

CITY OF BAY VILLAGE

Council Minutes, Regular Meeting
Council Chambers 8:15 p.m.

October 6, 2014

Paul A. Koomar, President of Council, presiding

Present: Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Mayor Sutherland

Also Present: Law Director Ebert, Finance Director Mahoney, Service Director Thomas, Fire Chief Lyons, Police Chief Spaetzel, Recreation Director Enovitch, Operations Manager Landers, Community Services Director Selig.

Council and members of the administration had assembled at 7:30 p.m. in the conference room to review agenda items; this was open to the public.

During the review, Mr. Charles Ramer, Senior Relationship Manager, Northeast Ohio Public Energy Council (NOPEC) addressed the Mayor and Council regarding natural gas aggregation.

Information regarding a proposed Bay Village Natural Gas Aggregation Program is attached to these minutes as if fully incorporated herein. The deadline for presenting this to the voters is February 5, 2015 to be on the ballot in May of 2015. If the voters approve entering into the Natural Gas Aggregation Program, NOPEC manages the entire program, purchase the gas, hold two public hearings on behalf of the City, and submits all paperwork to the PUCO. They currently have this program in 180 communities in a 10-county footprint.

A question and answer period followed the presentation.

Q-Mr. Tadych asked the length of the Natural Gas Aggregation Program.

A- Mr. Ramer- There is no obligation for the length of a program for the resident. They can stay as long as they want. Every three years NOPEC is obligated to send the resident another letter that reminds them that they are participating in an aggregation program and offering them the opportunity to opt out. The length of the contract of the City with NOPEC is as long as the City would like it to be. Most of the participating cities have signed up and continue the program. If the City is dissatisfied with the pricing or the organization, they can get out; there is no length of contract.

Q-Mr. Henderson stated that natural gas prices the last couple of last years have been similar to interest rates. It seems that every year it is the lowest it has ever been and is ever going to be. He asked about risks, upside and downside, as the market shifts and the price of gas relative to this program.

A-Mr. Ramer stated that what they have is a hedging program where they watch those pricing trends and also the long term futures of natural gas. There is a huge resource of natural gas right here in Ohio in the Marcellus and Utica Shale in the eastern end. That is a tremendous gas reserve, which could, if the electric plants don't buy all the natural gas first, hold prices down. They are still uncertain about that but are pretty confident that for the next few years prices

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aren't going to be out of sight. They are buying gas now in anticipation of the winter months, and stored some for the summer. Last winter was a rough winter and gas prices went through the roof. NOPEC prices were held steady. The next fixed price they announce next month will be for November through February. Beyond that, they will probably adjust that fixed price. They also have a variable pricing which is a few cents less than the standard choice.

Q-Mr. Clark – Is there a cost for residents to opt out?

A-Mr. Ramer – No, there is not.

Q-Mr. Henderson – Once they enter a fixed rate program, the user can opt out as early as one month later?

A-Mr. Ramer – Yes. And the user can switch back and forth. There is complete flexibility. It is just a phone call.

Q-Mr. Clark stated that the City benefited from a one-time aggregation grant when they went to electrical aggregation. Is there anything involved here as well?

A-Mr. Ramer - No. Electrical aggregation is a lot more lucrative. The City got a very good rate and grant. That is not offered with natural gas aggregation. It is a far more competitive marketplace.

The Mayor noted that the electrical aggregation grant came from a commercial establishment as opposed to a Council of Governments. She noted that NOPEC will cover the cost of the ballot issue.

Q- Mr. Tadych – Are you dealing with a price lower than a certain level or a certain offer out there?

A- Mr. Ramer – The PUCO has a range of 45 different competitive offers. NOPEC is typically in the bottom tier, excluding the offers that are smoke and mirrors. NOPEC's goal is to remain the lowest, legitimate offer on the PUCO web site. NOPEC as a Council of Governments, has the advantage of not having to add a margin, making them even more competitive.

Q-Mr. Henderson – How are your operations funded?

