

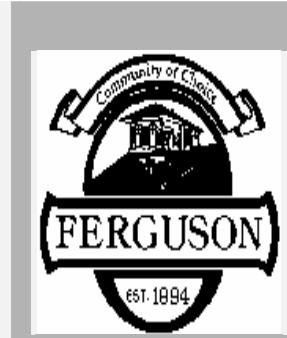
Approved 8/28/07

FERGUSON CITY COUNCIL

Council Meeting Minutes
July 24, 2007

COUNCIL MEETING, 8:00 P.M.

CITY HALL
110 Church Street



WORK SESSION

The work session of the Ferguson City Council was called to order at 7:00 p.m. on July 24, 2007 by Mayor Brian P. Fletcher, in the Council Chamber of City Hall, 110 Church Street, Ferguson, Missouri. All Council members were present. Also present were City Manager John Shaw, City Attorney Stephanie Karr and City Clerk Debbie Matthies.

Horner& Shifrin – Suburban Road Update

Gino Bernarde, Jr. P.E., Manager Civil Department and Ramin Ashrafzadeh, P.E., Transportation/Civil Project Engineering, from Horner & Shifrin, gave a brief background and update on their role in the Suburban Road project and a status report of the proposal currently being submitted to MSD for final approval.

MSD Presentation –

Mr. Brian Hoelscher, Director of Engineering from MSD, spoke to the City Council regarding MSD's rate proposal and the EPA lawsuit that was recently filed.

Approved 8/28/07

COUNCIL MEETING – JULY 24, 2007

The regular meeting of the Ferguson City Council was called to order at 8:00 p.m. on July 24, 2007 by Mayor Brian P. Fletcher, in the Council Chamber of City Hall, 110 Church Street, Ferguson, Missouri.

Mayor Fletcher requested that everyone stand for a moment of silent prayer, after which the Pledge of Allegiance was recited. On roll call, the following Council Members were present:

Mayor Brian P. Fletcher
Kynan S. Crecelius
Michael Salant
James W. Knowles III
Dwayne James
Peggy Faul
Fran Grecco

Also present were City Manager John Shaw, City Attorney Stephanie Karr, and City Clerk Debbie Matthies. Mrs. Matthies declared a quorum was present.

Mayor Fletcher welcomed all present and explained the Council meeting would have a Public Hearing Portion, Public Comment Portion at which time you are invited to speak on matters of general concern; and Business Portion in which you are welcome to listen but not participate.

PUBLIC HEARINGS

Mayor opened the Public Hearing at 8:00 p.m. and continued the Public Hearing to the August 28, 2007 Council Meeting.

- ❖ *Special Use Permit – ATM 10732 W. Florissant* - Automated Teller Machine located at 10732 W. Florissant Avenue. The proposed site is zoned C-1, General Commercial District, and an Automated Teller Machine is a special use.

Mayor opened the Public Hearing at 8:00 p.m. and continued the Public Hearing to the August 28, 2007 Council Meeting.

- ❖ *Special Use Permit – ATM 9101 W. Florissant* - Automated Teller Machine located at 9101 W. Florissant Avenue. The proposed site

Approved 8/28/07

is zoned C-1, General Commercial District, and an Automated Teller Machine is a special use.

Mayor opened the Public Hearing at 8:05 p.m.

- ❖ *Chapter 49 Amendment – ATMs – Proposed Text Amendment to Definitions, DB-1, DB-2, C-1, C-2, and PMUD Districts Special Uses, and Parking and Loading Regulations.*

Mr. Shaw explained that the Plan Commission approved the staff report recommending the approval of the text amendment to add the definition of automated teller machines (ATMs) and to allow them as special uses in all commercial zoning districts in the City. Since many of the ATMs are free standing drive-through facilities, additional standards were added for the location of drive-through facilities in the Off-Street Parking regulations. ATMs have always been allowed as accessory uses to financial institutions and in previous zoning ordinances and ATMs have been permitted on parking lots of unrelated uses as free standing structures; however the current zoning ordinance does not permit ATMs as a separate use. Mr. Shaw further stated that an Ordinance on this specific issue will appear later on the agenda.

There being no public comment, Mayor Fletcher closed the Public Hearing at 8:07 p.m.

