



MINUTES REGULAR MEETING  
CITY COUNCIL CHAMBERS  
125 E. 3<sup>rd</sup> Street

Salida, Colorado

February 16, 2010

6:00 p.m.

The meeting was called to order at 6:01p.m.

**PLEDGE OF ALLEGIANCE** –

Led by Mayor Chuck Rose.

**ROLL CALL** -

Present at roll call were Mayor Chuck Rose, Council Members Keith Baker, Scott Damman, Jim McCormick, Jay Moore, Tom Yerkey, and Steven Stewart. Also present were City Administrator Jack Lewis, City Clerk Betty Schwitzer, City Treasurer Eileen Rogers, Assistant Deputy City Clerk Jennifer Orr, and City Attorney Karl Hanlon.

**CITIZEN PARTICIPATION** -

No one signed up to speak.

**PRESENTATIONS** –

None

**SCHEDULED ITEMS**

1. Consent Agenda
  - a. Approval of Agenda
  - b. Approval of Minutes: February 2, 2010

Assistant Deputy City Clerk Jennifer Orr presented information that is included in the packet for review.

A motion was made by Damman to amend the agenda so that item 6 would get moved to number 2 on the agenda. Baker seconded the motion. With all in consensus, THE MOTION CARRIED.

A motion was made by Moore to accept the minutes from February 2, 2010 as amended. Damman seconded the motion. With all in consensus, THE MOTION CARRIED.

2. Whitewater Park & Greenway Phase 4 Improvements project-  
Resolution 2010-11 approving a contract between the City and Lowry Construction Company

Jack Lewis presented material. The request is to award the bid and to approve the contract for construction. There has been interest for several years in the creation of the next phase of the City's Whitewater Park in Riverside Park. A grant was applied for and awarded for the construction of these improvements. The improvements will be another attraction at our current Whitewater Park. These improvements are an economic benefit to our citizens as they bring in people from other areas to kayak and use our river.

The Whitewater Park and Greenway Phase 4 Project has several parts and each part will be bid separately. The project includes the construction of new in-stream whitewater features and the maintenance of existing features and the construction of a retaining wall and trail in Riverside Park, known as the Whitewater Park improvements. Another part of the overall project is construction of a two room flush type restroom at the boat ramp. The third part of this project is the construction of an artificial climbing wall in Riverside Park. This wall will be attached to the retaining wall and will be an added play feature of the Park.

Mr. Lewis reminded Council that this bid is just for the whitewater park, not the other amenities of the park. Mr. Lewis handed out a new budget information for the project. Mike Harvey added that we will have to pay a \$3500 fee to Union Pacific for access to their property. Council received a copy of the bids from the contractors; therefore they saw the range on the spreadsheet. Staff recommended it goes to the lowest bidder, Miles construction out of Buena Vista. Mr. Hanlon said that there is an alternate resolution, also named Resolution 2010-11 (handed out before the meeting) to award the construction bid to Lowry Construction. Hanlon reminded Council that they do have some discretion with approving the bid based on the unique skills of a contractor. Lowry Construction has done a great deal of work in the current whitewater park and is extremely familiar with the project. The bid separation between Miles and Lowry is about \$6,000. Both bids are under the original budget. Hanlon said that the Council has the discretion to go with either. The engineer is fine with either. Mayor Rose said that Mike Harvey is here to answer any questions. Mr. Harvey said that Mr. Lewis' numbers are correct, though the number sounded a little high. Harvey explained that there is \$5500 worth of construction management that was factored in. He also explained that the money has been spent. Mayor Rose sought a motion.

A motion was made by Damman to approve the new Resolution 2010-11, a resolution of the City Council of the City of Salida, Colorado, awarding the Whitewater Park Bid and to approve the City Administrator to enter into a contract with Lowry Construction Company for the construction of the whitewater improvements. Baker seconded the motion.