A- Mr. Ramer- Our operations are funded based on the contract negotiated with natural gas with a company called Nextera Energy. They are a Fortune 100 Company, one of the largest producers and sellers of natural gas in the nation. NOPEC negotiated with them for a slight margin on every 1,000 cubic feet of gas that is sold. That is how the operation of NOPEC is funded.

Q-Mr. Lee – How is your price historically compared to Columbia Standard Choice?

A- Mr. Ramer-In the last nine months we have averaged between 2% and 15% less than Columbia. During the cold winter months, in the 10 to 15% range less.

Q-Mr. Koomar – If this program passed the ballot and proceeded, if a resident had a contract out there with another company, are they still locked into that until their current contract expires?

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A- Mr. Ramer – Yes, they are. They may be able to early terminate and there may be a fee associated with that. As soon as they terminate, or allow that contract to expire, NOPEC receives notice and sends them a mailing, and they are given the option to participate. NOPEC can't interfere with existing contracts.

Q- Mr. Lee – If this were put on the ballot in May or November, what is the timeline for when it would actually be available for residents?

A- Mr. Ramer – Avon Lake passed on the ballot last May. Their opt-out letters went out in August. The City can't take any action until the certification of election occurs from the Cuyahoga County Board of Elections. The expectation is that if it is on the ballot next May, residents would be able to participate before the winter of 2015.

Q-Mr. Henderson – If this passes the ballot, everyone will be automatically enrolled unless they opt out?

A-Mr. Ramer – Correct. Since this is a ballot issue, you are enrolled unless you are signed up with an existing contract, or if you are behind on your bill, or if you are a member of the percentage of income program. The initial mailing list scrubs those names.

Q- Mr. Koomar – Residents are automatically enrolled unless they opt out. If there is a home sale, a certain address stays with the program, or would a change of ownership affect the participation?

A- Mr. Ramer – If you move out of the house, we get notice. Usually within two months the new homeowner gets another letter notifying them of the program and the options available.

Q-Pam Cottam (audience) - You mentioned that one of the variables depends on the Marcellus Utica Shale Program. Can you comment further on that?

A- Mr. Ramer – That is such a tremendous resource. There is such a volume of gas that is going to be generated by that area of the state that the volume of gas is going to be much less expensive buying it from Mahoning County than buying it from Henry Hub Louisiana.

Pam Cottam – And that is where there is fracking?

Mr. Ramer – We don't really have a policy on fracking. All we have a policy on is the natural gas that we purchase is the least expensive. There are still some very competitive rates out of Henry Hub Louisiana. Wherever it is least expensive; that's where we buy our gas.

Pam Cottam – It's just the idea that there whole area has been fracking.

Mr. Ramer – I'm not certain that by participating in this program you are not promoting any particular type of technology.

Q-Mr. Lee- NOPEC will pay the cost of putting this on the ballot. Do you also run some type of educational campaign for residents to inform of the decision being made in support of this issue?

A- Mr. Ramer – We do. We can't spend money as a government on promoting a specific ballot, but we can spend money on promoting the idea of gas aggregation. We can certainly do public outreach. We can present an entire media campaign if you are so inclined, and we have done that in other areas.

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Q-Mr. Tadych. When we went into the electric aggregation program, we ran into difficulty with people that were budget minded and tended to pay their electric as a set rate with a catch-up month at the end. With gas I can understand it even more. Does that disqualify them from the program, or is it an allowed situation?

A- Mr. Ramer – Budget billing is available. You can choose a flat rate each month. I don't know about the annual adjustment. However the gas company offers budget billing right now does not change with the gas aggregation program.

Q-Mr. Henderson – Do you have the data from Slide 5 in a chart form over time? This is one point in time. This is kind of the core idea- the spot price so-to-speak of Columbia Gas, relative to the prices you were offering at the time you offered them.

A-Mr. Ramer – I can present that information to you. We will be in our winter pricing shortly.

Q-Mr. Clark – Do the economic benefits of aggregation of natural gas reach across residential, commercial, and municipal bandwidth of the City? Would retail and commercial customers benefit as well?