Mayor opened the Public Hearing at 8:07 p.m.

- ❖ *Chapter 49 Amendment - Donation Receptacles – Proposed Text Amendment to Definitions, C-1 and C-2 Accessory Uses and Parking and Loading Regulations.*

Mr. Shaw explained that the City Council passed an Ordinance on May 8, 2007 that regulates the location and operations of donation receptacles or clothing boxes that are becoming ubiquitous on parking lots in the City. In addition to these provisions, the zoning ordinance needs to be amended to control other aspects of the placement and operation of these types of facilities. On June 20, 2007, the Plan Commission approved the staff report recommending the approval of the text amendment to add a definition of donation receptacle and to allow them as Accessory Uses in the C-1, General Commercial and C-2, Planned Commercial districts. An Ordinance on this specific issue will appear later on the agenda.

There being no public comment, Mayor Fletcher closed the Public Hearing at 8:10 p.m.

Approved 8/28/07

Mayor opened the Public Hearing at 8:10 p.m.

- ❖ *Special Use Permit – Telecommunication Tower 914 Airport Road-* to construct a one hundred five (105) foot telecommunication tower and an accessory equipment shelter. The proposed site is zoned C-1, General Commercial District, and a communication tower is a special use.

Mr. Shaw explained that on June 20, 2007, the Plan Commission reviewed and recommended denial of a petition for a Special Use Permit (SUP) in the C-1 Commercial District, to construct a cell tower at 914 Airport Road. Although the Plan Commission recommended denial of the SUP request, the applicant is pursuing approval of the application by the City Council.

Mr. Shaw further explained that in consideration of this petition, the petitioner has not demonstrated a need to locate on this site nor the inability to co-locate on another tower in the vicinity to avoid the proliferation of towers in an area. Staff believes the preliminary plan for the proposed tower does not meet all of the requirements of Section 23.7 Criteria for Communication Towers of the City of Ferguson Zoning Ordinance.

Mr. Shaw stated that Staff is of the opinion that the requested Special Use Permit is not reasonable or appropriate at this location. The height and appearance of the proposed tower will adversely affect the surrounding area. Evidence of co-location attempts has not been shown. The applicant's proposal does not meet the minimum requirements for the use or the criteria established for a SUP, and are not compatible to the surrounding uses. Also the setbacks from the property lines and the residential structure require Board of Adjustment approval which has not been issued. Therefore, staff recommends denial of the request and a Resolution on the Agenda addresses this.

Public Hearing Public Comments -

Brick Storts, Managing Member of CIS Communication representing USCOC of Greater Missouri, which is doing business as US Cellular Corp. – presented handouts and photos then made a presentation to Council.

Mr. Storts stated that US Cellular is one of the newest carriers in town and are actively expanding their system per customer needs. The site proposed at 914 Airport Road is a site needed per customer request. There have been a lot of complaints in this area and in a quest to address this, this is the location US Cellular would like to pursue and have Council consider.

Approved 8/28/07

Mr. Storts explained and stepped through the packet with Council. The packet consists of basic information including the site survey and commented they make sure all parcels are properly surveyed. Mr. Storts further explained the Z-2 page which shows the facility and where it sits on the current property. The property is currently zoned Commercial and is now a Beauty Supply Salon with a large parking lot area. Mr. Storts presented photos of the area.

Mr. Storts further explained that the site plan is typical of most communications sites and they are proposing a communication stealth design pole which does not have any platforms. It is a smooth flagpole type designed pole with all of the antennas being housed within canisters and the cables which supply the transmission to the antennas will be run through the center of the pole so they will not be visible. US Cellular would propose to place a fiber bound shelter which is an aggregate shelter in an area that is surrounded by a proposed decorative type fenced area in the general location. Provisions have also been made for future co-locators within the compound area to take into consideration the City's requirements for co-location.

Mr. Storts further explained the area is roughly 40 x 40 and the US Cellular equipment shelter would sit next to the pole and provisions have been made for future carrier equipment locations within the compound. Mr. Storts explained the elevation of the stealth type pole, with no appurtenances; the top three portions of the pole are canister locations. US Cellular would occupy the canister that goes to the 100 foot mark and the two lower canisters would be available for future co-locator.