There was discussion. Hanlon reiterated that Lowry does have a vehicle heavy enough to match the bid specs. Miles would rent a similar vehicle. Attorney Hanlon did not feel like it was a problem if Council selected the second lowest bidder. Dr. Moore asked Attorney Hanlon to reconfirm that Council is within the spectrum mandated in the State Statues, given the experience and bid amounts. Hanlon replied that Council has to be "responsible", which could be to select a contractor with special expertise. Dr. Moore emphasized the expertise that Lowry has on this project.

With all in Consensus THE MOTION CARRIED.

### **3. Citizen appointment to the Planning Commission**

Resolution 2010 – 07 appointment to the Planning Commission.

Community Development Director, Dara MacDonald presented materials in the packet. With the resignation of Mr. Cabe, there is one open position on the Salida Planning Commission. Staff

recommends promoting either Lisa Malde or David Webster to a regular member and appointing either Cheryl Brown-Kovacic or Thomas Gordy as an alternate member.

Lisa Malde and David Webster have been serving as alternate members of the Commission since September 2009. Applications from Thomas Gordy and Cheryl Brown-Kovacic are attached for Council review.

If council wishes, it may appoint Lisa Malde or David Webster to the position of regular member for a term that will expire 4/16/13. It may also appoint one of the two candidates as a new alternate member with term to expire 4/16/13.

Mayor Rose pointed out to Council that Cheryl Brown-Kovacic is in the room if there are questions for her. Mr. Hanlon explained the ballot process. Mr. Lewis handed out the ballots to each Council member. The candidate with the most votes will become a permanent member. The candidates with the 2<sup>nd</sup> and 3<sup>rd</sup> most votes will be in the alternate position.

A motion was made by Stewart to approve Resolution No. 07, 2010, a resolution of the City Council for the City of Salida, Colorado approving the appointment of Cheryl Brown-Kovacic as a regular member and keep Lisa Malde and David Webster as alternate members of the Planning Commission for terms specified in the Resolution. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

#### **4. Citizen appointment to the Board of Adjustment**

Resolution 2010 – 08 appointment to the Board of Adjustment.

Ms. MacDonald presented written materials included in the packet. With the recent resignation of Art Gentile, there are two open positions on the Board of Adjustment. Both Karen Karnuta and Dan Thomas have been serving as alternate members. We have received one application from Timothy Kennedy to join the Board.

If council wishes, it may appoint Karen Karnuta and Dan Thomas to the position of regular members for terms that will expire 1/22/13. It may also appoint Timothy Kennedy as a new alternate member with term to expire 1/22/13.

Mr. Lewis passed out a ballot for this vote. Each council member voted for two candidates on the ballot. After a tally, the following motion was made.

A motion was made by Damman to approve Resolution No. 08, 2010, a resolution of the City Council for the City of Salida, Colorado approving the appointment of Dan Thomas and Timothy Kennedy as a regular members and keep Karen Karnuta as an alternate member of the Board of Adjustment for terms specified in the Resolution. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

#### **5. Citizen appointment to the Board of Appeals**

Resolution 2010 – 09 appointment to the Board of Appeals.

Ms. MacDonald presented written materials included in the packet. There is one open position on the Board of Appeals. Dan Thomas has been serving as alternate member and Larry Beverly was recently appointed as an alternate member. We have received two applications from Timothy Kennedy and Gary Bolte to join the Board.

If council wishes, it may appoint Dan Thomas or Larry Beverly to the position of regular member for a term that will expire 3/17/13. It may also appoint Timothy Kennedy or Gary Bolte as a new alternate member with term to expire 3/17/13.

Damman made a motion to approve Resolution No. 09, 2010, a resolution of the City Council for the City of Salida, Colorado approving the appointment of Dan Thomas as a regular member and Gary Bolte as an alternate member of the Board of Appeals for terms specified in the Resolution. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

#### **6. Joint Planning IGA update with Chaffee County**

Resolution 2010- 10 approving an Intergovernmental Agreement with Chaffee County for joint planning in areas around the municipality.