A- Mr. Ramer- Yes, they would. Residential, of course. Commercial – Less than 500 MCF. An average home uses about 100, so commercial businesses of 500 MCF are also involved in the aggregation. They could benefit. Above that – those are called Mercantile Accounts. NOPEC does not get involved in that part of the industry. They typically can bid for their own pricing and get better pricing than NOPEC can provide.

Q-Mr. Clark – How would that benefit the City using natural gas for all of their buildings?

A-Mr. Ramer – You probably have 30 different natural gas accounts. Those that fall below the 500 MCF threshold could be included. Those above it are probably being negotiated for a price.

Q-Mr. Lee – The schools typically participate in a separate program because of their heavy use?

A-Mr. Ramer – They have their own co-ops for those large accounts. They are limited to the selection of different suppliers.

Q-Mr. Koomar – If Council were to vote on this there would be two public hearings required by law. What is the timing of those hearings after a vote?

A-Mr. Ramer – If the issue passes the ballot, there is about 25 days until the ballot is certified. Those two public hearings can occur during the month of May, or they could occur any time up to when Council takes action. They occur after the vote. For example, the City of Beachwood has it on the November ballot. Their first Council meeting in December is December 7. They will have public hearings the week before and the day of that Council action. They will take the final action in December, on December 7. There are a couple resolutions they will pass to participate. Then, NOPEC will immediately start generating the list and creating the opt out mailing. The public hearing is not to learn more about the program; that occurs before the election. The public hearing is to review the actual document that will be used as the plan of operations.

Q-Mr. Tadych – What type of voter success, defined in percentages, do you have on this?

A-Mr. Ramer – We have done this 134 times and 6 have failed, 4 of those 6 were resubmitted and passed after being resubmitted. They typically passed by a wide margin. A typical margin

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is 35%/65%. The ballot language is vague, but people are so anxious to find some type of relief for utility bills they are anxious to participate.

Q-Mr. Henderson – People still have a choice, even if it passes, to use another provider?

A-Mr. Ramer – Yes.

Q-Mr. Tadych – How fast do they have to react?

A-Mr. Ramer – When they get the opt out letter in the mail there is a 21 day period to respond. After that, there is another mailing that goes out that gives them another 7 days. They have two opportunities over a 30 day period of time to opt out.

Mr. Ramer stated that the City of Avon Lake has 9000 households, of which 7000 have natural gas service, the rest have electric, oil, or propane. Of those 7000, 323 opted out. Typically the reason is because some people don't think it is the role of a city, township or village to participate in this market. And, there is some type of philosophical concern about interference in their lives.

Mayor Sutherland noted that the vote for electrical aggregation was strongly in favor.

Q-Mr. Lee – If a resident opts out initially, is there another round every few years when they can go through that process again. Do they have to keep opting out if they don't want to participate?

A-Mr. Ramer – Two years for gas; three years for electricity. We send opt out letters every two years.

Q-Mr. Koomar – You mentioned the savings, especially in the winter months, of 10 to 15%. Has there ever been a year when you were more expensive than a commercial provider?

A-Mr. Ramer – Yes, I will give you those historical figures. We have a new gas partner, Nextera Energy, and they have a very sophisticated hedging technique. The Mayor mentioned that we did not have that level of sophistication previously. Now that we have that partnership with Nextera Energy there is an entire team of Ph.D.'s who study the weather patterns and study the market places. They hire the best and the brightest math majors from around the world to do this and they are very good at what they do because they are buying huge volumes of gas and just a difference of a degree could mean millions to their bottom line.

Q-Mr. Tadych – Do you have partial ownership in Next Air?

A- Mr. Ramer – We do not. We are a completely non-profit public entity.

Q-Mr. Tadych – Are they an aggregator to homes individually?

A- Mr. Ramer – They are not.

Mr. Ramer was thanked for his presentation.

Mr. Koomar continued reviewing the agenda for this evening's Council meeting with the members of Council.

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The Bay High School Homecoming Parade is Friday, October 10, 2014. The parade leaves Cahoon and Wolf Roads at 5:45 p.m. Assembly occurs across from the Skate Park at 5:15 p.m.