Mr. Storts explained the engineering statement which is an outline from their radio engineers on why US Cellular needs this location.

Mr. Storts answered a comment that was made on the need for the area by saying that as a side act company when working with carriers they do look for the co-location opportunities. If there is a co-location opportunity that covers the area that the carrier needs, new structures do not need to be built unless they absolutely have to; there was not the ability to co-locate in the previous locations.

Mr. Storts commented that because wireless is becoming the primary motive for communication it takes this type of structure for wireless to work and explained other services that will need these type platforms and communication structures in order to get out their service.

Approved 8/28/07

Mr. Storts commented that if they can find a suitable co-location structure they will use it. There was nothing in the immediate area that satisfied the needs for their system per the radio engineers requirement.

Mr. Storts further explained the map with current area coverage, the subject area at 914 Airport Road, the area with US Cellular peripheral sites that are currently servicing the area which are combination of co-location and new structures. Mr. Storts commented that the bulk of their system over the years has been co-location but in instances where it is not available they have to do some type of new structure. Mr. Storts discussed areas where they are having coverage issues.

Mr. Storts further explained that there are still some deficiencies and US Cellular is proposing a 100 foot stealth pole which helps out with getting some coverage in place.

Mr. Storts commented they already have locations at the City Police Department, Maintenance facility as well as Florissant Valley Community College. Ferguson is a large City which encompasses a large area of this part of the county. It does require sites for citizens in order to have coverage. There is a co-locate at January Wabash Park and Police Department which US Cellular looked at but it did not cover the proposed area around Airport Road.

Mr. Storts commented they have received the FAA determination for this pole in the proposed location which is not an issue as far as any items with Lambert Field. Mr. Storts discussed the aerial view of the structure on the property itself.

Mr. Storts further commented that as part of the application process they did go through the checklist and turned in the required items and basically agreed to all of the items and are aware of the setback issues and have filed for variances for them.

Mike Seamands for US Cellular pointed out that a variance application was submitted to address the setback issues which were sited in the original staff report from Planning. For purposes of the Council votes they would like to ask that the approval or denial be subject to their obtaining a variance. They are asking Council not to decide on the Special Use based on whether they have a variance already but to issue the Special Use subject to obtaining a variance at a future hearing.

There being no further public comment, Mayor Fletcher closed the Public Hearing at 8:20 p.m.

Approved 8/28/07

SPECIAL PRESENTATIONS

Public Works Director, Terry O'Neil explained the Pride of the City Program. Mr. O'Neil and Mayor Fletcher introduced and congratulated the August Pride of the City winners. The August winners are Ward 1 - Jeremy and Kim Gettemeier, 1103 Hudson, Ward 2 – Keith Bier, 43 Beacon Ave., and Ward 3 – Ethel Washington, 5114 Wallingford Dr. Each of the winners will receive a Certificate and City Flag. Pride of the City signs will be placed in their yards. Council congratulated the winners.

PUBLIC COMMENTS

Mike Gray – gave a Farmers' Market update along with scheduled events. Mr. Gray thanked Council and Public Works for paving the parking lot which he feels will enhance the market area. Mr. Gray thanked Council for their continued support for the market and the support of all the volunteers and everyone involved with the market. Mr. Gray commented that the Farmers' Market has been receiving good public comments.

Stan Caldwell – 900 Dyerdown – Thanked the Fourth of July Committee, City Council, City of Ferguson and State Representatives for the Citizens of the Year Award. The Caldwells were very grateful for the award.

Mr. Caldwell complimented the City on the progress of the Florissant and Suburban Road projects and hopes MSD will help complete the projects correctly.

There being no additional public comments, Mayor Fletcher closed the Public Comments portion at 8:35 p.m.

BUSINESS PORTION

MINUTES

Council Meeting Minutes – June 26, 2007. A motion was made by Council Member Knowles, seconded by Council Member Grecco and carried to approve and receive as presented the Council Meeting Minutes of June 26, 2007 and file as appropriate.

Council Strategic Planning Minutes – June 22-23, 2007. A motion was made by Council Member Knowles, seconded by Council Member Grecco and carried to approve and receive as presented the Council Meeting Minutes of June 22-23, 2007 and file as appropriate.

