

TOWN OF CINCO BAYOU
SPECIAL MEETING
NOVEMBER 8, 1982

The Special Meeting of the Town of Cinco Bayou Town Council was called to order by Mayor Usrey at 7:00 P.M..

SILENT PRAYER

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

Present: Mayor Usrey
Councilman Davis
Councilman Johnston
Councilwoman Kelley
Councilman Perry
Councilman Wade

Also Present: Attorney Powell Mrs. Ruth Usrey
Clerk Borchik David Whitley
Sally Borchik

1. Water and Sewer Agreement - Resolution 82-8. Mayor Usrey advised the Council that the reason for the Special Meeting was to approve the resolution adopting the water and sewer agreement with the City of Fort Walton Beach. Councilman Davis moved that the Council adopt Resolution 82-8, seconded by Councilman Perry. Councilman Johnston requested verification by the Town Attorney that it is legal for the Council to give away, for all time, this part of the Town of Cinco Bayou. Attorney Powell stated that it was his considered legal opinion that it was legal for the Council to enter into this water and sewer agreement with the City of Fort Walton Beach. Councilman Johnston then expressed his concern for a number of points in the agreement, namely; page 1, paragraph 4; page 2, paragraphs 3 and 4. A short discussion followed. The motion was put to a roll call vote and carried on a 3 to 2 vote with Councilwoman Kelley and Councilman Johnston voting Nay. The Clerk was directed to contact Fort Walton Beach and begin actions for the changeover.

2. Lease of House on Adjacent Property. Mayor Usrey stated that Mrs. Troy and Mrs. Mahoney had requested they be allowed two (2) months rent free, instead of the already approved one (1) month, the reason being that the repairs to the house were much more extensive than anticipated. Councilwoman Kelley moved that Mrs. Troy and Mrs. Mahoney be given the additional month rent free with the first months rent being due January 1, 1983, seconded by Councilman Perry. Motion approved unanimously.

COUNCIL AS COMMITTEE MEETING

MINUTES - Mayor Usrey asked the Council to review the minutes of the October meetings for approval at the next Council Meeting.

FINANCIAL REPORT - Mayor Usrey asked the Council to review the October Financial Report for approval at the next Council Meeting.

REGULAR BUSINESS

1. Guardian Corporation Proposal - Councilman Davis suggested that the Council think about having the Security Service employed by the Town have check points throughout the Town where the security people would punch in with a time clock as they patrol the Town. A lengthy discussion followed. Mayor Usrey requested a list of prerequisites for security service from each of the Councilmembers. These lists are to be given to the Town Clerk to coordinate for the next Council as Committee Meeting, December 13, 1982.

2. Boat Dock - Moorings - Each Councilmember was given a copy of the proposed boat dock for the Moorings by the Town Clerk. There was no one present to represent the Moorings. The Moorings developer has submitted an application to the state for construction approval. Councilman Davis stated that he was not in favor of the developer putting in the dock but would favor each property owner applying for his own dock, the same would apply to boat docks for Kidd Bayou Oaks. Clerk Borchik stated the Town has not received any word from the State regarding the permit requests from Sunrise Properties (Moorings) or Lancaster Development Corporation (Kidd Bayou Oaks Townhomes). A lengthy discussion followed including comments from the Councilmembers and a Town resident Mrs. Ruth Usrey. Mayor Usrey then addressed information received from the Blue Ribbon Marina Committee regarding a Workshop to be held November 18, 1982 at 7:00 P.M. at the Fort Walton Beach City Hall. Mayor Usrey stated that letters will be sent to the Corp of Engineers, Department of Environmental Regulation and the Department of Natural Resources. These letters will ask for representatives from these offices to come to Cinco Bayou and discuss the feasibility of and working conditions for proposed docks that would be agreeable to all concerned. These letters would also request these Departments bring to the attention of the Council any and all requests for dock permits and all Public Notice requests, that are to be published in the local newspaper, that would effect the Town of Cinco Bayou.

3. Donation Requests - Requests for donations were received from the United Way of Okaloosa County and Mental Health Association in Okaloosa County. These requests were discussed and will be voted on at the next Regular Council Meeting November 15, 1982.

PUBLIC REQUESTS WILL BE HEARD AT THIS TIME. No requests.