Mr. Lee will introduce an ordinance this evening to participate in the Heritage Home Loan Program. He advised that this was discussed by Council on September 15, 2014. There were several questions that were raised at that time. This is a program that the City has participated in previously. There was a request for a list of participating communities as well as any data that might be available regarding how many homes took advantage of the program in Bay Village in the past when we participated, and if there is any detailed data on changes in property values associated with those participating homes.

Mayor Sutherland stated that this was a program that was very successful until the recession. The Mayor suggested bringing someone in from the Cleveland Restoration Society to show exactly what they do and how they do it. Some of the data that has been requested is going to be a little bit difficult because they deal with private lenders.

The ordinance authorizing participation with the Heritage Home Loan Program will be placed on first reading this evening. Mr. Lee noted that this could be a very helpful program to deal with inflow and infiltration sewer issues and also for improvements necessary as a result of home inspections. Service Director Thomas stated that the Heritage Home Loan Program will assist with those types of issues. Mr. Lee noted that the ordinance authorizing participation will be subject to multiple readings and does not include an emergency clause.

Mr. Koomar asked if the HELP Loan program is still available for residents. Mayor Sutherland stated that the City is still participating in the HELP Loan program.

Mr. Clark stated that this evening he will introduce an ordinance for first reading that will provide for the new position of Property Maintenance Inspector. In discussions with the administration one of the concerns was addressing additional cost to the City. We found that there were resources available and this job will be combining a couple of existing positions and also introducing the position of the Property Maintenance Inspector which we have so much needed over the past few years. The ordinance will be placed on first reading this evening.

Mr. Clark will also introduce an ordinance approving the editing and inclusion of certain ordinances with the codified ordinances of the City. This work is done by the Walter Drane Company and there has been a number of changes, specifically the genesis of many of the changes in the building codes with SAFEbuilt, Inc. now here.

Mr. Clark announced that a Finance Committee will be held on Monday, October 13 at 6:30 p.m. in the conference room of city hall.

Mrs. Lieske stated that it had previously been said that there would be no additional moratoriums for development under Chapter 1158, but she would recommend there be another extension. The rewriting of Chapter 1158 has been taken through the Planning, Zoning, Public Buildings and Grounds Committee, with members of the Architectural Board of Review and Planning

Commission invited for input. This proved very beneficial but the Planning and Zoning Committee's work continues with this chapter. The Mayor has made a recommendation to have a professional planner assist in drafting the legislation. Since the process of rewriting the regulations has taken longer than anticipated, and the Planning and Zoning Committee is endeavoring to accomplish this in the right way, it is recommended to extend the moratorium until February 28, 2015.

Mr. Henderson reported that the Recreation and Parks Improvement Committee held a meeting this evening. The Committee walked through the 2013 Summer Program and talked about the 2014 Summer Program. Lacrosse is the upcoming sport and is being observed for accommodation by the Recreation Department. The Committee also talked about a proposal for exercise equipment along the Walking Trail in Cahoon Memorial Park. There was a lot of good feedback collected, and an update will be presented to Council in the future.

Regular Meeting of Council Called to Order

Mr. Koomar called the Regular Meeting of Council to order at 8:26 p.m. in the Council Chambers of Bay Village City Hall, with the Pledge of Allegiance led by Councilman-at-large Dwight Clark.

Following the roll call, Mr. Koomar called for a reading of the Minutes of the Special Meeting of Council held September 29, 2014. Mr. Clark **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 6-0, with one abstention by Mr. Clark. Mr. Koomar called for a reading of the Minutes of the Cahoon Memorial Park Trustees meeting held September 29, 2014. Mr. Clark **MOVED** to dispense with the reading and accept the minutes as prepared and distributed. Motion carried 7-0, with one abstention by Mr. Clark.

ANNOUNCEMENTS

Mayor Sutherland issued a reminder that Simple Recycling soft recycling starts Tuesday, October 7, 2014.