Council Special Meeting Minutes – June 19, 2007. A motion was made by Council Member Knowles, seconded by Council Member Grecco and carried to approve and receive as presented the Council Meeting Minutes of June 19, 2007 and file as appropriate.

Approved 8/28/07

CONSENT AGENDA

Minutes

Traffic Commission Minutes – June 20, 2006. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to receive the minutes as presented and file as appropriate.

Housing Board of Appeals Minutes – June 19, 2006. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to receive the minutes as presented and file as appropriate.

Housing Board of Appeals Minutes – April 16, 2007. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to receive the minutes as presented and file as appropriate.

Ferguson Municipal Public Library Minutes – May 21, 2007. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to receive the minutes as presented and file as appropriate.

Ferguson Municipal Public Library Minutes – June 18, 2007. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to receive the minutes as presented and file as appropriate.

Ferguson Neighborhood Improvement Program Minutes – May 21, 2007. A motion was made by Council Member Knowles, seconded by Council Member Faul, and carried to receive the minutes as presented and file as appropriate.

APPOINTMENTS

A motion was made by Council Member Knowles, seconded by Council Member Grecco to reappoint Lesia Henson to the FNIP Board, motion approved unanimously.

A motion was made by Mayor Fletcher, seconded by Council Member Grecco, to reappoint Jeanne Garofalo to the Library Board, motion approved unanimously.

PROCLAMATION

Mayor Fletcher read the Proclamation for National Night Out held on August 7, 2007.

Approved 8/28/07

RESOLUTION

#2007- 30 A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF FERGUSON RELATIVE TO AN APPLICATION FOR A TELECOMMUNICATION TOWER AND RELATED EQUIPMENT FACILITIES AT 914 AIRPORT ROAD, was introduced by Council as a whole and read by City Attorney, Stephanie Karr.

On roll call vote, the motion carried as follows:

AYES: 7 – Crecelius, Salant, Knowles, James, Fletcher, Faul, Grecco
NOES: 0

Resolution passes (7-0)

BILLS REQUIRING FIRST READING

BILL NO. 6799 AN ORDINANCE FIXING THE RATE OF AD VALOREM TAXATION FOR THE YEAR 2007 BY LEVYING A TAX FOR GENERAL AND OTHER PURPOSES ON ALL PROPERTY MADE TAXABLE BY LAW WITHIN THE CORPORATE LIMITS OF THE CITY OF FERGUSON, MISSOURI; AND LEVYING A TAX FOR FREE PUBLIC PARKS IN THE CITY OF FERGUSON, MISSOURI, was introduced by Council as a whole and read the first time.

Mr. Shaw explained that each year, in accordance with the Revised Statutes of Missouri, the City of Ferguson is authorized to levy a property tax on real and personal property within its corporate borders. These levies must be approved by the City Council and submitted to St. Louis County prior to September 1, 2007.

Mr. Shaw further explained that the initial rates posted on the first reading of the proposed Ordinance are based on preliminary figures and are likely to change for the second reading as the finalized values from St. Louis County will not be available until after August 1, 2007 and may change due to appeals filed. As a result, the Public Hearing for this tax will be held at the August 28, 2007 City Council meeting.

Finance Director, Brian Coyman presented and gave an overview of the proposed property tax rates for 2007. Mr. Coyman explained that setting the rate on property tax valuations for the 2007 effects the 2007-08 budget year. The Public Hearing is scheduled for August 28, 2007 and the numbers on the levy are preliminary. The next step in the process will be St. Louis County officials via the Board of Equalization setting the final assessed

Approved 8/28/07

valuations. The final rate will be set August 28, 2007 and is due to St. Louis County by September 1, 2007.

Mr. Coyman summarized that the State statutes require the tax rates for the General Fund and Park Fund be calculated to produce essentially the same revenue as last year with an allowance for increases in the CIP (2.6% for this time period), new construction, and increases in personal property assessments, up to the maximum rate authorized by voters.

Compared to last year's ordinance, there are some noticeable changes. This is because the State of Missouri requires the County to reassess all real estate property every two years. The recent reassessment has increased (again, preliminary figures) valuations in the residential (+31.68%), and commercial (+4.96%) categories. Agricultural valuations increased by +2.69% while personal property declined by 0.24%.

