MINUTES OF REGULAR MEETING

ST. CHARLES COUNTY BOARD OF ZONING ADJUSTMENT

DATE: January 2, 2020
TIME: 7:00 P.M.
PLACE: COUNTY EXECUTIVE BUILDING
100 NORTH THIRD ST.
EXECUTIVE COUNCIL CHAMBERS
ST. CHARLES, MO 63301

MEMBERS PRESENT: Gerry Prinster, Chairman; Kevin DeSain, Secretary; David Bauer, Vice-Chairman; Vicki LaRose; and John Matlick

MEMBERS ABSENT: Leslie Gross, Alternate Board Member; and Robert Boschert, Alternate Board Member

STAFF PRESENT: Robert Myers, Planning & Zoning Director; Mark Price, County Planner; Ardita Roark, Associate County Counselor; and Sheila Weiss, Recording Secretary

SPEAKERS: VAR19-06: Renee Lawrence, owner’s representative, 727 Craig Road, St. Louis, MO 63141; Donna Arizzi-Shields, 3 Greenbriar Summit Court; Edward Murat, 135 Berkshire Downs Drive; Mark Siddle, 5 Greenbriar Summit Court; Dennis Mayer, 109 Berkshire Downs Drive; Jennifer Wagner, 210 Greenbriar Bluff Drive; Don Wendel, 8 Moorbriar Court; Charles Shields, 3 Greenbriar Summit Court; and Pam Siddle, 5 Greenbriar Summit Court

VAR19-04: Jeff Bornefeld, Commander VFW Post #5327, owner’s representative

CALL TO ORDER
Board of Zoning Adjustment Chairman Gerry Prinster called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, he welcomed the audience, explained the functions of the Board of Zoning Adjustment and the format of the meeting, and explained the procedures for speakers. Chairman Prinster also introduced The Unified Development Ordinance (UDO) and Zoning Maps of St. Charles County into the record.

CHANGES TO THE AGENDA
NONE
I. VARIANCE REQUEST – 530 KNAUST ROAD

Application: VAR19-06
Owner: Missouri American Water Company
Applicant: Crawford, Murphy & Tilly, Inc.
Variance Requested: Section 405.090.D.1 of the Ordinances of St. Charles County (OSCCMo) - To vary the maximum height requirement for the Single-Family Residential District from 40 feet to 140 feet, to allow for the construction of an elevated water storage tank

Property Zoning: R1A, Single-Family Residential District
Area: 2.95 acres
Location: Approximately 400 feet north of the intersection of Berkshire Downs Drive, adjacent to the City of O'Fallon
Council District: 3
Account No.: 409410A000

Board Secretary Kevin DeSain read the variance request aloud. Chairman Gerry Prinster then opened the public hearing and asked the owner or owner’s representative to approach the podium to explain the request.

Renee Lawrence, the owner’s representative, was sworn in. Ms. Lawrence stated that she is a Senior Project Engineer with the property owner, Missouri American Water Company. Following a meeting with County staff on December 9, 2019, Missouri American is seeking a variance to allow for them to build a 140-foot tall elevated water tank on this property. Missouri American serves customers in St. Charles County, St. Louis County, and Chesterfield. This location stores water that is pumped in to supply these areas. This property and was purchased in 1989 by Missouri American in order to accommodate current and future water supply needs for these areas. Due to continued growth in the western St. Charles region, the existing pumped storage facilities alone are no longer adequate to meet maximum day equalization and fire reserve. Low pressure complaints have arisen within the west side of the zone during peak hour periods. In order to alleviate these problems, it is necessary to construct a new booster station and install a 2.0 MG elevated storage tank and all required yard piping. Elevated storage can maintain more constant system pressures without relying on mechanical pumping. The proposed storage tank will be located on the eastern portion of the property, which is the highest elevation on the property. The tank will be comprised of concrete and steel, and the bowl diameter will be approximately 100 feet. The adjacent pump station on this property will supply water to the tank when needed. They would not build upon the back portion of the property or remove any of the existing trees. They believe that this is the most efficient and effective solution in order to be able to supply water to their customers, and keep their rates down. Every capital project that they do has an impact on their customer’s rates.

Chairman Gerry Prinster asked the Board if they had any questions for the owner’s representative.

