

ORDINANCE NO. 1253

AN ORDINANCE TO AMEND ORDINANCE NO. 1251 OF THE CITY OF PRICHARD, ALABAMA, ENTITLED "AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$500,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION SECURED REFUNDING WARRANTS, SERIES 1970, OF THE CITY OF PRICHARD, ALABAMA"; AND TO MAKE CERTAIN FINDINGS WITH RESPECT TO THE TAX PLEDGED FOR THE WARRANTS AUTHORIZED IN THE SAID ORDINANCE NO. 1251

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BE IT ORDAINED by the City Council (herein called "the Council") of Prichard (herein called "the City"), in the State of Alabama, as follows:

Section A. Findings. The Council hereby finds and declares that the following facts are true and correct:

(a) On September 26, 1960, the Council adopted Ordinance No. 880 of the City entitled "AN ORDINANCE TO LEVY AN ADDITIONAL LICENSE TAX WITHIN THE CITY OF PRICHARD AND ITS POLICE JURISDICTION", wherein there was levied a special privilege or license tax on persons, firms, or corporations engaging in the business of selling tangible personal property at retail or on the business of conducting places of amusement or entertainment, the said tax being measured by the gross receipts or gross proceeds of such businesses; the said Ordinance No. 880 was subsequently amended by Ordinances Nos. 977, 1007, 1182, and 1197 of the City adopted respectively on February 2, 1965, March 1, 1965, February 24, 1969, and April 9, 1969;

(b) On May 31, 1965, and pursuant to authorization in the City's Ordinance No. 1024 adopted May 10, 1965, the City issued its (i) \$823,000 General Obligation Secured Refunding Bonds, Series 1965, dated May 1, 1965, (ii)

\$164,000 General Obligation Secured Refunding Warrants, Series 1965, dated May 1, 1965, (iii) \$1,467,000 General Obligation Secured Refunding Warrants, Series 1965A, dated May 1, 1965 (all the said bonds and warrants dated May 1, 1965, being herein called "the 1965 Securities"); the said Ordinance No. 1024 sets forth a special pledge for the benefit of the 1965 Securities of the said tax levied by the said Ordinance No. 880, as then amended, to the extent that the said tax was levied with respect to business conducted within the corporate limits of the City;

(c) On May 20, 1969, and pursuant to authorization in Ordinance No. 1205 of the City adopted May 19, 1969, the City issued its \$1,000,000 principal amount of General Obligation Secured Warrants, Series 1969; the said Ordinance No. 1205 sets forth a special pledge for the benefit of the said Series 1969 warrants of the privilege or license tax levied by the said Ordinance No. 880, to the extent levied with respect to business conducted within the corporate limits of the City, the said pledge of the said special privilege or license tax being (in accordance with a privilege reserved by the City in the said Ordinance No. 1024) on a parity with the aforesaid special pledge for the benefit of the 1965 Securities;

(d) On June 1, 1970, the Council adopted Ordinance No. 1245 of the City entitled "PURSUANT TO THE PROVISIONS OF ACT NO. 917, REGULAR SESSION LEGISLATURE 1969, THE ORDINANCE LEVIES A PRIVILEGE, LICENSE OR EXCISE TAX AGAINST PERSONS, FIRMS OR CORPORATIONS STORING, USING, OTHERWISE CONSUMING OR ENGAGED IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES

OF AMUSEMENT IN THE CITY OF PRICHARD, ALABAMA, OR WITHIN ITS POLICE JURISDICTION; PROVIDES FOR THE COLLECTION OF THE SAID TAXES; PROVIDES PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALS A PRIOR ORDINANCE LEVYING SIMILAR TAXES", in Section 1 of which there is levied a special privilege or license tax (i) on persons, firms or corporations engaging within the corporate limits of the City in the business of selling tangible personal property at retail or in the business of conducting places of amusement or entertainment, and (ii) measured by the gross receipts or gross proceeds of such businesses; on June 26, 1970, the Council adopted Ordinance No. 1247 of the City which amended the said Ordinance No. 1245 by changing its effective date from July 1, 1970, to August 1, 1970; The said Ordinance No. 1245 expressly repeals the said Ordinance No. 880 and all amendments thereof, the said repeal being set forth in Section 9 of the said Ordinance No. 1245; and the gross receipts tax levied by Section 1 of the said Ordinance No. 1245 is in substance and effect a continuation of, and the same tax as, the gross receipts tax levied by the City's Ordinance No. 880, as heretofore amended;