COMMITTEE REPORTS

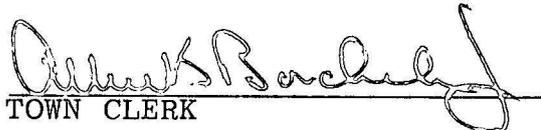
1. Streets/Sidewalks/Crime Watch - Councilman Davis. Councilman Davis reported that someone had broken into the Usrey's cottage and taken a Lionel Train.

There being no further business, the meeting was adjourned at 8:35 P.M..



MAYOR

ATTEST:



TOWN CLERK

NOTE: A mechanical recording has been made of the foregoing proceedings of which these minutes are a part, and is on file in the office of the Town Clerk.

STATE OF FLORIDA)
)
COUNTY OF OKALOOSA)

AGREEMENT OF CONVEYANCE
AND
INTERLOCAL AGREEMENT
FOR SERVICES

This Agreement is made between the City of Fort Walton Beach Florida, a municipality incorporated under the laws of the State of Florida, referred to in this Agreement as "City", and the Town of Cinco Bayou, likewise a Florida municipality, referred to as "Town". This Agreement is made in light of the following findings of fact, to which each of the municipalities agree:

1. That the Town has constructed a sewer system which traverses the municipality and which serves the residents and businesses located therein. That sewer system is serviced by Okaloosa County, Florida, and owned by the Town.

2. That the City is located contiguous to and roughly surrounding the Town of Cinco Bayou, and the City operates its own sewer system throughout the incorporated municipal areas within the City.

3. The sewer systems servicing each of the municipalities are not connected.

4. That the City has constructed a water delivery system which services the incorporated areas of the City. In addition that system traverses the Town of Cinco Bayou at various points, and pursuant to existing agreements and understandings between the parties to this Agreement, most recently Ordinance No. 58 dated October 20, 1977, the City serves the residents and businesses located in the Town through the City's water delivery systems. The City presently provides the water requirements of the residents and businesses of the Town pursuant to the above ordinance and the mutual operating procedures which have developed between the parties over the years.

5. It would be of mutual benefit to the parties to interconnect and integrate the various water and sewer distribution and collection facilities located in the City and the Town. This Agreement is intended to effect that purpose, and to establish the terms and conditions by which the Town of Cinco Bayou conveys its interest in the water and sewer systems located in the Town to the City, in consideration for the City's promise to provide services pursuant to the terms of this Agreement.

Considering the foregoing circumstances, which the parties agree fairly represent the facts at the date of this Agreement, the Town of Cinco Bayou, Florida, and the City of Fort Walton Beach, Florida, mutually agree as follows:

1. The Town does convey by this Agreement all its right, title and interest in the sewer system constructed in the Town to the City of Fort Walton Beach, Florida. The City does by this Agreement accept the obligation to operate and maintain the sewer system presently located in the Town as a part of the system presently operated by the City of Fort Walton Beach.
2. Certain line extentions for the sewer system presently located in the Town, and tie-ins between the systems will be necessary. The parties will bear equally the cost of those extensions and tie-ins.
3. Water rates in the Town of Cinco Bayou will remain the same as those charged in the City of Fort Walton Beach to its residents, as those rates may be changed from time to time, except that a premium in the amount of 25% of the rate charged to City users will be charged to users in the Town. In the event the City collects a lesser premium from an existing non-resident contract user, the amount of the Town's premium shall be reduced to equal such premium rate.
4. Sewer rates to the residents and businesses in the Town of Cinco Bayou will be the same as those charged to the other users of the system of the City of Fort Walton Beach, without premium.
5. Fort Walton Beach will handle all billings and charge tap-on and other fees for all customers pursuant to the same procedure, billing dates, and amounts as are applied from time to time within the City of Fort Walton Beach, except as provided in Paragraph 3.
6. The Town does hereby grant to the City perpetual easements for the construction, operation, maintenance, and repair, of all water and sewer lines located on, through or along rights of way of the Town of Cinco Bayou, Florida, or in other locations in which those lines may be located, without cost to the City; provided, however, that the City will at its cost, repair all damage to such rights of way occurring during the installation, maintenance, or operation of its water and sewer lines in such rights of way, or elsewhere, and shall indemnify the Town against liability or damage to the property of third persons caused by the City or its agents and employees in the installation, operation or maintenance

of its water and sewer lines within the limits of the Town. In addition, the Town will assist the City from time to time as such assistance may be needed in utilization of its powers of eminent domain, if necessary, or otherwise will cooperate insofar as it is able to do so to the same extent as if Cinco Bayou were itself responsible for operation of the water and sewer systems. The cost for assistance, if such assistance shall be necessary for eminent domain or other purposes, shall be paid by the City of Fort Walton Beach and treated as a cost of operating the water or sewer system.