Dave Bauer asked Ms. Lawrence if Missouri American has looked into finding another location for this tank.

Renee Lawrence responded that Missouri American purchased this property in 1989 for this purpose, so they have not explored other locations.
Gerry Prinster asked when the adjacent subdivision was built.

Renee Lawrence responded that she is not sure when the Berkshire Downs Subdivision was built, but it was not there when Missouri American purchased this property in 1989.

Dave Bauer asked Ms. Lawrence what the average life expectancy is for this type of tank.

Renee Lawrence responded that the life expectancy of these tanks is at least 50 years. The base of the tank will allow for additional pumps to be added in the future if necessary.

There being no further questions for the owner’s representative, Chairman Gerry Prinster asked if the County staff had any comments regarding this variance request.

Mark Price, County Planner, went over the four criteria that must be met per County Ordinance in order for a variance to be approved by the Board of Zoning Adjustment, and staff's comments as follows:

1. The variance is requested due to unique circumstances inherent to the specific piece of property and not to personal considerations of the property owner.

   [Staff sees no exceptional situation or condition that applies to this specific property, other than that the water tower's location is dictated by the service area and the elevation of the parcel.]

2. The variance is not needed as the result of an affirmative act of the property owner that could have been avoided through a different course of action.

   [The applicant has provided written evidence for the Board to consider on this question. They provide the technical reasons for the request and why this location is necessary for the placement of the elevated tank. The specific height requested is for technical reasons – to provide the necessary water pressure for both consumption and fire flows for approximately 375,000 customers.]

3. The variance would not merely grant a special benefit to the property beyond what is enjoyed by other properties regulated by the same set of zoning regulations.

   [The applicant could erect a ground storage tank at this location below the 40-foot height limit imposed by the zoning regulations; however, it would not provide the height necessary for proper water pressure to distribute water systemwide.]

4. The application of such non-use regulation would result in practical difficulties to the property owner. In determining whether “practical difficulties” exist, relevant factors to consider include whether, or to what degree, the owner can pursue the permitted use without a variance; the financial hardship to the property owner from the strict application of the regulation; how substantial the variance request is in relation to the regulation; whether the difficulty can be obviated by some method other than a variance; and whether such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning regulations as embodied in the Unified Development Ordinance and maps. [The applicant has provided documentation that there is no other alternative to constructing the water tank at the required height of 140 feet. Water pressure needs for their customers and for fire suppression require the height to be at 140 feet.]

Robert Myers added that the Board may also wish to take into consideration the following three items:

1. What type of lighting will be placed on the property?

2. What color will the tank be painted?
3. Will the 140-foot height of the proposed tank interfere with St. Charles County Emergency Communications systems?

Robert Myers stated that in regards to question number 3, the St. Charles County Emergency Communications has stated that the intended structure will not impose on the needed clearance for their microwave radio network.

Renee Lawrence responded that the FAA has stated that there is no need for any lighting or marking for the proposed tower. There will likely be a light over the access door, and possibly two lights at the roll-up door for safe access to the interior of the tower during nighttime hours if needed. Ms. Lawrence stated that as far as tank color, they do not intend to paint the pedestal, and the tank is typically painted white except for the color Missouri American logo. She stated that they are open to painting the bowl any color that the County would like for them to paint it.

Dave Bauer asked County staff if they have a color preference, and if there are issues with them putting their logo on the tank.

Robert Myers responded that putting their logo on the tank would not require a sign permit. He stated that County staff does not have any color recommendation for the tank. He would just like for the applicant’s representative to state what color they typically paint these tanks for the record, and so the Board can take that into consideration.

Vicki LaRose asked Renee Lawrence how often these towers are painted.

Renee Lawrence responded that the towers are on a two-year to five-year inspection cycle, and they are painted as necessary.

Vicki LaRose asked Ms. Lawrence if there is an industry-standard for the color that these towers are painted to help them disappear into the skyline.

Renee Lawrence responded that there is no color that is going to make them disappear.

For the record, the County did not receive any written communications regarding this variance request.

Chairman Gerry Prinster asked if there was anyone in the audience that would like to speak for or against this application.