(e) On July 28, 1970, the Council adopted Ordinance No. 1251 of the City wherein it authorized the issuance of and sold the City's \$500,000 principal amount of General Obligation Secured Refunding Warrants, Series 1970, to be dated May 1, 1970 (herein called "the Series 1970 Warrants"); the said Ordinance No. 1251 contained provisions for the pledge for the benefit of the Series 1970 Warrants of the City's gross receipts tax; the said tax is, however, referred to in the said Ordinance No. 1251 as being levied

by the City's Ordinance No. 880, as amended, and the form of the Series 1970 Warrants, which is specified and set forth in Section 14 of the said Ordinance No. 1251, contains a reference to the pledge of the said gross receipts tax and refers to it as being levied by the City's Ordinance No. 880, as amended;

(f) The Series 1970 Warrants have been printed; the Council has been advised by counsel that the erroneous reference in the printed Series 1970 Warrants to the ordinance levying the presently effective gross receipts tax does not affect the validity of either the Series 1970 Warrants or the validity of the said special pledge for the benefit thereof; the Council has concluded, therefore, that it is unnecessary that the City incur the expense and delay of having the Series 1970 Warrants reprinted; and

(g) It is necessary and desirable that the said Ordinance No. 1251 be amended so as (i) to refer to the said pledge of the City's gross receipts tax for the benefit of the Series 1970 Warrants as being a pledge of the tax levied in Section 1 of the said Ordinance No. 1245, as amended by the said Ordinance No. 1247, rather than a pledge of the tax levied by Ordinance No. 880, as amended; and (ii) so as to provide that the reference to the City's gross receipts tax in the warrant form set forth in Section 14 of the said Ordinance No. 1251 shall be deemed to refer to the City's gross receipts tax that is actually now in effect, i.e., the gross receipts tax of the City levied by the said Ordinance No. 1245, as amended.

Section B. Amendment of Section 1, Ordinance No. 1251. Section 1 of Ordinance No. 1251 of the City adopted July 28, 1970, and entitled "AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$500,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION SECURED REFUNDING WARRANTS, SERIES 1970, OF THE CITY OF PRICHARD, ALABAMA", shall be and hereby is amended so that the said Section 1 will read as follows:

Section 1. Definitions and Use of Phrases.

(a) Definitions. The following words and phrases, in the absence of clear implication herein otherwise, shall be given the following respective interpretations where used in this ordinance:

"Additional Parity Securities" means any securities which the City may at the time of issuance be authorized to issue and for the payment of the principal of and interest on which the Gross Receipts Tax may be pledged under the reserved right so to do contained in and in accordance with the provisions of Section 9 hereof.

"Annual Debt Service Requirement" means the amount of principal and interest having a stated maturity during a Fiscal Year.

"Called Warrant" means a Warrant that has been called for redemption pursuant to the provisions of Section 5(a) hereof.

"City" means the municipal corporation of Prichard in the State of Alabama and includes its successors and assigns and any municipal corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"City Clerk" means the city clerk of the City.

"City Treasurer" means the city treasurer of the City.

"Council" means the governing body of the City as from time to time constituted.

"Coupons" means the interest coupons provided for herein which evidence the interest on the Warrants.

"Financial Journal" means a journal devoted primarily to news of financial matters and having general circulation among those interested in financial matters.

"Fiscal Year" means a fiscal year of the City beginning on any October 1 and ending on the next ensuing September 30.

"Former Gross Receipts Tax" means that certain privilege or license tax of the City levied by Ordinance No. 880 of the City adopted October 3, 1960, as amended by Ordinances Nos. 977, 1007, 1182, and 1197 of the City adopted respectively on February 2, 1965, March 1, 1965, February 24, 1969, and April 9, 1969, on persons, corporations and others engaging in the business of selling at retail tangible personal property and on the business of conducting or operating places of amusement, and measured by the gross receipts or gross proceeds of such businesses, to the extent that the said tax is levied with respect to business conducted within the corporate limits of the City.

