

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 13 A-B

DATE: January 20, 2009

STAFF: Randy Hensley

SUBJECT

Items Relating to a Volunteer Handicap Parking Enforcement Program.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

The Commission on Disability recommends the implementation of this Program.

FINANCIAL IMPACT

Ordinance No. 009, 2009, appropriates \$3,000 from the Transportation Fund to the Parking Services budget for 2009 to provide supplies and equipment for the Volunteer Handicap parking Enforcement Program.

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 008, 2009, Relating to Changes in the City of Fort Collins Traffic Code to Implement a Volunteer Handicap Parking Enforcement Program (the "Program").
- B. First Reading of Ordinance No. 009, 2009, Appropriating Prior Year Reserves in the Transportation Services Fund for the Volunteer Handicap Parking Enforcement Program

Under the current traffic code, citations for handicap parking space violations may only be written by a police officer or parking services officer who personally observes the violation and citations for handicap parking space violations cannot be delivered by mail. The changes proposed in Ordinance No. 008, 2009, will allow citizen volunteers to observe violations of handicap parking spaces, and provide evidence of the violation to a Parking Services enforcement officer. The officer will confirm vehicle ownership information with the Department of Motor Vehicles and issue a citation by mail to the owner of the offending vehicle. In Colorado, vehicle owners are *prima facie* responsible for parking citations, regardless of who was driving the vehicle.

Ordinance No. 009, 2009, appropriates the funds to implement the Program.

BACKGROUND

Several years ago, Police Services started an informal program that allowed citizen volunteers who observed handicap space violations to report those violations to a Police Services employee. In the past, upon receipt of those reports, Police Services issued a parking citation which was mailed to the owner of the vehicle.

During the first Budgeting for Outcomes process, it was determined that this Program should be administered by Parking Services, not by Police Services. During the transfer of the Program from Police to Parking, a normal review of the Program led to concerns by the City Attorney's Office (CAO) about the Program because the City Traffic Code requires an officer to personally observe parking violations and post any citations on the offending vehicles. As a result, Parking Services was unable to continue the Program without numerous changes. One change included letters sent to offenders explaining that their actions violate the Code and that future violations could lead to a citation, instead of writing a citation. Parking Services tracked the letters in a database so that multiple offenders could be pursued more aggressively by a Parking Services Enforcement Officer or a Community Service Officer.

Due to the changes made by Parking Services, citizen volunteers questioned the effectiveness of the Program. On Tuesday, September 16, 2008, several citizens met with Councilmembers Brown, Manvel and Roy. At the conclusion of the meeting, the Councilmembers indicated they would like to see staff take the next steps to research the feasibility of issuing citations as part of this Program. In order to write those citations, two things need to happen:

1. Code changes need to be approved by City Council to allow Parking Services or Police Services to issue and mail a citation for handicap space violations using evidence provided by a citizen.
2. The Parking Services budget needs to be increased by \$3,000, one-time in the first year (2009) and \$1,000 on-going in future years to support the new way of operating the Program.

Funding Details

If the Volunteer Handicap Parking Enforcement Program is changed to allow City enforcement officers to issue and mail citations based on evidence provided by citizens, coupled with additional evidence obtained by the officers, Parking Services will need to provide additional training for volunteers, buy digital cameras for the volunteers to collect evidence, and buy new forms to be used by the volunteers to report the violations they observe. The training can be absorbed by Parking Services in its existing budget. The cameras cost \$125 each, and about 20 would be needed, for a total of \$2,500. The new forms would cost about \$500. Parking services will need \$3,000 in one-time funds to start up the new Program. In future years, approximately \$1,000 will be needed for new and replacement cameras and to reprint forms.

Possible Solutions

There are two ways this Program could be administered. Staff recommends the second method described below.