Donna Arizzi-Shields, 3 Greenbriar Summit Court, was sworn in. Ms. Arizzi-Shields stated that they just received a letter notifying them of this application on December 23rd. She feels like they were not given enough time to talk to their neighbors about this application, and she believes that this meeting may have intentionally been scheduled on January 2nd in order to limit the number of neighbors who may be able to attend the meeting. She lives in the Berkshire Downs Subdivision, which is adjacent to the subject property, and is opposed to this application for a 140-foot water tower. She stated that there is lots of land for sale in Cottleville that Missouri American can purchase to build this tower on. She will have to see this tower every day from her property, and Missouri American Water Company does not even serve the Berkshire Downs Subdivision, as they are served by PWSD #2. She is concerned about how this tower will affect her property values, and she stated that if this tower is built, she will sell her house. Ms. Arizzi-Shields asked the Board to table this application in order to allow them more time to talk to their neighbors and distribute a petition against this water tower.

Edward Murat, 135 Berkshire Downs Drive, was sworn in. Mr. Murat stated that his property is directly behind the proposed tower site. He asked if there has been a study done on the sewer system to see if it can take that much water when the tank is drained for maintenance. Mr. Murat is opposed to this application, and stated that there are plenty of other places they can build this tank. He is also concerned about his property values, and questions why they need a 140-foot tall tank to service the area.
Renee Lawrence responded that when taking the tank out of service, they typically use as much water as possible beforehand. If water needs to be drained, it will be drained into the sanitary sewer system, and Missouri American will be required to obtain a permit through Duckett Creek prior to draining the tank. The Department of Natural Resources will determine whether the sanitary sewer system can handle the amount of water to be drained prior to Duckett Creek approving the permit.

Mark Siddle, 5 Greenbriar Summit Court, was sworn in. Mr. Siddle stated that were the tank to be drained, the water would go directly down onto his property. Mr. Siddle asked why the residents were given such little notice of this public hearing. Mr. Siddle stated that the Berkshire Downs Subdivision was built in 1999, and they were told when they purchased their property that if Missouri American built a water tower on that property it would be a ground tank.

Robert Myers responded that in terms of timing, notification is done per County Ordinance, which requires that the adjacent property owners be notified 5 to 15 days prior to the public hearing. Mr. Myers added that the Board of Zoning Adjustment meetings are always scheduled for the first Thursday of each month. There was no ill-intent with this meeting being scheduled for January 2, 2020, which just happens to be the first Thursday in January.

Dennis Mayer, 109 Berkshire Downs Drive, was sworn in. Mr. Mayer asked if Missouri American has looked at other sites for this tower. He also asked if the existing tank is adequate for their existing needs, and they are wanting to build this tower for future needs. Mr. Mayer asked if they could build an additional pump station somewhere to add more pressure to the system. He is also concerned that draining extra water into the sewer system will back sewage up into the residents basements. Mr. Mayer asked if there would be another public hearing if the Board approves this application, in case they run into issues that may require additional engineering.

Renee Lawrence stated that Missouri American Water Company purchased this property in 1989, and has not had a need for additional water storage until now. Hydraulic studies show that a tank larger than 40-feet tall is necessary in order to supply the water pressure needed for this area, including the necessary capacity for fire flow. Choosing another location would entail additional infrastructure and pipes, along with the necessary electrical components to run the system. This would push out the completion date of this project substantially.

Robert Myers stated that if Missouri American connects to any sanitary or storm sewer lines, they will be required to obtain all necessary permits from the owner of the sanitary sewer line or storm sewer line prior to draining the tank. The owner of that line will require them to show that the sanitary sewer line can handle the amount of water they plan to drain into it. Additionally, County building permits will require that they show authorization to connect in the first place.

Jennifer Wagner, 210 Greenbriar Bluff Drive, was sworn in. Ms. Wagner asked the Board to table this application to allow them to contact other property owners in her subdivision before the Board makes their decision. She has no problem with a 40-foot tall tower, which is allowed on the property, but is opposed to a 140-foot tower. She stated she is opposed to this request and it is not her problem if Missouri American incurs additional costs because they have to build a sub-station. They knew there was a 40-foot limit on water towers when they purchased this property.

Don Wendel, 8 Moorbriar Court, was sworn in. Mr. Wendel stated that his property backs to the subject property. He is opposed to this request, and agrees with everything the audience speakers have stated so far. He stated this tower would be an eyesore.