"Gross Receipts Tax" means that certain license or privilege tax of the City levied by Section 1 of the 1970 Gross Receipts Tax Ordinance on persons, firms or corporations engaging within the City in the business of selling at retail tangible personal property and on the business of conducting or operating places of amusement or entertainment, and measured by the gross receipts or gross proceeds of such businesses.

"1970 Gross Receipts Tax Ordinance" means Ordinance No. 1245 of the City adopted June 1, 1970, as amended by Ordinance No. 1247 of the City adopted June 26, 1969.

"Interest Payment Date" means any May 1 or November 1 during the period beginning November 1, 1970, and continuing until and including May 1, 1990.

"Mayor" means the mayor of the City.

"Month" means a calendar month.

"Newspaper" means a journal or newspaper printed in the English language and customarily published not less than five days during each calendar week.

"Ordinance No. 1024" means Ordinance No. 1024 of the City adopted May 10, 1965.

"Ordinance No. 1205" means Ordinance No. 1205 of the City adopted May 19, 1969.

"Ordinances Nos. 1024 and 1205" means Ordinances No. 1024 and Ordinance No. 1205.

"Outstanding Parity Securities" means those of the 1965 Parity Securities and the 1969 Warrants that now remain outstanding.

"Outstanding Warrants" means the General Obligation Warrants both dated May 1, 1970, which are referred to in subsection (a) of Section 2 hereof as being outstanding and the refunding of which is herein provided for.

"Parity Securities" means the 1965 Parity Securities, the 1969 Warrants, the Warrants, and any Additional Parity Securities that may hereafter be issued pursuant to the provisions of Section 9 hereof.

"1965 Parity Securities" means those bonds and warrants that were heretofore issued pursuant to authorization in Ordinance No. 1024, including (a) the General Obligation Secured Refunding Bonds, Series 1965, of the City dated May 1, 1965, issued in the original principal amount of \$823,000, of which those numbered 61 to 823, inclusive, aggregating \$763,000 in principal amount, now remain outstanding; (b) the General Obligation Secured Warrants, Series 1965, of the City dated May 1, 1965, issued in the original principal amount of \$164,000, of which those numbered 65 to 164, inclusive, aggregating \$100,000 in principal amount, now remain outstanding; and (c) the \$1,467,000 principal amount of General Obligation Secured Refunding Warrants, Series 1965A, of the City dated May 1, 1965, all of which presently remain outstanding.

"Pledged Tax Revenues" means the proceeds derived from the Gross Receipts Tax.

"Redemption Date" means the date fixed for redemption of any of the Warrants in a Resolution adopted by the Council pursuant to the provisions of Section 5(a) hereof.

"Redemption Price" means the price at which any Warrant called for redemption may be redeemed.

"Resolution" means a resolution duly adopted by the Council.

"Secular Day" means any day on which business is normally transacted and does not include any Sunday or legal holiday.

"Special Fund" means the Gross Receipts Tax Fund created in Section 16 of Ordinance No. 1024.

"Warrants", without other qualifying language, means the General Obligation Secured Refunding Warrants, Series 1970, herein authorized.

"1969 Warrants" means the General Obligation Secured Warrants, Series 1969, dated May 1, 1969, heretofore issued, pursuant to authorization in Ordinance No. 1205, in the original principal amount of \$1,000,000, of which those numbered 9 to 200, inclusive, aggregating \$960,000 in principal amount, now remain outstanding.

(b) Use of Phrases. The following words and phrases, where used in this ordinance, shall be given the following respective interpretations:

"Herein", "hereof", "hereunder", and other equivalent words refer to this ordinance and not solely to any particular portion hereof in which any such word is used.

The definitions set forth in subsection (a) of this section shall be deemed applicable whether the words defined are herein used in the singular or plural.

Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section C. Amendment of Section 2, Ordinance No. 1251. Section 2 of the said Ordinance No. 1251 shall be and hereby is amended so that the said Section 2 will read as follows:

Section 2. Findings. The Council has ascertained and found and does hereby declare that the following facts are true and correct:

(a) There are now outstanding and unpaid the following:

(1) the General Obligation Warrant of the City in the principal amount of \$250,000, dated May 1, 1970, due August 1, 1970, bearing interest at the rate of 6% per annum from June 8, 1970, to its maturity payable at maturity, which was issued pursuant to authorization in Ordinance No. 1244 of the City adopted June 1, 1970, for the purpose of paying costs of acquiring fire fighting equipment and of acquiring, providing and constructing a fire station and a building to be used as a public library and for public recreational purposes in the City; and

(2) the General Obligation Warrant of the City in the principal amount of \$250,000, dated May 1, 1970, due October 15, 1970, bearing interest at the rate of 6% per annum from July 24, 1970, to its maturity payable at maturity, which was issued pursuant to authorization in Ordinance No. 1249 of the City adopted July 20, 1970, for the purpose of paying costs of acquiring fire fighting equipment, acquiring, providing and constructing a fire station, and establishing and improving public parks in the City;

(b) Each of the Outstanding Warrants was signed in the name of and behalf of the City and the corporate seal of the City was affixed thereto; each of the Outstanding Warrants was attested in the manner provided by the laws of Alabama and by the ordinance under which it was issued; no part of the principal or interest on the Outstanding Warrants has been paid; and each of the Outstanding Warrants represents a valid general obligation indebtedness of the City against which there are no offsets or counterclaims;

(c) The Council has determined that it is necessary, desirable and in the public interest that the City issue the Warrants hereinafter authorized for the purpose of refunding the principal of the Outstanding Warrants;

(d) The proceeds received by the City from the Former Gross Receipts Tax for the Fiscal Year that ended September 30, 1968, were \$784,400.11; the proceeds received from the Former Gross Receipts Tax during the Fiscal Year that ended September 30, 1969, were \$917,478.44; and the average annual proceeds derived from the Former Gross Receipts Tax during the said two Fiscal Years were, therefore, \$850,939.27;

(e) The maximum Annual Debt Service Requirement with respect to the Outstanding Parity Securities and the Warrants is \$331,588.00, being the amount of principal and interest that will mature with respect to the Outstanding Parity Securities and the Warrants during the Fiscal Year ending September 30, 1982; 1.75 times the sum of \$331,588.00 (or 175% of the said sum) is \$580,279.00;

(f) The sum of \$850,939.27 is greater than the sum of \$580,279.00; the average annual proceeds derived from the Former Gross Receipts Tax during the two Fiscal Years ending September 30, 1968, and September 30, 1969 (which are the two Fiscal Years next preceding the issuance of the Warrants), is, therefore, more than 1.75 times the maximum amount of principal and interest that will mature during any succeeding Fiscal Year with respect to the Outstanding Parity Securities and the Warrants; and the Warrants are therefore eligible to be issued on a parity with the Outstanding Parity Securities, all pursuant to and in accordance with the provisions of Section 14 of Ordinance No. 1024 and of Section 9 of Ordinance No. 1205, upon the filing in the office of the City Clerk of a certificate by the Mayor and City Treasurer setting forth the facts recited in this paragraph and in the foregoing paragraphs (d) and (e) of this section;

(g) The Gross Receipts Tax is in substance and effect a continuation of, and the same tax as, the Former Gross Receipts Tax; the pledges of and agreements respecting the Former Gross Receipts Tax that were heretofore made by the City in Ordinances Nos. 1024 and 1205 for the benefit of the Outstanding Parity Securities are now applicable in all respects to the Gross Receipts Tax; for all purposes of the said pledges and agreements made with respect to the Former Gross Receipts Tax in Ordinances Nos. 1024 and 1205, the Former Gross Receipts Tax and the Gross Receipts Tax are to be considered as if they were the same tax; and the reserved privilege to issue additional securities secured by a pledge of the Former Gross Receipts Tax on a parity with the Outstanding Parity Securities heretofore set forth in each of Ordinances Nos. 1024 and 1205 should be deemed in all respects applicable to the Gross Receipts Tax;