Ms. MacDonald presented materials included in the packet and reiterated that the goal is to clarify the application process. The revised IGA and Joint Planning Map were recommended for approval by the Salida Regional Planning Commission on December 16, 2009 and the Salida Planning Commission recommended the Council adopt them on January 25, 2010. The Chaffee County Planning Commission made a similar recommendation to the Board of County Commissioners on January 26, 2010. The Board of County Commissioners will review this agreement during their meeting on March 2, 2010.

Review by the Salida Regional Planning Commission, Chaffee County Planning Commission, and Salida Planning Commission were publicly noticed. In addition, letters were mailed directly to the Town of Poncha Springs and all property owners within the proposed changes to the map notifying them of the proposed changes and informing them of the dates for the City Council and Board of County Commissioners review.

#### **INTERGOVERNMENTAL AGREEMENT PROVISIONS:**

The following is a summary of the changes proposed to the text of the 2008 IGA.

**Section 7.5.** The Salida RPC shall annually review [the] Agreement and make recommendations with respect to any changes or updates to the Agreement requested by either party.

**Section 7.1.a.** of the IGA states that the “City of Salida, Chaffee County, or any individual or entity may request an amendment to the Municipal Services Area, the Municipal Growth Area or Other Sections of this Agreement”.

**Section 7.1.b.** of the IGA states that “the request shall be forwarded to the Salida RPC for review and consideration. Upon recommendation of the Salida RPC, the Salida City Council and the Chaffee County Commissioners will review the proposed amendment. The Municipal Services, the Municipal Growth Area, or other Sections of this Agreement shall be amended only with approval of both the City and the County, after following their respective procedures.”

**Section 7.1.c** of the IGA states that “the amended Municipal Services Area, Municipal Growth Area, or IGA section shall be made in writing and shown, if appropriate, on Exhibit A of this Agreement. The amendment shall be signed and dated by the Mayor of the City and the Chair of the Chaffee County Board of County Commissioners (or acting Chair).”

#### **IGA LANGUAGE CHANGES:**

No land use applications have been processed through the Salida Regional Planning Commission, however pre-application conferences between potential applicants and staff have brought forth

concerns with respect to language vagaries and process issues, which may be eliminated or reduced with clarifying language. The IGA is attached as Exhibit A. Some of the changes are minor and are not enumerated on this staff report. The major content changes to the IGA include:

1. Municipal Services Area. The IGA essentially states that properties within the Municipal Services “MSA” are eligible for and will be annexed into the City of Salida. However, after further evaluation of specific applications, not all properties are best served by an immediate annexation. The IGA has been amended to include two types of applications in the MSA: (1) those properties that will be immediately annexed; and (2) those properties that, after further review by the City, will not be immediately annexed. In either case, the application is first reviewed by the City. If necessary, the application is then referred to the County to be processed under County regulations. The section goes into more detail on how these applications are processed. There is also a provision for those applicants that cannot reach an agreement with the City on annexation or pre-annexation terms.
2. “Municipal Growth Area” to “Municipal Planning Area”. Some areas in the Municipal Growth Area may not be appropriate for growth, such as proposed trails/open space and productive agricultural parcels. These parcels, however, are appropriate for planning in collaboration with private property owners and other agencies. The term “growth area” can be considered a misnomer, and the term “Municipal Planning Area” may be better suited for these areas. The term and corresponding acronym (MPA) have been changed throughout the document.
3. Article V, Municipal [Growth] Planning Area.
  - Some of the language has been re-organized.
  - Some verbiage has been replaced, taking into consideration “planning” versus “growth”.
  - Section 5.3.a.ii. One-week (7 Days) public hearing notice requirements for the Salida RPC.
  - Section 5.3.iii and v. clarification regarding City review letters and County staff reports.
  - Section 5.3.vii, City staff can make a finding that the City’s interests are not significantly impacted.
  - The SRPC is charged with creating land use development standards in the MPA.
4. Article VI, Salida RPC. Membership appointments reduced from three members and an alternate from each of the City and County Planning Commissions to a requirement of three members from each Commission, with no alternate.
5. Article VI, Salida RPC. Quorum requirements reduced to four members with at least two members from the County and two members from the City.