Charles Shields, 3 Greenbriar Summit Court, was sworn in. Mr. Shields is opposed to this request, and stated that a 140-foot tall water tower behind his house will not be attractive. He believes his property values will decrease if a 140-foot tower is built. Mr. Shields also asked the Board to table this application to give them more time to speak with their neighbors.
Pam Siddle, 5 Greenbriar Summit Court, was sworn in. Ms. Siddle stated that the proposed tower will be in direct view of her atrium window. Mrs. Siddle also asked the Board to table this application.

There being no further audience speakers, Chairman Prinster asked County staff if they had any further comments regarding this application.

There being no further comments from staff, Chairman Prinster called the applicant’s representative back to the podium to respond to questions from the Board.

Renee Lawrence approached the podium.

Gerry Prinster asked Ms. Lawrence if the tower could provide the necessary water pressure if it were larger in diameter, but less than 140 feet high.

Renee Lawrence responded that for every foot of height, there is 2.31 pounds of pressure added. In order to be able to meet state safety requirements and for the water pressure to be at a minimum of 35 psi, system hydraulics dictate that this tower needs to be 140 feet tall.

John Matlick asked if the pump station capacity could be increased with a 40-foot tall tower in order to achieve the necessary psi.

Renee Lawrence responded that the original design in 2005 was based on a 40-foot ground storage tank, which the current pump station could support. Due to the increased population, the minimum required pressure cannot be achieved with the current pump station and a 40-foot tower.

John Matlick asked if they could increase the pumps and produce the required water pressure with large tank and a 40-foot high tower.

Renee Lawrence responded that the amount of infrastructure that would be required to achieve that would be massive, and would require redundant electrical sources and back-up generators. If this were done and the electricity were to fail, the water pressure would fail as well. An elevated storage tank allows water delivery at the required psi without a dependency on electricity.

John Matlick asked what type of earthquake this tower is engineered to withstand.

Renee Lawrence responded that the company that builds these tanks based on what the Department of Natural Resources requires for the specific USGS seismic zone where the tank is to be located.

Dave Bauer asked if Missouri American Water Company met with any of the neighbors in the adjacent subdivision about this project prior to bringing it to the Board of Zoning Adjustment.

Renee Lawrence responded that when they begin a project, those details are released through Missouri American’s External Affairs Department to release to the public at their discretion.

Dave Bauer asked if Missouri American has looked at purchasing any other locations for the proposed tower.

Renee Lawrence responded that Missouri American’s Planning Group determined that this was the best location for this project prior to handing it over to her. She reiterated that if they were to build this tower at another location, a large amount of infrastructure would be required to achieve that.

Dave Bauer asked Ms. Lawrence how many other properties Missouri American owns in St. Charles County that have pump stations on them an could potentially have towers built on them in the future.
Renee Lawrence responded that she cannot answer that, but when they do purchase a property it is purchased with the intent of putting these structures on the property.

Dave Bauer stated that some of the adjacent homeowners stated that they were aware that this property could potentially build a 40-foot water tower in the future. He asked County staff if there is anything in County Ordinances that would have made sure these homeowners were made aware when they purchased their homes that a 40-foot tall water tower could be built on the adjacent property in the future.

Robert Myers responded that people could see through public records that the adjacent property is owned by Missouri American Water Company, but there is not a long-range plan publicly available that would show what their future intentions would be for that property.

Vicki LaRose asked County Staff if there are any zoning districts within St. Charles County that would allow a 140-foot tall water tower by right.

Robert Myers responded that the Industrial Zoning District would allow for a 140-foot tall water tower.

There being no further speakers from the audience, Chairman Gerry Prinster closed the public hearing and called for discussion from the Board members.

John Matlick stated that he thinks that the Board should consider tabling this application to allow the adjacent homeowners more time to try to distribute a petition.

Gerry Prinster asked County staff if the Board could table this variance request.

Robert Myers responded that the Board should consider this application based upon the evidence submitted by the applicant, and recommended that they should only table the request if sufficient information has not been submitted to make a decision.

There being no further discussion from the Board, Chairman Prinster asked for a motion to approve this variance request.

David Bauer made a motion to approve VAR19-06, subject to staffs recommended conditions. The motion was seconded by John Matlick.

The vote on the motion was as follows:

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Application VAR19-05 was **DENIED**.

