funds to do the soil samples and pending the results of the soil samples in time allotted be contacted for a Special Called Meeting once the city has an amount for the cost of the storage tank removal for what ever is going to be physically responsible at that point. Second by Alderman Carrier.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

Alderwoman Wells opened the floor for discussion/action authorizing someone to sign documents for payment to Tipton Construction for the installation of the temporary water line on the swinging bridge. Alderman Miller said he wanted to expand that as in lieu of temporarily not having a mayor could this person sign for all future documents until such time a mayor is appointed. Alderman Carrier made a motion to authorize Alderman Miller to sign all documents. Second by Alderman Miller.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

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Alderwoman Wells opened the floor for discussion/action on the Governor's Highway Safety Grant. Recorder Dulaney said that this was \$5,000.00 for the police department that they get each year to purchase equipment. Alderman Carrier made a motion to approve the grant. Second by Alderman Miller.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	yes
	Alderwoman Wells	yes

City Attorney, Shawn McDaniel reported that collection on back taxes is going on schedule and most of the people that are left now owe real property taxes that are somewhere less than \$300.00 apiece and suit will have to be filed against those people. Attorney McDaniel said that there was one large bill still outstanding from White's Fresh Foods and he had been contacted by their counsel and they have sold those stores to another entity and there is discussion going on between the two of them as to who is going to pay that bill and he is contact with those attorneys.

Alderwoman Wells said that on taxes that are coming up to be over 10 years she noticed in a couple of audit reports that they have had to write off so much money and asked Recorder Dulaney how much money would be written off this time. Recorder Dulaney said she would not know until the audit is completed and a lot of the taxes be written off are personal property taxes not real and personal property taxes.

Alderwoman Wells opened the floor for comments from the aldermen:

Alderman Carrier said he was glad to see all the folks out tonight.

Alderman Miller said he wanted everybody to take note that once the Mr. Gentry was out of the way the board passed nearly the rest of the city business near unanimously so the

idea that they could work together to help each other is absolutely real in Bluff City so despite their disagreement and Mr. Gentry's acceptance of that they were able to move

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forward and able to get business done and he wanted the citizens to know that and the businesses in Bluff City to know that and he appreciated everybody coming tonight and the comments especially the small business owners turning out.

Alderman Weaver thanked everyone for coming out and all of the comments.

Alderwoman Wells thanked everyone for coming out and she hoped more people will attend the meetings.

Alderwoman Wells opened the floor for reports from city official and county commissioners:

1. City Manager Don Weaver had not report. Alderman Miller said that the board had not had a report since February. City Manager Weaver said just normal operations and he did not have anything that should be announced unless Alderman Miller had something to ask him. Alderman Miller said so there was no other issues with the water plant. City Manager Weaver said that it went down from time to time due to turbidity, but not that often and the pressure is staying at 81 and 82.
2. City Recorder Dulaney commented that she had included the financial summary and cash balances in the boards packets.
3. Chief Nelson was not present
4. Sullivan County Commissioner, John McKamey reported on resolutions:
 - Resolution approving \$12,973.80. to the Child Advocacy Center
 - Four resolutions to add stop signs & speed limit signs within a new subdivision
 - Resolution asking the county commission to oppose Senate Bill 2938 and 3590 which if approved at the state a local school district could become a charter district and they could set their own tax rate and there would be no overview from the county commission.
 - Resolution to close a street for Jerry Pratt
 - Resolution to appropriate \$32,775.00 additional funds for the Forensic Department at East TN State University.

- Resolution naming an un-named street in Piney Flats to Spruce Lane.
- Resolution to appropriate \$36,000.00 so that the county employees will have an opportunity to have different health examinations to practice preventive medicines.

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- Within the next two weeks the county will begin the budget studies and they will prepare two budgets. The first budget requiring a 5% reduction and the second budget requiring a 10% reduction in the budget. When the state cuts back it means less money going to the county and the city and less money going out to the agencies.

Alderwoman Wells opened the floor for old business:

Alderman Carrier nominated Mr. Ken Ellis to the board as the fifth alderman. Second by Alderman Miller.

Roll Call Vote:	Alderman Carrier	yes
	Alderman Miller	yes
	Alderman Weaver	no
	Alderwoman Wells	no

Motion failed to fill alderman seat.

Alderwoman Wells opened the floor for new business: There was none.