**MAP REVISIONS:** The revised map is attached hereto as Exhibit B. There are four areas on the Joint Planning Map that are proposed to change, which includes 32 parcels. Staff has sent out a letter to the property owners describing their potential inclusion into the Joint Planning Area and has invited them to attend the public hearings being held by either the City of Salida or Chaffee County. The four areas are:

1. AREA 1: Area 1 is northwest of Salida and includes DOW lands, Franz Lake, lands east of the airport, the Arkansas River, the cemetery, and several large productive agricultural parcels. Other smaller parcels are also included that front County roads in the vicinity. This area was recommended by the Salida RPC because of potential airport expansion, potential connections to the north, the collaborative implications with DOW and the Heart of the Rockies Regional Medical Center, and the critical intersections in the vicinity (i.e., CR 154/CR160). The area serves the cemetery and several

large working ranches that do not have development plans at the current time. The IGA recognizes the County's Right to Farm and Ranch Ordinance and it must be emphasized that uses by right, such as subdivision exemptions, building permits, and replats are exempt from IGA provisions. All existing land uses that are permitted by code and IGA provisions will continue as a use by right unless landowners choose otherwise. Note that this area is also included in the Salida Regional Transportation Plan.

2. AREA 2. This area includes only one 39.76-acre parcel of land, which is located along the west side of County Rd 175 (Ute Trail). This parcel has the potential of being developed to County standards (2-acre lots) and is currently zoned Rural Residential. It is a prime piece of property due to its location adjacent to existing high-density development (Ute Heights) and its frontage along County Road 175. A trail is also proposed along this county road. This area is important with respect to transportation connections and land use implications and is being included in the Joint Planning Map. Additional collaboration among private property owners in the area and governmental agencies will be necessary if and when development is proposed.

3. AREA 3. This area is comprised solely of property owned by the City of Salida and includes the City's water galleries. These galleries are the City's water supply source that should be protected with respect to point source and non-point source water pollution.

4. AREA 4. The properties included in this east entrance corridor include approximately eight mining claims on the north side of Highway 50 that are surrounded by public lands. These lands are highly visible from the highway due to their topography and vegetative coverage. The parcels on the south of the highway are tracts that are also highly visible but also have frontage along the highway. Salida has significant interests in protecting this entrance corridor and preserving the natural characteristics at the entrance to the valley and City. This east gateway to the City of Salida along Highway 50 should be included in long-range planning efforts that will include a public outreach component. This could be the subject of a grant with CDOT for corridor planning at some point in the future. This is also a valuable recreational area with potential partnerships with Union Pacific, the Bureau of Land Management, GOCO, private property owners and local trail advocates.

The Salida RPC is required to annually review the Intergovernmental Agreement (IGA) between the City of Salida and Chaffee County dated March 18, 2008 regarding coordinated land use planning efforts in the unincorporated areas surrounding the City of Salida. After review of the IGA, language and map changes may be prudent. The majority of the proposed language changes are related to application processing procedures in the Municipal Services Area, Municipal Growth (Planning) Area. The map is proposed to have four areas added to the Municipal Growth (Planning) Area.

Staff would suggest approving the resolution approving the amended Intergovernmental Agreement with Chaffee County for joint planning of areas around the municipality.

Councilmember McCormick asked to review #1. MacDonald explained that Area #1 is composed of the division of wildlife lands, the Richardson property, and property of Karen Waltz. MacDonald said that it is important to include this area because it is a future collector (road) and could be an important corridor in the future. Councilmember Stewart asked if MacDonald had received any comments in the process. MacDonald said she had not heard any comments. She reminded Council that property owners have been contacted by mail. McCormick asked about the cemetery, since it is near the collector road. MacDonald answered that the County considered it at last week's meeting, but it didn't have a quorum. The IGA will be back on the agenda for the March 2<sup>nd</sup> meeting. The other problem was that the County didn't have the Resolution in front of them .