BILL NO. 6800 AN ORDINANCE AMENDING CHAPTER 49 OF THE MUNICIPAL CODE ESTABLISHING ADDITIONAL REGULATIONS FOR AUTOMATED TELLER MACHINES AND CLARIFYING THE DISTRICTS IN WHICH THEY MAY BE LOCATED, was introduced by Council as a whole and read the first time.

Mr. Shaw commented that background information for this Ordinance was given during the Public Hearing portion. The Plan Commission voted to recommend approval of the Staff Report recommending the approval of the text amendment to add the definition of automated teller machines (ATMs) and to allow them as special uses in all commercial zoning districts in the City.

BILL NO. 6801 AN ORDINANCE AMENDING CHAPTER 49 OF THE MUNICIPAL CODE ESTABLISHING ADDITIONAL REGULATIONS FOR DONATION RECEPTACLES AND CLARIFYING THE DISTRICTS IN WHICH THEY MAY BE LOCATED, was introduced by Council as a whole and read the first time.

BILL NO. 6802 AN ORDINANCE AUTHORIZING THE EXECUTION OF A FAÇADE EASEMENT IMPROVEMENT AGREEMENT WITH HOME ANNEX IV, LLC REGARDING THE FAÇADE IMPROVEMENT AND RESTORATION OF 299 SOUTH FLORISSANT ROAD, was introduced by Council as a whole and read the first time.

Mr. Shaw explained that Home Annex IV, LLC, purchased 299 South Florissant Road in early November 2006 and presented a grant application later that month to the City Council. There were some physical limitations

Approved 8/28/07

that mandated changes to the originally proposed design and the possibility of design modifications was presented to the City Council on December 12, 2006 when the agreement was approved. Due to the slow winter construction months, time used for research and final design, and the ultimate requested changes to the initial agreement, that agreement was never signed.

Since the 2006 approval, Home Annex has reworked portions of the design and their grant application, significant enough to require further Council approval of an amended agreement. This is the same base agreement from December 2006 but adjusts for changes in the final design resulting from exposed brick and mortar exposure that was not initially anticipated. There is minimal impact to cost.

BILL NO. 6803 - AN ORDINANCE REPEALING ORDINANCE NO. 2007-3277 AND IN LIEU THEREOF APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE CITY AND THE BOARD OF CURATORS FOR THE UNIVERSITY OF MISSOURI – ST. LOUIS RELATING TO PROPERTY IMPROVEMENTS FOR THE LOCATION OF AN ART STUDIO AND EXHIBITION FACILITY WITHIN THE CITY OF FERGUSON, was introduced by Council as a whole and read the first time.

Mr. Shaw explained that last year the City Council approved a redevelopment agreement with the University of Missouri – Saint Louis (UMSL) for the renovation of downtown retail space for the use of a public gallery. The partnership included the efforts of community artists as well as University faculty. The agreement was amended in April 2007 to accommodate for the University's request to have the City funds be directly distributed to the University's contractor. The general terms of the agreement did not change. UMSL has requested additional language changes and clarifications as well as a desire to specifically insert the Northern Arts Council by name into the agreement. This amended bill will address the University's concerns and formally identify the Northern Arts Council in both the ordinance and agreement. The general terms of the agreement and City contribution of \$20,000 remains unchanged.

BILLS REQUIRING SECOND READING

BILL NO. 6798 - AN ORDINANCE AUTHORIZING THE EXECUTION OF A FAÇADE EASEMENT IMPROVEMENT AGREEMENT WITH ROBYN L. STRANQUIST REGARDING THE FAÇADE IMPROVEMENT AND RESTORATION OF 101 DARST ROAD, was introduced by Council as a whole and read the first time.

Approved 8/28/07

A motion to read the Bill a second time and place it upon its passage was made by Council Member Knowles seconded by Council Member Grecco.

On roll call vote the motion carried as follows:

AYES: 7 – Salant, Knowles, James, Fletcher, Faul, Grecco, Crecelius
NOES: 0

Bill No. 6798 was declared passed and sent to the Mayor for signature. Bill No. 6798 thus became Ordinance No. 2007-3317 and is permanently recorded in Book 29 on page 31.