The vote count was 2 Yeas, 3 Nays, and 0 Abstentions.

Robert Myers pointed out to the Board that the Ordinance states that “A majority of the Board shall constitute a quorum, and the concurring vote of four (4) members shall determine all matters of appeal or revision.” Since this was a 2-3 vote, he asked Chairman Prinster if he would like to call for a motion to take another vote or if the Board is okay with not making a determination.

Chairman Prinster stated that the Board has already voted to deny this application by a vote of 2-3.
TABLED ITEMS

I.  **VARIANCE REQUEST - 1414 HIGHWAY Z**

Application: VAR19-04  
Owner: Wentzville Memorial VFW Post #5327  
Applicant: Michal Giunta  
Variances Requested:  
1. A request to vary Section 405.475.A.1 of the Ordinances of St. Charles County (OSCCMo); to allow for the display of an electronic sign in the A, Agricultural District, which is not permitted; and  
2. A request to vary Section 405.490.B of the Ordinances of St. Charles County (OSCCMo); to allow the sign to operate so that it is flashing, which is not permitted.

Property Zoning: A, Agricultural District  
Area: 8.57 acres  
Location: Approximately 320 feet south of the intersection of Highway Z and Peruque Hills Parkway, adjacent to the City of Wentzville  
Council District: 2  
Account No.: 726270B000

Chairman Gerry Prinster asked for a motion to bring Application VAR19-04 up from the table for discussion.

A motion was made by Dave Bauer, and was seconded by John Matlick.

Board Secretary Kevin DeSain read the appeal aloud. Chairman Gerry Prinster then opened the public hearing and asked the owner or the owner’s representative to approach the podium to explain the appeal.

Jeff Bornefeld (Commander VFW Post #5327), owner’s representative, was sworn in. Mr. Bornefeld stated that their Board decided that it is not feasible to rezone a portion of this property to Commercial due to the cost of hiring a property surveyor. Therefore, they have decided to go ahead and move forward with this request for a variance for this sign. Mr. Bornefeld stated that they are no longer asking for variance request #2, to allow for the sign to be flashing.

Robert Myers asked Mr. Bornefeld to clarify for the record that they are withdrawing variance request #2, to allow for the sign to be flashing.

Jeff Bornefeld responded that they are withdrawing variance request #2.

Mr. Bornefeld presented a copy of a letter that was sent to State Representative Spencer from Andy Tuerck, an Area Engineer with the Missouri Department of Transportation. This letter stated in part that “state statute does not allow for any advertising signs to reside within public right-of-way. With this newly acquired knowledge, further action will be needed by the VFW to relocate the sign off of MoDOT right-of-way.” Mr. Bornefeld stated that based upon this letter, they are proposing to move the sign in the
spring of this year where the deck is located on the property. Mr. Bornefeld stated that he has recently learned how to turn down the lighting on the sign, and has been doing so at night to help appease the neighboring property owners.

John Matlick asked Mr. Bornefeld how he plans to ensure that in the future, should there be a new Commander, this sign will continue to be turned down at night so that it does not disturb the neighbors. He asked if something could be added to the VFW’s by-laws so that future leaders would abide by that as well.

Jeff Bornefeld responded that he has trained three people on how to turn the lighting down on the sign, and the instructions on how to do this are in their safe.

Dave Bauer asked Mr. Bornefeld if he has spoken with the neighbor, Jason Durham, who sent in the opposition letter regarding the lighting on this sign.

Jeff Bornefeld responded that he has not spoken with Jason Durham, but he did knock on three doors and try to speak to three of the neighbors.

Dave Bauer stated that he would like the record to reflect that Jeff Bornefeld stated that the lighting on the sign will be dimmed at night time.

Gerry Prinster stated that the Board can add a condition of approval that states the sign lighting must be dimmed at night time.

Jeff Bornefeld stated that he can also put that in the VFW’s Board meeting minutes, and submit a copy of those to the Board of Zoning Adjustment.

Vicki LaRose asked Mr. Bornefeld why they withdrew their rezoning application.

Jeff Bornefeld stated that their Board voted it down due to the costs that would be required to hire a surveyor.

Dave Bauer asked Mr. Bornefeld what the cost would be.

Jeff Bornefeld stated that it would cost around $6,000.