7. It is the general intent of this Agreement that the water and sewer systems within the Town of Cinco Bayou be integrated with those of the City of Fort Walton Beach, Florida, such that the residents and businesses located within the Town and the City are treated alike, with the exception of a 25% premium for water useage by Town residents as provided herein. The City will provide water and sewer services to users within the Town for so long as the City of Fort Walton Beach provides those services to its own residents. If for any reason these services, or either of them, is provided to City residents by any entity or business other than the City, then the Town will receive the services, under the same terms, as residents of the City. It is the intent of this provision that whatever discussions or negotiations occur hereafter, the interests of the users in the Town will be protected and perpetuated to the same extent and in the same way as those of the users in the City.

8. The ordinances and regulations applicable to operation of the water and sewer systems within the City, as the same may be amended from time to time, will be applicable within the Town. The Town will pass such ordinances or other regulations as may be necessary from time to time to effect duplication of the requirements for residents within the Town as apply to the residents of the City.

9. If a utility tax on water or sewer rates is imposed by the Town Council on use of water or sewer within the Town, the City agrees to include the amount of that tax in its regular billings to the residents of the Town, and to remand those taxes directly to the Town.

10. The Town will pass such ordinances as are necessary to require that any new residents or businesses connect to the City water and sewer systems and abide by all terms and conditions for use of the system exactly as would a resident of the City of Fort Walton Beach.

11. Any person residing in the Town of Cinco Bayou who has not yet connected to the water system installed by the City must connect to the water system as soon as the system becomes available to each particular resident, if any resident is not presently connected to the system.

12. No water user residing within the Town limits will be permitted to run a line to an adjacent water user without consent of the City.

13. Any person occupying or owning real property serviced by water furnished by the City shall be liable for damage to any water meter or meters located on that person's property and for damage to any portion of the water system installed by the City which is either negligently or willfully or maliciously damaged. The City shall be empowered to sue persons liable under this ordinance for such damage directly and in its own name and to recover their lawful damages for those injuries. Likewise, if the City is not permitted to file such suit or collect such damages in its name, the Town of Cinco Bayou will pursue performance of these conditions, and performance of all other conditions required by this Agreement in its own name and on behalf of the City of Fort Walton Beach, the cost of which shall be borne by the City.

14. No person, unless properly authorized by written permission of the City Engineer of the City will be permitted to tap or make any connection to the mains or distribution system or water pipes within the Town.

15. Application for water service will be made at the Fort Walton Beach City Hall upon an application form provided by such City. The applicant must furnish a description and address of the property to which service is requested.

16. No person, except duly authorized members of the Water Department of the City shall hereafter be permitted to turn on water without written permission of the Director of the Department of Public Works of the City of Fort Walton Beach, the City Engineer, or the Fort Walton Beach City Manager. No licensed plumber is permitted to turn on water for any user except for the purpose of testing his work, or for servicing pipes or fixtures located on the property. After testing or servicing these facilities, he must immediately turn off the water. All applicable connection fees will be paid to the City before connection will be permitted, and the City will make connection at its own cost.

17. The applicant, user, or owner of the property serviced by City water and sewer must be responsible for maintaining the pipes between the plumbing fixtures on the property to the property line or water meter in good operating condition and free from all internal obstructions.

18. It will be unlawful for any person to use water within the Town limits of Cinco Bayou after the water has been turned off by the City for nonpayment, and said person or persons in possession of the premises shall be deemed to have violated the provisions of this Section.

19. Any violation of the provisions of this ordinance shall be considered a misdemeanor and will subject the offender to punishment by fine not exceeding \$200.00 or imprisonment not exceeding 60 days or both. Each day of any violation will constitute a separate offense.

20. The authorities of the Town and of the City agree to cooperate in prosecution of any violations hereof.

21. The Town of Cinco Bayou agrees to rescind or revoke all ordinances or parts of ordinances in conflict with the terms of this Agreement.

22. Both the City of Fort Walton Beach, Florida, and the Town of Cinco Bayou, Florida, agree to enact such provisions, by ordinance, resolution, or otherwise as the attorneys for both parties may agree, to effect all of the terms of this Agreement. The primary obligation of the City of Fort Walton Beach to provide sewer and water service to the Town of Cinco Bayou is not intended to be modified without consent of each of the parties. However, this Agreement may be modified unilaterally and from time to time, to the extent that different or additional regulations are imposed upon all citizens of the City. To that extent, those additional or different regulations shall apply to the residents of the Town of Cinco Bayou, and the Town Council will cooperate in passing such regulations or ordinances as may be necessary to assure that the citizens of the Town and the City are treated alike in every regard except as otherwise provided in this Agreement. The residents of the Town shall be afforded the same standing and status as the residents of the City regarding water and sewer customer services, except as otherwise provided in this Agreement.