The Mayor stated that she did apply for a grant with Cuyahoga County today for an update to the City of Bay Village 1999 Master Plan. An answer should be forthcoming by the beginning of December.

Mayor Sutherland stated that every ten years the organization known as ISO, which is the Insurance Services Office, undergoes a very in-depth risk analysis of the Fire Department. Communities are rated based on that risk. The City of Bay Village ISO rating has been around 5 for about fifty years. The kudos tonight go to Fire Chief Chris Lyons for doing an absolutely outstanding job in working with ISO to complete this analysis. The City of Bay Village rating went from 5 to 3, on a scale of 10, with 1 being the best. The Mayor stated that this is absolutely outstanding and Chris did a great job. A round of applause followed. The Mayor noted further that what this means is insurance companies will be looking at homeowners' insurance within the City of Bay Village and we may be experiencing some reductions in our insurance rates. The

Mayor stated further that she does not think there is another community in the area that is rated a 3. She believes they are all lower than that; it really speaks to Fire Chief Lyons' leadership and how hard he worked on making sure he had all the information ISO required.

Fire Chief Lyons stated that the ISO is very particular about the way they come and look at things. There was a lot of time spent on the project and Chief Lyons is very pleased to report to Council and the residents that the net effect will be an average of 5% savings on commercial and residential insurance. Given the fact that a typical residential policy is around \$700 to \$750 per year, we are looking at probably a quarter million dollar savings for residents every year for the next ten years or so. This will become effective close to the end of December, or January 1, 2015. ISO may do a re-evaluation in another six years. Bay Village was one-half point away from a rating of 2. This rating of 3 puts Bay Village in the top five percent of the Fire Departments in the country.

Oath of Office

Mayor Sutherland administered the Oath of Office to newly appointed Police Officers Gregory Engel and Ian Moore.

The family and friends of Officers Engel and Moore were invited to participate in a reception following the ceremony. Police Chief Spaetzel stated that Officers Engel and Moore are very well received by the Bay Village Police Department. They are currently enrolled in the police academy and will graduate December 19, 2014. They will participate in the Police Field Training Officer Program in January and by mid-April they will be on patrol.

REPORTS

Law Director Ebert had no report this evening.

Finance Director Mahoney had no report this evening.

Recreation Director Enovitch had no report this evening.

Service Director Thomas reported that the Rose Hill Museum has been painted, and turned out beautifully. There was some wood replaced and the building is looking very well.

Leaf pick-up begins October 20, 2014 starting at the east side of the City and moving west. Service Director Thomas asked residents not to put the leaves in the street because they go into the catch basins and create flooding problems. The Service Department has the necessary equipment to pick up from the tree lawns.

The Service Department Transfer Station at the Service Garage will be completed soon. Work has begun at the Walker-Nantucket Pump Station and is expected to be completed by the end of the month.

Community Services Director Selig had no report this evening.

Fire Chief Lyons advised that October is Breast Cancer Awareness Month. The Firefighters once again have been granted permission to do a fund raiser. They are wearing their pink and raising funds, and will be making a donation to The Bay Village Foundation again at the end of the month.

This week is Fire Prevention Week. Everyone is aware that when the time changes and clocks change that is the time to change batteries on smoke alarms as well. Fire Prevention Week was established by President Wilson in the 1920's and commemorates the Great Chicago Fire of 1871 in which most of the city burned. Over 250 lives were lost and 100,000 people were left homeless with that fire. Since that time Fire Departments have focused on getting people to be fire safe and fire aware.

AUDIENCE

The following members of the audience signed in this evening: Conda Boyd, Jerrie Barnett, Suzanne Graham, Lydia DeGeorge, Pam Cottam, Marty Mace, Denny Wendell.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE

Mr. Lee introduced and read **ORDINANCE NO. 14-89** to provide participation in the Heritage Home Loan Program.

Mr. Koomar announced that **Ordinance No. 14-89** is placed on first reading.

FINANCE AND CLAIMS COMMITTEE

Mr. Clark introduced **Ordinance No. 14-90** amending Section 1 of Ordinance 14-84 regarding Rates of Compensation for the Officers and Employees of the General Administration Department and those Employees of the City not covered by separate labor contract for the Calendar Year 2014 and thereafter, and declaring an emergency.