Dave Bauer asked County staff if approving this request would set a precedent for anyone in the County that wants to install a digital sign.

Robert Myers responded that should this request be granted, it would be granting a privilege that others do not have and would make it hard to argue that other zoning districts such as Residential Districts could not have digital signs. He reminded that in order for the Board to grant a variance, they must determine that the request meets all four of the required criteria.

Gerry Prinster stated that Board discussion at the prior meeting reflects that this application did not meet the requirements for a variance, and requested that the applicant explore the possibility of rezoning a portion of the property before requesting this variance.

Robert Myers stated that rezoning was an option that was also offered to the applicant by County staff as an alternate to requesting a variance, as staff does not believe this application meets the criteria for a variance.

Kevin DeSain stated that it seems to him that if they intend to do any additional building on this property in the future, rezoning will be required anyway.
Jeff Bornefeld stated that they may or may not add additional buildings to the property in the future.

Kevin DeSain asked County staff if they would be required to rezone the property if they added additional buildings in the future.

Robert Myers stated that this property has an existing conditional use permit for a “Private Club” that could be expanded upon in the future, so a conditional use permit rather than a rezoning would be required to expand the VFW.

For the record, the County received one written communication in opposition to this variance request.

Chairman Gerry Prinster asked if there was anyone in the audience that would like to speak for or against this application.

There being no speakers from the audience, Chairman Prinster asked County staff if they had any further comments regarding this application.

Robert Myers stated that he believes that it would be difficult to show that all four criteria have been met for this variance request, and staff recommends denial. Should the Board choose to approve this request, staff recommends the following conditions of approval:

1. The variance shall be valid for only the subject freestanding sign; and

2. A copy of the Missouri Department of Transportation sign permit shall be submitted with the application for the County sign permit. Should MoDOT determine that no State sign permit is required, a letter from that agency shall be required stating such.

Chairman Gerry Prinster asked the Board if they had any additional questions for County staff.

Dave Bauer asked if a building permit from the County would be required, should this sign variance be approved.

Robert Myers responded in the affirmative, and stated that they will be required to submit a plot plan showing the location of the sign, a plan showing the electrical components of the sign, and the size of the sign. They will also be required to meet County lighting standards for the maximum lumens allowed.

There being no further questions for County staff, Chairman Gerry Prinster closed the public hearing and called for discussion from the Board members.

John Matlick stated that he feels that if the Board approves this variance request, it would set a precedent for anyone else in the County to apply for variances for electronic signs. He stated that he knows that the businesses in the winery district have been wanting to be allowed to have electronic signs for a long time.

Dave Bauer feels that they do not meet the criteria because they have the option to rezone the property if they wish for the sign to remain there.

Gerry Prinster stated that he agrees with Dave Bauer.

There being no further discussion, Chairman Prinster asked for a motion to approve this variance request.

David Bauer made a motion to approve VAR19-04, subject to the staff recommended conditions. The motion was seconded by Vicki LaRose.
The vote on the motion was as follows:

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Application VAR19-04 was unanimously **DENIED**.

The vote count was 0 Yeas, 5 Nays, and 0 Abstentions.

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**APPROVAL OF THE MINUTES FROM THE NOVEMBER 7, 2019 REGULAR MEETING**

Chairman Gerry Prinster asked for a motion to approve the minutes from the November 7, 2019 regular meeting. Dave Bauer made the motion to approve, and the motion was seconded by John Matlick.

The minutes were approved by unanimous voice acclamation.

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**ELECTION OF OFFICERS**

A motion was made by Kevin DeSain to keep the current Officers for 2020, which are as follows:

- **Board Chairman** – Gerry Prinster
- **Vice-Chairman** – David Bauer
- **Board Secretary** – Kevin DeSain

The motion was seconded by Gerry Prinster, and was approved by unanimous voice acclamation.

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**OTHER BUSINESS**

**NONE**

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**ADJOURNMENT OF MEETING**

Chairman Gerry Prinster called for a motion to adjourn the meeting.

The motion was made by David Bauer and was seconded by Kevin DeSain.

The motion was approved by unanimous voice acclamation, and the meeting adjourned at 8:54 PM.

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Respectfully submitted by:

____________________  ______________________
Gerry Prinster, Chairman          Date