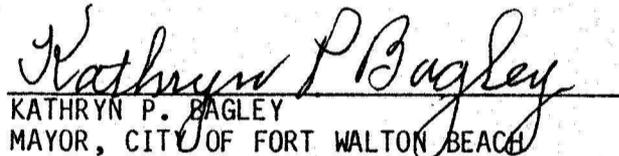
23. This Agreement is intended to act as an Agreement of conveyance and Bill of Sale from the Town to the City. The Town acknowledges and represents that it does own the sewer system and does have the full right to dispose of the system as provided herein.

24. In the event either party seeks enforcement of the terms and conditions of this Agreement in a Court of competent jurisdiction, the prevailing party shall be entitled to an award of its costs, including reasonable attorney's fees.

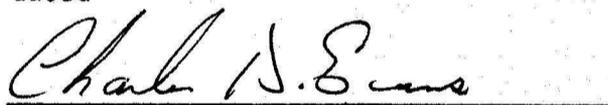
25. This Agreement shall be binding upon the legal representatives, successors and assigns of the parties.

26. Both parties understand that this agreement contemplates that future costs of construction, maintenance, and expansion of either the water or the sewer system will be shared pro-rata by all system users, except as to the premium to be charged to Town users. Any tap fee, impact fee, or direct cost will be apportioned to all system users. For the purpose of this paragraph the "system" shall refer to the water and sewer system as expanded by this agreement to include users in both the Town and the City.

This Agreement made this 4th day of November, 1982, by the representatives duly authorized from both the City of Fort Walton Beach, Florida, and the Town of Cinco Bayou, Florida.


KATHRYN P. BAGLEY
MAYOR, CITY OF FORT WALTON BEACH

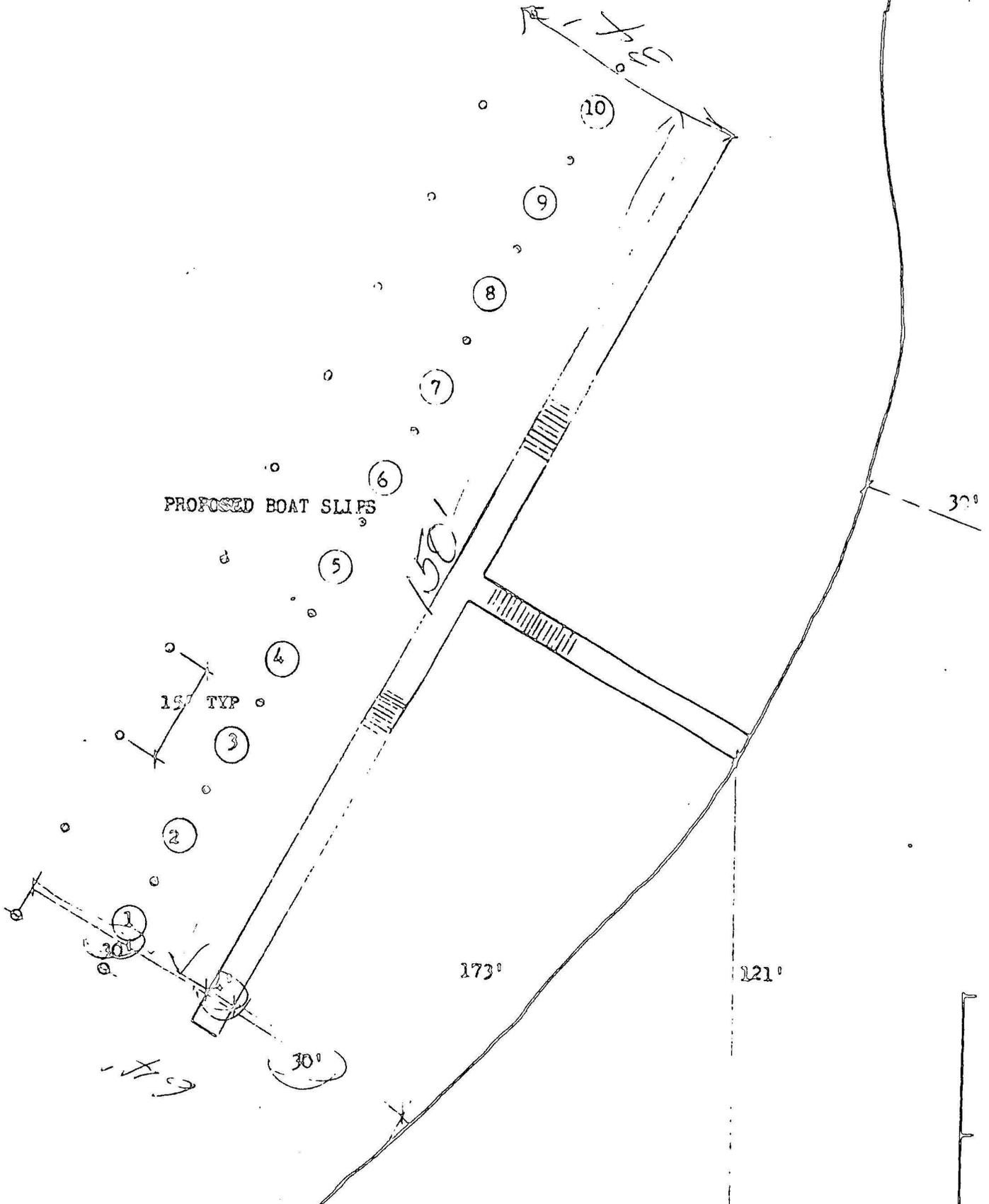
I hereby certify that the foregoing was executed on the day and month stated above by Kathryn P. Bagley, duly authorized by the City Council of the City of Fort Walton Beach, by its Resolution No. 82-44 dated