Alderwoman Wells opened the floor for the second session of citizen comments:

1. David Smith said that he was thinking about the water taps that the city sold on Graybeal Road and he thought the city needed to put that off until the city gets its water system straightened out. Mr. Smith said that from what he understood when the city gave them seven (7) months before they could do anything. Alderman Miller said that he thought at the February meeting this project had to go back to Planning/Zoning and then it would be sent back to the board to look at. Mr. Smith said he felt they needed to look at it very close because our water system is in bad shape and losing around 32% to 34% and he did not feel that Bluff City needed to take on anymore until they can get what they got fixed up. Recorder Dulaney stated that she had received a call from Amber Torbet who is the Director for the

Planning/Zoning Board for Sullivan County and they would be meeting on April 20, 2010 to deal with the Graybeal Road Project. Ms. Torbet wanted a copy of the minutes of the meeting where the board voted to allow Mr. Booher to install (2) two inch lines. Recorder Dulaney told Ms. Torbet that the board had re-voted and

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had the engineer perform more studies on this project because there was going to be more connections than originally thought. Recorder Dulaney said that Ms. Torbet said that the Sullivan County Planning/Zoning Board would give Bluff City a variance regarding the (2) two inch water lines only if the city produced records from out engineer that stating that the city does not have enough water pressure and volume of water to install (6) six inch water lines. Recorder Dulaney said the city engineer is going to perform those pressure tests tomorrow and as soon as she gets them she would give them to the BMA. Recorder Dulaney said that if the BMA had to they could call a Special Called Meeting to deal with this matter before April 20, 2010.

2. Connie Leonard of 314 Main Street, Bluff City. Ms. Leonard said that at the time of Mr. Gentry's resignation by virtue of the Board not contesting the resignation at that time it is of the citizens opinion that the board did accept Mr. Gentry's resignation because no one contested it that night. Ms. Leonard said that if the board is contesting his resignation then why did the board not contest Todd Malone's resignation as Mayor and not vote at that time to accept his resignation. Ms. Leonard asked how voting on a resignation keeps somebody from resigning, City Attorney McDaniel said that he could speak to that issue as far as he understands it. Attorney McDaniel said that the law as he understands it says that no resignation is effective until it is accepted. Ms. Leonard as if Todd Malone was still their Mayor. Attorney McDaniel said that was right. Ms. Leonard asked why Todd Malone was here instead of Mr. Gentry. Alderman Miller said that as far as he is concerned Mayor Malone resigned that night and there is no other question to it as they have a long history of Mayors resigning. Alderman Miller said that he respected Mr. Gentry's decision to resign and thought it would be well for every one else to as well. Ms. Leonard asked Alderwoman Wells if she would hire somebody in her business without doing a background check on them or without a resume or without some discussion with her business partners or would she just hire them. Ms. Leonard asked everybody if they would do that. Alderwoman Wells said that she was sure everybody would do a check. Ms. Leonard said that concerned her because with doing business in the city it appeared that the board doesn't take it seriously and that the board is running a business and investing our

money as citizens and an example of this was hiring the city attorney and the board admitted that night that they had not talked to Shawn McDaniel. Ms. Leonard asked who interviewed Mr. McDaniel and asked where his resume was and what his credentials were. Alderman Miller said that a copy of the resume was distributed to them just prior to the meeting. Ms. Leonard said but there was

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no discussion of that in the open meeting that night you just hired him. Alderman Carrier said they did we didn't. Ms. Leonard said that this was just another example of the way they did business. Ms. Leonard said that the majority of people can see that most of the boards decision have been well chorghaped and in a lot of peoples opinion trying to put Mr. Gentry back on the board because he is a friend and because they want him back on the board to control the board and to control the citizens and is just another of them shoving another one of their personal thoughts and feelings and what they want has a board. Alderwoman Wells said that they took the advice of the attorney and not only did he give us his opinion but he also gave the board the opinion of MTAS. Ms. Leonard stated that MTAS is not legal council for Bluff City and they keep referring to a 1919 law or has the city charter not been updated since then or do we not follow the laws of the charter and MTAS helped and proposed some of the standards in that charter. Alderwoman Wells said that the attorney went by the charter also. Attorney McDaniel said that despite what the charter says the Law Of Tennessee is what the Supreme Court of Tennessee says it is, there is some people that may disagree but the issue he guessed is out of the boards hand and somebody wants to file a lawsuit one way or another it is up to them to do so. Ms. Leonard asked Attorney McDaniel in his opinion or MTAS's opinion would all of the other past mayors and vice-mayors that have stepped into positions would that not reflect back them as well as well as Mr. Miller said before so any business that has been done by Mayor Malone, Mr. Gentry and a good portion of this board would be null and voice. Attorney McDaniel said that he was not aware of the circumstances as he thought that all of the subsequent mayors had come about through the resignation of some other person and that would be something that he would have to research. Ms. Leonard said that some had been by resignation. Alderman Miller said that if Mr. Gentry wants to challenge his resignation through a legal channel he is completely in his rights to do so. Ms. Leonard said that the main thing that they would like to as citizens is the board to stop wasting tax dollars and move Bluff City forward and stop having meetings and wasting time just to try to put somebody back on the board that resigned. Mr. Gentry resigned and he knew that he resigned that night he just changed his mind and you all did not want him to and they want him back on the board.