1. Under the current version of the Program, volunteers provide information about handicap space violations, but staff does not write a citation, due to the concerns mentioned above. Instead, staff sends a letter to the owner of the vehicle asking for compliance and warning that a citation could be issued in the future if the behavior continues. The warning information is tracked in a database. After multiple warnings, an officer will be dispatched to the location of a violation to write a citation. This method has limitations since the vehicle in question is often gone by the time the officer arrives. Volunteers are frustrated with this Program because it rarely, if ever, results in a citation. The Program has had moderate success, as measured by the small number of repeat offenders. However, volunteer participation is low because of their frustration with the Program, which could also contribute to the small number of repeat offenders being reported.
2. The solution recommended by staff will change the City Traffic Code so that City enforcement officers can write and mail citations to vehicles owners based on evidence provided by volunteer citizens coupled with evidence from the officer's own investigation. There are several advantages to this approach.
 - Staff believes compliance will be enhanced through the use of citations.
 - Staff believes the volunteer participants will recognize their efforts as being more successful if citations are used, which will help maintain their enthusiasm and contribute to the enlistment of new volunteers in the Program.
 - The use of citations is consistent with the rest of the Parking Services enforcement program, and will eliminate any potential ambiguity or confusion that might be perceived by the public about the Volunteer Parking Enforcement Program.
 - Revenue will be generated to help defray the costs of the Program. While it is impossible to know the total revenue this Program might generate, it is possible the Program will cover the \$3,000 start-up costs in the first year, and the on-going costs in subsequent years. The fine for a handicap citation is \$100. Some citations are thrown out in court and some are never paid and end up at a collection agency. The remainder are paid and result in revenue for the City. The average rate of payment for all citations written by Parking Services is 70%, so this Program would need to produce 43 citations in order to generate \$3,000 in revenue ($43 \times 70\% \times \100 per citation = \$3,010.) It is reasonable to assume that this Program will produce at least 43 citations in 2009. In previous years, volunteers have submitted from 70 to 100 information notices per year about handicap space violations.

Based on these advantages, staff believes that option #2 is the best alternative.

Community Engagement

Staff met with citizens and Councilmembers on September 16, 2008. The result of that meeting was direction from the three Councilmembers to proceed with development of a volunteer enforcement program that includes citations. Staff also met with the Commission on Disability on December 11, 2008. The Commission supports staff's proposal and would like to see it go forward. The Commission's primary concern is that some volunteers may not be able to take photos in all situations. However, photos and the volunteer's testimony are a vital part of the sufficiency of the evidence for successful prosecution, and the need for photos will be included in staff's directions to volunteers. Evidence from volunteers that does not include photos will still be processed, but the resulting citations may be unsuccessful, if challenged in court.

Staff believes that the changes proposed, along with administrative changes, a training program, and increased volunteer participation, will make this Volunteer Handicap Parking Enforcement Program much more effective than the current method of operating the Program.

ATTACHMENTS

1. Commission on Disability minutes - December 11, 2008.
2. Letter from the Commission on Disability, December 30, 2008.

Commission on Disability

December 11, 2008

Members Present: Mary Elizabeth Lenahan, Mare Franklin-Gaumer, Bev Hageseth, Vivian Armendariz, Lydia Wiatrowski, and Terry Schlichting.

Absent: Harry Meyer submitted his resignation.

City Liaison: Bruce Byrne and Jenna Stieben

Guests: Steve Rierson, Kalin Logan, Mike Devereaux, and Lisa Poppaw.

1. Introductions

2. Call to Order: Terry called the meeting to order at 12:17 p.m.

3. Approval of Minutes

Bev moved to approve the November minutes.

Mare seconded the motion.


Motion passed unanimously.

4. Open Discussion General Public & Community News

No Issues

5. New Business

Parking Services

 **Tisha McRae** in attendance for Randy Hensley regarding the city's Handicap Witness Program which was established for utilizing community members to cite people parking in disabled parking and blocking access. Kalin was crossing the street at the crosswalk and it was blocked by a police officer – direct those questions to the police department.

The city is looking for 15 volunteers to help monitor and provide documentation (photo of the vehicle & license plate) of people illegally parking in disabled parking.

Mary Elizabeth moves to draft a letter of support with what we understand the program to be.