MISCELLANEOUS

Mr. Crecelius – the Ferguson Police Department is now accepting applications for the Ferguson Citizens' Police Academy which starts in August. Applications are available at the Police Department; any questions contact Officer Sean Gibbons.

Mr. Knowles – reminder - benefit at the Savoy, Friday July 27 at 6 p.m. for Ferguson Police Officer, Stephanie Bonney. Tickets \$5.00.

Mr. James – encourages City and developers to move towards providing pictures of all current developments under construction in the City and pictures of what they will look like at the end of construction.

Ms. Faul – reminder – Robert Superior Park hosting a week-long summer evening camp for Kids. National Night Out – August 7, 2007 is a great way to meet your neighbors and encourages everyone to participate.

Ms. Faul – regarding the Darst/Hartnett Traffic Calming - questioned if the curbs of the medians could be painted yellow for visibility.

Public Works Director Terry O'Neil – commented that the issue will be discussed at next month's Traffic Commission. Mr. O'Neil will report back to Council.

Mr. Faul – encouraged citizens to get involved with City Boards and Commissions.

Ms. Faul – questioned how the City will track receptacle ordinance for charity purposes.

Approved 8/28/07

City Attorney Karr – explained that all receptacles may not be tracked for private uses or charitable uses but the ordinance regulates the placement of the receptacles on the property, it will make sure that there is parking available so that people are not stopping in the right-of-way to drop off, and there are regulations as far as the maintenance so they will not be overflowing. The owner of the property is the responsible party.

Ms. Grecco – encouraged attendance at the movie nights on August 9 and August 10. Reminder – National Night Out – August 7, 2007 is a fun night out and a great way to meet your neighbors.

Ms. Grecco – read a letter from the Fourth of July Committee regarding the reuniting of the Fourth of July Festival and Fireworks Display at the Park. The Committee feels that splitting the festival, Park attendance has decreased, making it difficult for the charitable vendors to make money for their activities. The Committee feels for the survival of the festival, the reunification is essential and the Committee would be willing to meet with all concerned parties during the planning year.

Mr. Shaw – reminded Council that this year's MML Annual Conference will be held September 9-12 at the Hyatt Regency in Kansas City. This Conference does overlap the September 11, Council Meeting. Therefore, if there is enough interest to attend the conference, and a quorum cannot be present Council will need to cancel and/or reschedule the September 11, Council Meeting. Council Members interested please contact Debbie as soon as possible.

Mr. Shaw reminded Council that November 13 - 17 will be the National League of Cities (NLC), The Congress of Cities and Exposition in New Orleans. This Conference is the most important Annual Conference of NLC. It provides the most comprehensive professional development opportunities that the League offers. It is generally attended by over 4,000 locally elected officials, and offers Council a chance to share ideas about how to make communities better for citizens. Council Members interested please contact Debbie.

Mr. Shaw commented that Council is already aware that he and Drew will be attending the International City/County Management Association (ICMA) Annual Conference in Pittsburgh October 5 -10. For this reason, Mr. Shaw ask that the Council consider either canceling or possibly find an acceptable alternate date for the October 9 City Council Meeting. Mr. Shaw requested Council to get back to him prior to the August 28 meeting.

Approved 8/28/07

Mayor commented that the North Central Fire Alarm Board of Directors requested a representative from the City of Ferguson to attend the meetings which are held on the first Monday of each month at 7 p.m. Council Member James Knowles volunteered to attend the meetings on behalf of the City. Staff will take care of the details in informing North Central.

Mayor Fletcher thanked the residents and the business community for their patience during the Florissant Road project and feels it has been going smoothly; the company is doing a very good job. There are certain sections where the red brick stamped pavers are finished and finds them very attractive. Mayor feels the company takes a lot of pride in their work.

Mayor reminded everyone of the upcoming Northern Lights Festival and Streetfest Festival and complimented all of the volunteers and people associated with the Farmers' Market. It amazes him that it seems to get better and better. The crowds have been tremendous and consistent this year and Mayor feels it is a great event for Ferguson which keeps attracting people from all over.

ADJOURNMENT

There being no further business to consider, Council Member Knowles moved to adjourn, seconded by Council Member Grecco. The meeting adjourned at 9:10 p.m.

Deborah L. Matthies, City Clerk