3. Lon Gene Leonard said that in the board's voting for money for upgrades of the water lines was any of the money going to repair the line that froze under the bridge. Mr. Leonard said that he did not think that the citizens should be

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- responsible for somebody's negligence and he thought that the person that was in charge like Mr. Weaver or whoever else of that system they should pay for it not the citizens as it is not their place to pay for their mistakes it is not right. Recorder Dulaney said that the city was applying for Community Development Block grant to get the line repaired but the city will have to pay the match. Mr. Leonard said to let them pay the match why should the citizens have to pay for it as it was not their fault that they did not do their job. Aldermen Miller said that unfortunately but it is the city's responsibility to pay for it. Mr. Leonard said that the same goes back to the tank as they were forewarned about that and dragged their feet and do anything then let Mr. Malone pay for as he was the man in charge and as far as removing that tank from the ground you have to have somebody licensed and certified to do that.
4. Gerald Williams said that as he understood it from Mr. Miller the city does not have a sitting mayor. Mr. Williams said that everybody sitting in the audience has seen the pattern as there had been (2) two or (3) three votes that the board had tried to make as Mr. Carrier made motions and Mr. Miller would second the motion more than once and it comes up in a tie so they just walk over that and forget it so how to they justify that. Mr. Williams said that they obviously had a citizen sitting up there that did not belong there tonight and this should have been dealt with before and he should have never sit up there tonight before this meeting was ever taken place so when you get right down to it the board is passing over motions like two want and two don't want it and it doesn't but what to they do with, do they table it for later. Mr. Williams said that Mr. Carrier made a nomination for somebody to replace an alderman and two of you wanted and two of you didn't want it so where do we stand. Mr. Williams said that they as citizens where do they stand when they stand up here and look at a board, and as Mr. Miller stated earlier he thought that a lot had been achieved tonight and he greatly appreciate the concerns that they had for the businesses but his concern now is our government that we have sitting here and we have elected people sitting up here that is supposed to be doing what the people want done and they are sitting here more and more about whose going to this and whose is going to do that and who is going to say this and whose going to say that and the man should not have been sitting there to start with. Mr. William said that they had more than three or four different motion that had been tied and they have been tied obviously for a reason

that anybody could have recognized in the audience. Alderwoman Wells said if he would remember she asked for the attorney to be able to speak at the beginning. Mr. Williams said that Attorney McDaniel was not able to place a vote he is the city attorney. Alderwoman Wells said on this situation she asked for him to be able to speak at first. Mr. Williams said that he was not talking about speaking he was talking about voting on motions that had been made so where to they stand

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on that and what are the qualifications for an alderman. Alderman Miller said you had to be 18 years of age, live in Bluff City and registered to vote. Mr. Williams asked about the mayor. Alderman Miller said the qualifications were the same. Mr. Williams asked long the city had been without a mayor. Alderman Miller said a little over 60 days. Mr. Williams said in 60 sixty days the board could not resolve something. Mr. Williams said really and truly like Alderman Miller said if they really dig deep into this thing and did take it to the Supreme Court or whatever you had to do with that, Mr. Miller asked if the times that the board have held meetings without a mayor and all of these things that have been decided it could be null and void and you could be going back for years reversing everything that has been decided. Alderwoman Wells said that it is legal that they had someone appointed to a seat, was that not correct. Attorney McDaniel said what. Mr. Williams. Alderwoman Wells told the audience to be quite please that they needed to have order. Mr. Williams said that he meant no disrespect but stated that the people are obviously voicing their opinion may be right or wrong and you are telling them to be quite that we have to have order in this meeting. Alderwoman Wells said that they did have to order. Mr. Williams said of course we do or nothing can happen if we don't but when Alderwoman Wells got into a verbal argument with Mr. Miller earlier in the meeting that if they were sitting together he would be taking bets as to who would come out of the chair because they were in a heated argument because you did not like what Mr. Miller said. Mr. Williams asked who in the audience asked them to calm down. Alderwoman Wells said that she sat there and listened to Mr. Carrier say everything against her and does he not see anything wrong with that. Alderwoman Wells said that it says that they can appoint a mayor for each meeting they could vote on it. Alderman Miller said that a chairperson is voted on to lead the meeting. Alderwoman Wells said that she is sure that this is not the first time this has happened. Mr. Williams said he was sure it is not but his question remains that until something gets fixed and somebody take these positions are going to end up with the same thing. Alderman Miller said hopefully they will get this taken care of. Mr. Williams asked if there would be a special election for the mayor. Alderman Miller said that as he understood it the next mayor has to be elected from the board to fill the remaining term of Todd Malone. Lillian Cutten asked when his term would be

over. Alderman Miller said approximately (3) three years. Ms. Cutten said oh gosh. Mr. Williams said that Mr. Gentry has officially resigned and asked Alderman Miller if they had time frame of when we are going to appoint a new mayor. Alderman Miller said no. Mr. Williams asked if the people could say anything about that or is it just up to the board and are they all going to get

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together down at the diner who's going to do or what is the deal. Alderman Miller said that unfortunately in this circumstance the citizens could not petition for someone to be mayor as far as he is aware but he had not called the election commission but has he read the charter they could not be a special election.

Alderwoman Wells adjourned the meeting at 8:50.

Irene Wells, Alderwoman, Chairperson

ATTES:

Judy Dulaney, City Recorder