Yerkey made a motion to approve Resolution No. 10, 2010, a resolution of the City Council of the City of Salida approving an amended intergovernmental agreement between the City of Salida and Chaffee County. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

**7. Mobile Communication Devices – 2<sup>nd</sup> reading** Second Reading, Public Hearing

Ordinance 2010 – 01 amending Section 8-1-20 of the Salida Municipal Code, amendments to the Model traffic Code, to add regulation for the use of Mobile Communications Devices.

Hanlon presented materials included in the packet. In 2009 the Colorado State Legislators banned cell phone use by drivers under 18 and with this texting while driving was banned state wide. Council approval of this ordinance will allow these offences to be heard in Municipal Court.

Hanlon explained that this is a fairly routine change. Mayor Rose asked if there were any questions.

Mayor Rose opened the public hearing. He asked anyone to come forward to speak. No one chose to speak. Mayor closed the hearing.

McCormick asked if this Ordinance covers bicycles? Hanlon answered that if a cyclist is on a sidewalk and acting as pedestrian, then the cyclist is not subject to the law. However, if the cyclist is acting like a car, then he or she is subject to the laws. Mayor Rose would like all modes of transportation to abide by the laws. McCormick added, “especially bicycles”.

A motion was made by Damman to approve ORDINANCE 2010 – 01 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING SECTION 8-1-20 OF THE SALIDA MUNICIPAL CODE, AMENDMENTS TO THE MODEL TRAFFIC CODE, TO ADD REGULATIONS FOR THE USE OF MOBILE COMMUNICATIONS DEVICES. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

**8. City Administrator/City Attorney/Deputy City Clerk**

Administrator’s Report – (Jack Lewis) Administrator’s Report

1. Toubert Building window covering request for proposal. The management team issued the RFP for window coverings for the Toubert building. The bid summary is included. Durango Interiors is the low bidder. City Staff recommends going with Durango Interiors, as they are 28% less than the second lowest bidder. That works out to have an average price per window of \$123 compared to \$147. Mr. Lewis asked that County and City be responsible for their own windows. Mr. Lewis stated that the City has not determined how many are the City’s windows, therefore he does not have a total cost to bring to Council. The Administrator asked Council to make a motion to award the bid to Durango Interiors and authorize the Administrator to not spend more than \$12,000. Baker asked if the plan was to cover all the windows. Mr. Lewis answered that some windows will not be covered.

A motion was made by Yerkey to award Durango Interiors the window covering bid and authorize the Administrator to not spend more than \$12,000. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

2. Division of wildlife letter. Staff of the Natural Resource Center has spoken to the Division of

Wildlife. Mr. Lewis is pleased to show the letter to Council. The letter is a strong statement that the DOW wants to continue negotiating with the NRC for space on Vandevener Ranch. It is not a letter of intent, but it is still good news.

3. On Feb 23<sup>rd</sup> at 5:30 PM, there will be a meeting in Buena Vista regarding the possibility of a County wide sales tax proposal. City Finance Director, Jan Schmidt, put together a lot of background data explaining where sales tax comes from in the County. The Finance Directors of the municipalities and the City Administrators came up with a number of different ways to split the County sales tax, if we went to a 4% County sales tax. All the iterations came to the same splits. Mr. Lewis explained that the City staff needs elected official buy-in. Mr. Lewis recommends that he and a council member could go to Buena Vista on February 23<sup>rd</sup> to hear and talk about the benefits of the County wide sales tax. It could be on this year's ballot. This meeting will be a posted open work session. The exact location is to be confirmed. Damman suggests that everyone attend the meeting. It is very important. We should show our support. Food will be provided.

4. Tomorrow morning, February 17<sup>th</sup>, staff will go through the punch list with DSI on the Touber building at 8:30. The City is very close to be ready to move in.

b. City Attorney Report -

Mr. Hanlon stated that his business will wait for the Executive session later this evening.

c. Deputy City Clerk Report

Assistant Deputy Clerk, Jennifer Orr presented materials included in the packet. Seven water samples were submitted dated 2/1/10 (2), 2/2/10 (2), and 2/08/10(3). All tested safe as reported by the Colorado Department of Health.