Terry seconded the motion.

Note: Mare wanted to make sure the Commission fully understands what the program entails.

Motion passed unanimously.

What about privately owned parking lots?

Private parking lot issues need to be brought to the attention of the corporation or owner.

Vivian expressed that she doesn't believe people have bad intentions when parking in disabled parking and does not believe they should be cited on the first offense but should be warned. City policy is they are to be fined if they are in violation.

There is an appeals process to appeal any citation they receive. Mark Workman is the court appointed referee.

Leaving Members

Terry and Lydia thanked leaving members for their contributions. Lisa Poppaw expressed her appreciation to the leaving members and thanked them for offering their expertise and contributions the information they have provided the City Council.

Vivian didn't feel her opinions were welcomed and felt attacked in this group. There were months and months where she went home crying. It was a stressful Thursday every second Thursday of the month. If it wasn't for Bev and she took her commitment very seriously,

Mary Elizabeth feels one of the issues was the inconsistency of membership.

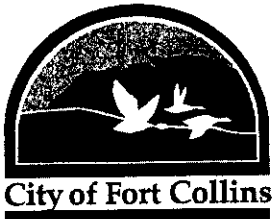
Jenna thanked members for their contributions and presented them with their plaques/jewelry boxes. Susan Williams is absent but Bruce will give her the parting gift.

Yellow Cab Accessibility

Vivian was invited to attend a grand opening event and was able to try out the wheelchair accessible vans. They are expanding their fleet of wheelchair accessible vehicles. Vivian provided suggestions on changes they can make. Terry asked if there is any time cutoff on getting a ride and Vivian is going to look into it. Fare: \$3.50/mile. Phone number is: 970-224-2222. They will also be offering accessible DIA Shuttle service.

Lisa Poppaw

A few COD members attended the most previous City Council meeting regarding wheel chair use of bike lanes. Terry expressed he would rather use sidewalks and will continue to use the bike lanes and would prefer to not be



Commission on Disability
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 PO Box 580
 Fort Collins, CO 80522
 970.221.6610
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 fcgov.com

December 30, 2008

Dear City Council,

On December 11, 2008, Tisha McRae of the City Parking Services presented an update to the Commission on Disability regarding the Witness Program for Accessible City Parking. This program ensures proper monitoring and enforcement of handicapped parking spaces in Fort Collins.

Historically, parking spaces reserved for persons with disabilities have at times been used or blocked by persons without disabilities. How citations are handled has been an ongoing discussion with parking services, the police, citizen witnesses, persons with disabilities, and the Commission on Disability.

Parking Services is revising the policy to better meet the need to reserve accessible spaces for only those with permits. Parking Services is working with the City Attorney to change the code to simplify the process for citations, to reduce confrontation with offenders, to monitor repeat offenders, and to train volunteers using photo documentation. Current policy generates a "first-time fine" ticket of \$100 and incorporates an appeals process. Parking Services will maintain a log of offenders.

The COD voted in support of a revised policy to change how citations are issued with one dissenter, who opposed the Parking Services internal policy of "first-time fine" and requested a clemency warning for first-time offenders.

COD supports and understands this review and update to be an improvement in regulating parking designated for persons with handicaps. COD expects to have the opportunity to review the updated policy before Parking Services submits a plan to Council. The COD can serve to identify any areas of concern, for example, parking in public right of way and/or parking issues on private property.

The Commission on Disability invites public comment and discussion to assist with accomplishing this policy change. Thank you for considering our needs in serving the community.