(h) An Official Invitation for Bids for purchase from the City of the Warrants, together with pertinent financial information with respect to the City, has been circulated among securities dealers and banks; at the time and place fixed in the aforesaid Official Invitation for Bids for the opening of sealed bids for purchase of the Warrants, viz., on July 28, 1970, at 12:00 o'clock, Noon, Central Daylight Time, at the City Hall in the City, and at a duly convened session of the Council, sealed bids for purchase from the City of the Warrants were received by the City; each of the said sealed bids was publicly opened at the said time and place and each thereof was accompanied by a certified check or cashier's check in the amount of \$10,000.00 payable to the order of the City and drawn on a member bank of the Federal Reserve System; the said Official Invitation for Bids invited bids on either or both of two alternate schedules of maturities; the Council has determined that it will be advantageous to the City to accept the best bid submitted on that one of the said alternate schedules that was designated in the said invitation as Alternate Schedule No. 1; of the bids so opened with respect to the said Alternate Schedule No. 1, the best bid and the one that reflected the lowest net interest cost to the City was that of Hugo Marx & Co., and Associates, Berney Perry & Company and Watkins, Morrow & Co., which reflected a net interest cost to the City of \$593,437.50, and an average annual net interest rate of 7.68203%, and which specified a dollar price of \$500,000.00 and the interest rates hereinafter provided for.

Section D. Amendment of Section 3, Ordinance No. 1251. Section 3 of the said Ordinance No. 1251 shall be and hereby is amended so that the said Section 3 shall read as follows:

Section 3. Authorization of the Warrants. Pursuant to the applicable provisions of the constitution and laws of the State of Alabama, including particularly Section 253 of Title 37 of the Code of Alabama of 1940, and for the purpose of refunding the principal of the Outstanding Warrants, there are hereby authorized to be issued by the City one hundred (100) General Obligation Secured Refunding Warrants, Series 1970, of the City in the aggregate principal amount of \$500,000, which shall be in the denomination of \$5,000 each, shall be dated May 1, 1970, and shall mature on May 1 as follows:

| <u>Warrant Numbers</u><br><u>(both inclusive)</u> | <u>Year of Maturity</u> | <u>Aggregate Principal</u><br><u>Amount Maturing</u> |
|---------------------------------------------------|-------------------------|------------------------------------------------------|
| 1 to 5                                            | 1980                    | \$25,000                                             |
| 6 to 10                                           | 1981                    | 25,000                                               |
| 11 to 20                                          | 1982                    | 50,000                                               |
| 21 to 30                                          | 1983                    | 50,000                                               |
| 31 to 40                                          | 1984                    | 50,000                                               |
| 41 to 50                                          | 1985                    | 50,000                                               |
| 51 to 60                                          | 1986                    | 50,000                                               |
| 61 to 70                                          | 1987                    | 50,000                                               |
| 71 to 80                                          | 1988                    | 50,000                                               |
| 81 to 90                                          | 1989                    | 50,000                                               |
| 91 to 100                                         | 1990                    | 50,000                                               |

The Warrants shall bear interest from their date until their respective maturities at the following per annum rates:

6-3/4% on those having stated maturities in 1980 and 1981; and  
7-3/4% on those having stated maturities in 1982 to 1990, inclusive.

The said interest shall be payable semiannually on May 1 and November 1 of each year until and at the respective maturities of the Warrants and shall be evidenced by separate interest coupons attached thereto.

Section E. Amendment of Section 18, Ordinance

No. 1251. Section 18 of the said Ordinance No. 1251 shall be and hereby is amended so that the said Section 18 will read as follows:

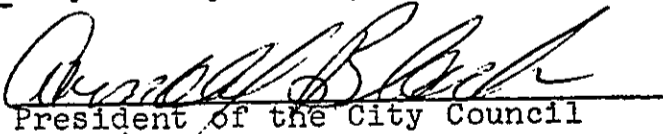
Section 18. Sale of the Warrants. The Warrants are hereby sold to Hugo Marx & Co., and Associates, Berney Perry & Company and Watkins, Morrow & Co., at a purchase price equal to 100% of their face value, viz., the sum of \$500,000.00, plus accrued interest on the Warrants from

May 1, 1970, to the date of the delivery thereof. The Warrants shall be made payable to V. Hugo Marx, Jr., the nominee of the purchasers of the Warrants in accordance with directions given by the said purchasers. The City Treasurer is hereby authorized and directed to deliver the Warrants, having attached thereto all of the Coupons, to the said purchasers upon payment to the City of the said purchase price.