Mr. Clark commented that this ordinance provides for the compensation for the Property Maintenance Inspector position.

Mr. Koomar announced that **Ordinance 14-90** is placed on first reading.

Mr. Clark introduced **Ordinance 14-91, amending by reading** of Section 4 concerning posting in three places in the City, approving the editing and inclusion of certain Ordinances as parts of the various component codes of the Codified Ordinances of the City of Bay Village, Ohio, to approve, adopt and enact new matter in the Traffic, General Offenses and Fire Codes and declaring an emergency.

Mr. Lee confirmed with Law Director Ebert that the new Building Code ordinances are included in the update. Mr. Ebert stated that many of them have cross reference with the Fire Code and Traffic Code. The changes are spelled out in Section One. Mr. Cheatham took a lot of the changes from the State of Ohio.

Mr. Henderson asked about the posting requirement in Section 4 of the ordinance. The ordinance will be noted that it was amended by reading to conform to the changes in the posting requirement from five places to three places in the City.

Mrs. Lieske asked the reason for the ordinance being an emergency. Mr. Ebert explained that instead of waiting 40 days the ordinance becomes effective immediately after its passage. Relating to this particular ordinance, the need to have the ordinance effective immediately is in order to receive the updated ordinance books as soon as possible. Mr. Henderson clarified with Mr. Ebert that this update reflects ordinances from 2013 and 2014. Mr. Ebert stated that there is no cost difference in updating semi-annually or annually. The representative of the Walter Drane Company has advised that many of these changes are because of the Building Code, the State Code, and the new Traffic Code that went into effect. Other cities are doing the same as far as ordering updates to their codified ordinances. Mr. Henderson confirmed with Mr. Ebert that the cost for the updating is included in the budget.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 14-91.

Roll Call on Suspension of Charter Rules:

Yeas – Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent
Nays – None.

Roll Call on Suspension of Council Rules:

Yeas – Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent
Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas –Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent
Nays -None

Roll Call on Adoption:

Yeas– Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent
Nays–None.

Mr. Koomar announced adoption of Ordinance No. 14-91, an emergency measure, by a vote of 7-0.

PUBLIC IMPROVEMENTS/STREETS/SEWERS/DRAINAGE COMMITTEE

Mr. Tadych congratulated Councilman Vincent and Councilwoman Lieske on their Heart of the City ward meeting. He noted that the meeting was very interesting and they attracted a lot of people.

Mr. Tadych reported that he graduated from the Freshman Class of the Tree Commission. He went to the Tree Commission class in the Berea area and will now apply for the Sophomore Class.

Mr. Tadych stated that he has been working with Mr. Ebert, and CT Consultants, to reduce even further the assessments for the Sunset area.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE

Mrs. Lieske read and introduced **Ordinance 14-92, amending by reading to indicate an expiration date of February 28, 2015**, extending the Moratorium on the development under Chapter 1158 Attached Residences in the City of Bay Village, and declaring an emergency.

There being no further discussion, Mr. Koomar called for a vote on the motion to adopt Ordinance No. 14-92.

Roll Call on Suspension of Charter Rules:

Yeas – Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays – None.

Roll Call on Suspension of Council Rules:

Yeas – Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays – None.

Roll Call on Use of the Emergency Clause:

Yeas – Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays -None

Roll Call on Adoption:

Yeas– Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Clark

Nays–None.

Mr. Koomar announced adoption of Ordinance No. 14-92, an emergency measure, by a vote of 7-0.

RECREATION AND PARK IMPROVEMENTS COMMITTEE

Mr. Henderson stated that he had nothing further to report other than the information he presented in the Conference Room prior to the meeting in the Chambers.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE

Mr. Vincent had no report this evening.

MISCELLANEOUS

There being no further business to discuss, the meeting adjourned at 8:50 p.m.

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Paul A. Koomar, President of Council

Joan Kemper, Clerk of Council