Sincerely,

CC: Tisha McRae, ~~Randy Hensley~~, Bruce Byrne

where renewal is a way of life

ORDINANCE NO. 008, 2009
OF THE COUNCIL OF THE CITY OF FORT COLLINS
RELATING TO CHANGES IN THE CITY OF FORT COLLINS
TRAFFIC CODE TO IMPLEMENT A VOLUNTEER
HANDICAP PARKING ENFORCEMENT PROGRAM

WHEREAS, the Fort Collins Traffic Code regulates parking and traffic within the City; and

WHEREAS, the City's enforcement of handicap parking regulations is limited by a lack of Parking Services resources to patrol parking lots to gather evidence and issue citations for handicap parking violations; and

WHEREAS, the City previously administered a Handicap Parking Enforcement program that was underutilized due to its ineffectiveness; and

WHEREAS, Parking Services and the Commission on Disability have recommended that the City enhance the effectiveness of its enforcement program by utilizing citizen volunteers to gather initial evidence and post notices on vehicles violating handicap parking regulations, and allowing Parking Services officers to finish the investigation and mail citations; and

WHEREAS, the City Council believes that these changes to the City Code and Traffic Code are in the best interests of the City and the health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 102 of the Fort Collins Traffic Code is hereby amended to read as follows:

102. Applicability.

This Traffic Code shall apply to every street, alley, sidewalk area, driveway, park and to every other public way or public place or public parking area, either within or outside the corporate limits of the City, the use of which the City has jurisdiction and authority to regulate. The provisions of sections 606, 1211, 1208, 401, 1402, 1409, 1413 and 1601 of this Traffic Code, as adopted and amended herein, respectively concerning unauthorized devices, limitations on backing, reckless driving, careless driving, insurance compliance, eluding an officer and accident investigation shall apply not only to public places and ways, but anywhere throughout the City.

Section 2. That Section 1208 (3)(c) is hereby amended to read as follows:

1208. Parking privileges for persons with disabilities.

...

- (c) Each parking space reserved for use by persons with disabilities, whether on public property or private property, shall be marked with an official upright sign or **official** markings on the pavement, which sign may be stationary or portable, identifying such parking space as reserved for use by persons with disabilities.

...

Section 3. That Section 1209 of the Fort Collins Traffic Code is hereby amended to read as follows:

1209. Notice and procedure for parking violations.

- (1) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the parking, standing or stopping provisions of this Traffic Code, ~~the~~**an authorized person or** officer finding such vehicle shall take its registration, **license plate or vehicle identification** number and any other information displayed on the vehicle which may identify its user. **Except as otherwise provided for below, such person or officer** ~~and~~ shall conspicuously affix to the vehicle a penalty assessment notice directing the driver to respond and answer the charge at a place and time specified in said notice.
 - (a) **With respect to violations of Section 1208, any citizen participating in the City's Handicap Parking Enforcement Program who finds a vehicle parked or stopped in violation of Section 1208(5) or (9), may take its registration number, license plate or vehicle identification number, a photograph, record any other information displayed on the vehicle which may identify its owner(s) and conspicuously affix to the vehicle a notice of violation informing the driver that he or she is being investigated for a violation of handicap parking restrictions. The program participant shall thereafter, within seven (7) days, deliver the information, photograph and a copy of the notice to a Parking Services or Fort Collins Police Services officer. Upon receipt of the information from the program participant, a parking services or police officer shall review said information and make further inquiry regarding the owner of the vehicle in violation, and if appropriate, shall serve a penalty assessment notice by mail to the registered owner of the vehicle directing the owner to respond and answer the charge at a place and time specified in said notice.**
 - (b) **With respect to violations of Section 1227, any person who fails to return and pay a parking fee, shall be mailed a citation, directing him**

or her to respond and answer the charge at a place and time specified in the citation.