CHARLES H. EVANS
CITY CLERK, CITY OF FORT WALTON BEACH

MAYOR, TOWN OF CINCO BAYOU

I hereby certify that the foregoing was executed on the day and month stated above by
duly authorized by the Town Council of the Town of Cinco Bayou, by its Resolution No. _____ dated

TOWN CLERK, TOWN OF CINCO BAYOU



PROPOSED BOAT SLIPS

150' TYP

150'

173°

121°

30°

30°

173'

10

9

8

7

6

5

4

3

2

1

2. Parks/Beautification/Environment - Councilwoman Kelley.

Councilwoman Kelley reported that all of the Azalea bushes had been planted in Laguna and Leyenda Parks. A cannon has been donated to the Town and will be placed in Laguna Park.

3. Finance. Clerk Borchik reported the Audit is nearly completed. The Auditor has indicated that an appraisal of all Town owned property is required for inclusion in the Annual Audit.

4. Waterfront/Bayou/Health/Civil Defense - Councilman Perry.

Councilman Perry has not heard anything from Mr. Auer. Clerk Borchik stated that the plans for the Boat Ramp have not been completed by Mr. Overstreet. These plans are necessary before going to the Waterways Advisory Committee to request funding. The next step is to present to the County Waterways and Advisory Committee the specifics for the Boat Launching Facility including drawings. Councilman Perry and Mr. Auer will attend the County Waterways and Advisory Committee meeting on Wednesday November 10th; 7:00 P.M.; Conference Room; County Courthouse Annex

5. Utilities. Mayor Usrey stated that in the near future, the City of Fort Walton Beach and the Town of Cinco Bayou would hold meetings on the ground rules for turning the Sewer System over to the City of Fort Walton Beach. Clerk Borchik stated that the first of such meetings would be held on Thursday morning November 11th. The Clerk estimated it would probably be the middle of December before the turnover of the Sewer System is completed.

ATTORNEY'S REPORT No report.

CORRESPONDENCE

1. DNR - Blue Ribbon Marina Workshop. The Mayor reminded the Council of the date, time and place of the workshop discussed under item 2 of regular business.

CLERK'S REPORT No report.

MAYOR'S REPORT

1. Mayor Usrey read a postcard received from Betty Bowles from Australia.

2. Mayor Usrey read a note of thanks from the Tyner family.

3. Mayor Usrey reminded everyone about the Town Thanksgiving Potluck Dinner on November 16th. Mayor Usrey also stated that Pantry Pride had agreed to donate a turkey for the occasion.

4. Mayor Usrey reported that the trip to the League of Cities Convention was very nice and uneventful. The main topic of interest was Franchises mostly with regard to Television Cable.

MAYOR'S ANNOUNCEMENTS None.