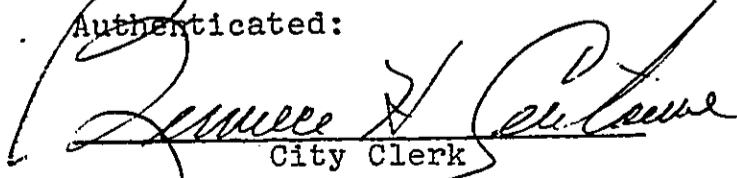
Section F. Ratification of Ordinance No. 1251.

The said Ordinance No. 1251, as amended by this ordinance, shall be and hereby is in all respects ratified and confirmed.

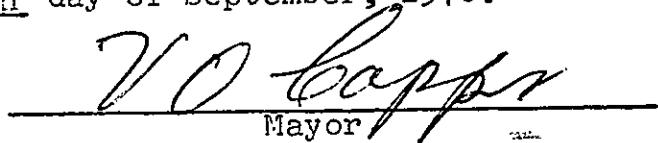
ADOPTED this 8th day of September, 1970.

  
President of the City Council

Authenticated:

  
City Clerk

APPROVED this 9th day of September, 1970.

  
Mayor

ORDINANCE NO. 1254

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF PRICHARD, BEING ORDINANCE NO. 981

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA AS FOLLOWS:

SECTION 1. That the Zoning Ordinance of the City of Prichard, being Ordinance No. 981 together with the Zoning map of the City of Prichard, be, and the same are hereby changed and altered in respect to that certain property in the City of Prichard, State of Alabama, described as follows, to wit:

From a point where the East line of Lot "D", Range 4 West, Owens Division of the St. Louis Tract intersects the North right-of-way line of Wolf Ridge Road, run Northwestwardly, along the East line of the said Lot "D" and the East line of Lot 22 of said Range 4 West, a distance of 694 feet to the POINT OF BEGINNING, thence continue Northwestwardly, along the East line of the said Lot 22, a distance of 234 feet to a point which is the Southeast corner of property conveyed by Barnes to Phillips by deed recorded in Deed Book 753, page 641 of the Probate Court Records of Mobile County, Alabama, thence Southwestwardly, and parallel to the North line of the said Lot 22, a distance of 150 feet, thence Northwestwardly, and parallel to the East line of the said Lot 22 a distance of 50 feet to a point on the North line of Lot 22 thence Southwestwardly, along the North line of the said Lot 22 a distance of 309 feet to the Northwest corner of Lot 22, thence Southwardly, along the West line of the said Lot 22 a distance of 150 feet to a point, thence N 44 30' E, along the line of the property of Alice W. Robinson, 420 feet, more or less to the corner of the said Robinson property, thence S 25 - 00' E, along the line of the Robinson property, 210 feet, more or less to a point which is 694 feet North of the North line of Wolf Ridge Road as measured at right angles thereto, thence run Eastwardly, along the North line of the property of James W. Barnes and wife to the POINT OF BEGINNING.

The classification of said property is hereby changed from Residential (R-3) District to Manufacturing (M-1) District and it shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 981, the Zoning Ordinance of the City of Prichard, and to use said premises for any use permitted by the terms of said Ordinance in a Manufacturing (M-1) District; provided, however that no equipment be stored within 150 feet of Anton Street and the plans for any structure or building sought to be erected on said property shall be in compliance with the building laws of the City of Prichard, and that any structure shall be approved by the Building Inspector of the City of Prichard, and that any such structure be erected only in compliance with such laws, including the requirements of said Ordinance No. 981.

SECTION 2. This Ordinance shall have full force and effect upon its approval as required by law.

Adopted this 21st day of September, 1970.

APPROVED:

V. O. Capps  
V. O. CAPPS, MAYOR

ATTEST:

Berniece H. Centanne  
BERNIECE H. CENTANNE, CITY CLERK