- (a2) In any prosecution charging a violation of any provision of this SectionPart 12, proof that the particular vehicle described in the notice was parked or stopped in violation of such provision, together with proof that the defendant named in the notice was at the time of such violation the registered owner of the vehicle, shall constitute *prima facie* evidence that the registered owner was the person who parked or stopped the vehicle at the time and place of the violation.
- (b3) In addition to any other liability provided for in this Traffic Code, the owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a parking violation fine unless the owner of the leased or rented motor vehicle can furnish sufficient evidence that the vehicle was, at the time of the parking violation, in the care, custody or control of another person. To avoid liability for payment, the owner of the motor vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the prosecutorial division of the appropriate jurisdiction the name and address of the person or company who leased, rented or otherwise had the care, custody or control of such vehicle. As a condition to avoid liability for payment of a parking violation, any person or company who leases or rents motor vehicles to another person shall attach to the leasing or rental agreement a notice stating that, pursuant to the requirements of this Section, the operator of the vehicle is liable for payment of a parking violation fine incurred when the operator has the care, custody or control of the motor vehicle. The notice shall inform the operator that the operator's name and address shall be furnished to the prosecutorial division of the City when a parking violation fine is incurred by the operator.
- (24) If the driver or owner of a motor vehicle charged with a violation of any parking, standing or stopping provision of this Traffic Code fails to respond to a penalty assessment notice affixed to such vehicle or mailed to him or her, by appearance and/or payment at the Office of Parking Services or Municipal Court, the Clerk of the Court or Parking Services Office shall send another notice by mail to the registered owner of the vehicle to which the original notice was affixed, warning him or her that a default judgment may enter and, in addition, in the event such notice is disregarded for a period of twenty (20) days from the date of mailing, the vehicle is subject to immobilization and the procedures described in Part 18 of this Traffic Code.
- (35) Any person charged with a parking, stopping or standing violation under this Traffic Code for which a penalty assessment notice may be issued and for which payment of a fine may be made to the Parking Services Office shall have the option of paying such fine within the date, time and at the place specified in said the penalty assessment notice upon entering a plea of guilty

and upon waiving appearance in court; or may have the option of depositing any required lawful bail, and upon a plea of not guilty shall be entitled to a ~~trial~~hearing before the Parking Services Referee.

- (a) Payment of a penalty assessment notice by the person to whom ~~the~~ notice is ~~tendered~~served shall constitute an acknowledgment of guilt by such person of his or her violation of the offense stated in such notice.
- (b) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the Parking Services Office, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

Section 4. That Section 1227(2) of the Fort Collins Traffic Code is hereby amended to read as follows:

1227. Failure to pay parking structure or surface lot fees.

...

- (2) If the person cannot pay the parking fee upon exiting the parking structure or surface lot at which a parking services attendant is present, said person shall sign and provide the attendant with a written promise to return within forty-eight (48) hours to pay the parking fee. If the parking fee is not paid within forty-eight (48) hours, a citation for failure to pay the parking fee shall be mailed to the registered owner of the offending vehicle pursuant to Section 1209(2) of this Traffic Code.

...

Section 5. That Section 1701 of the Fort Collins Traffic Code is hereby amended to read as follows:

1701. Traffic offenses classified.

- (1) It is a misdemeanor traffic offense for any person to violate any provision of the Traffic Code except as provided in Section 1-15 of the City Code.
- (2) The Municipal Court shall designate the specified traffic offenses or infractions under this Traffic Code and ordinances of the City and the state traffic laws with respect to which payments of fines may be accepted by the Municipal Court Clerk’s Office or ~~other designated office~~Parking Services Office in satisfaction thereof, and shall specify by suitable schedules the amount of such fines for first, second and subsequent offenses, provided that such fines are within the limits declared by law, and shall further specify

what type and number of offenses shall require mandatory appearance before the court.

- (3) Fines and costs shall be paid to, received by and accounted for by the Municipal Court Clerk or ~~other designated office or person~~ **Parking Services Office**.

Section 6. That Section 1702 of the Fort Collins Traffic Code is hereby amended to read as follows:

1702. Municipal Court Clerk's Office.

- (1) The Municipal ~~Court~~ Judge may establish an office, policies and procedures to assist the court with the clerical work of traffic cases.
- (2) The Municipal Court Clerk's Office may be in charge of such person or persons as the court may designate to handle traffic cases and **the Parking Services Office may handle parking violation cases; each** shall be open on such days excluding Saturdays, Sundays and holidays, and at such hours as may be established by the court **or Parking Services Director, respectively**.
- (3) The following duties are hereby imposed upon the head and personnel of the Municipal Court Clerk's Office in reference to traffic offenses:
 - (a) They shall accept designated fines, issue receipts and present to the court the written evidence of the guilty pleas and waivers of appearance of violators who have requested and are permitted to so plead.
 - (b) They shall receive and issue receipts for bail from persons who must or wish to be heard in court, enter the time of their appearance on the court docket, and notify the ~~arresting officer and witnesses~~, if any, to be present.
 - (c) They shall, on behalf of the court, forward to the Colorado Department of Revenue as required by Section 42-2-121, C.R.S. a record of the conviction of any person in said court for a violation of any of the traffic ordinances of the City or any of the traffic laws of this State subject to the point system schedule provided by law.
 - (d) They shall keep an easily accessible record of all violations of which each person has been guilty during the preceding thirty-six (36) months, whether such guilt was established in court or by pleas of guilty and payment of fine at the Municipal Court Clerk's Office.
 - (~~4~~e) The Municipal Court Clerk's Office shall keep **reasonably accessible**

records and submit summarized monthly records and reports to the Judge of all notices issued and arrests made for violations of this Traffic Code, of all fines collected by the Municipal Court Clerk's Office or the court, and of the final disposition or present status of every case of violation of the provisions of said laws and ordinances. Said records shall be maintained according to the Court's archive and destruction schedule to show all types of violations and the totals for each.

- (5f) The Municipal Court Clerk's Office shall follow such procedures and perform such duties as may be prescribed by this Traffic Code as may be required by any laws or regulations of the State of Colorado.
- (4) The following duties are hereby imposed upon the head and personnel of the Parking Services Office in reference to parking violation cases:
 - (a) They shall accept designated fines, issue receipts and keep written records of the guilty pleas and waivers of appearance of violators who have requested and are permitted to so plead.
 - (b) They shall keep an easily accessible record of all violations of which each person has been guilty during the preceding thirty-six (36) months, whether such guilt was established at hearing or by pleas of guilty and payment of fine at the Parking Services Office.

Section 7. That Section 19-48 of the Fort Collins Traffic Code is hereby amended to read as follows:

Sec. 19-48. Commencement of action.

An action under these rules is commenced by the tender or service of a charging document upon a defendant, by mail or by conspicuously attaching a parking assessment to the subject vehicle and by the filing of a charging document with the Municipal Court or the Office of Parking Services.

Introduced, considered favorably on first reading, and ordered published this 20th day of January, A.D. 2009, and to be presented for final passage on the 3rd day of February, A.D. 2009.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 3rd day of February, A.D. 2009.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 009, 2009
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES IN THE TRANSPORTATION
SERVICES FUND FOR THE VOLUNTEER HANDICAP
PARKING ENFORCEMENT PROGRAM

WHEREAS, City staff met with citizens and City Councilmembers on September 16, 2008 and received direction from three City Council members to refine the volunteer enforcement program for handicap parking; and

WHEREAS, staff has proposed changes that will make the Volunteer Handicap Parking Enforcement Program (the "Program") much more effective than the current method of enforcing handicap parking; and

WHEREAS, staff met with the Commission on Disability on December 11, 2008 and received positive feedback from the Commission regarding the staff proposal; and

WHEREAS, pursuant to Ordinance No. 008, 2009, the City of Fort Collins Traffic Code will be changed to implement the Program; and

WHEREAS, the Parking Services budget will need to be increased by \$3,000, in the first year and \$1,000 in future years to support the new Program; and

WHEREAS, this \$3,000 will be used to purchase approximately 20 cameras for Program volunteers and to print new forms; and

WHEREAS, these funds are available from the Transportation Services Fund prior year reserves; and

WHEREAS, Article V, Section 9, of the City Charter permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated for expenditure from Transportation Services Fund prior year reserves the sum of THREE THOUSAND DOLLARS (\$3,000) to be used for the new Volunteer Handicap Program.

Introduced, considered favorably on first reading, and ordered published this 20th day of January, A.D. 2009, and to be presented for final passage on the 3rd day of February, A.D. 2009.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 3rd day of February, A.D. 2009.

Mayor

ATTEST:

City Clerk