The events committee will start meeting this week. The committee consists of Public Works Director Rob Vance, Fire Chief Don Taylor, Police Chief Terry Clark, Ashley Kontz, Recreation Coordinator, and Janella Martinez. There are already several applications requesting use of City property. These requests will be coming to Council on the consent agenda following staff review.

Mayor Rose asked if the water samples could be posted on the internet. Rose would like to see the Water and Sewer departments get credit for a great job.

## 9. Elected Official Reports

a. City Treasurer

Eileen Rogers presented written material that she handed out at the meeting. Sales tax recorded for December 2009 was received last week. For sales within the City, tax collections totaled \$300,441. This indicates an 8.6% decrease in taxable sales from December 2008. Salida's share of the county tax was \$107,419, also an 8.6% decrease from December 2008.

For the full year of 2009, City sales tax was \$3,461,786. Taxable sales reported by vendors located in city limits fell by 5.49%. Staff had already prepared for a 5% decrease when budget cuts were implemented in early 2009. Actual results were approximately \$18,000 worse than expected.

For the full year of 2009, Salida's share of the county tax was \$1,232,600, an 8.1% decrease compared to 20p08. Staff anticipated a 10% decrease in county taxes, since Salida's share of the total is also



decreasing. The drop in county tax collections was not quite as large as anticipated and offset most of the shortfall in City tax collections.

In total, actual sales tax collections fell short of the adjusted budget of \$1,600. If compared to the original budget, actual collections dropped \$318,600. Expenditures of roughly this same amount were cut from the budget to offset the shortfall in revenue.

Each month, City staff reviews a distribution report that shows the amount reported by filing period and vendor. "Out of period" collections and other unusual items are noted, and an effort is made to report the year over year changes as a "real" reflection of the economic activity for that period. The net of these adjustments was not significant for the month of December.

As elected officials, we want business owners and residents to know we are paying close attention to sales tax. It is important to understand how important this source of revenue is to our community. The City does not impose a property tax. Therefore, sales tax is the most important funding source for the City/ Three-quarters of the City's general fund revenue is provided through collection of sales tax, if one-time grants are excluded. (this figure is 68% if grants are left in).

The majority of monies to pay for capital projects and on-going maintenance and operations is provided by sales tax. When business is off for our local vendors, the City's budget also suffers. A 1% decrease in taxable sales in 2010 will equate to approximately \$47,000 less than can be spent for City services or capital investments.

Mayor Rose thanked Eileen Rogers for such great information. Rose says that the budget is now understandable. The monthly information is fantastic. Ms. Schmidt has been wonderful. The City has to know if the City has any money in order to know what services we can provide. Moore pointed out that the estimate was incredibly accurate. Baker asked if this reflects fewer commodities being purchased, or is it that costs have gone down. How could the City track that?

b. Mayor –

Mayor Rose received a call from Bob Hays with Muscular Dystrophy Association of Colorado. He thanked the community for the fundraising efforts. The response was beyond expectation by two times.

In the Colorado Municipal League newsletter, it mentions the Touber building. Ed Touber was mayor for a long time. He was also president of the CML and was thought highly of. Rose congratulated council and the county commissioners for naming it the Touber Building.

Mayor Rose added that it is always a pleasure to work with the City Council. There is a broad range of politics, but Council has worked together well. Council members recognize they need to do what is best for the community. We are in difficult times. Males from 25-55 years old are unemployed at a rate of 20%; that is huge. Rose does not think we are feeling it here yet. As we deal with the upcoming challenges, we have to use this council and work together. Council deals with conflicts (dog park vs soccer association). Council is looking for solutions for all of the people of Salida. The community needs to get involved to make its desires known. It is satisfying when we accomplish these goals.

a. City Council-

Yerkey said that he believes the success of the Council is from the vast range of the ages of the Council

members.

**EXECUTIVE SESSION -**

A motion was made by Damman to move into executive session for the purpose of determining positions relative to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R. S. Section 24-6-402 (4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: To discuss negotiations on the Poncha Springs sewer agreement. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

Mayor Rose announced the time as 7:07 p.m.

Council reconvened in regular session at 8:21 p.m. Those present during the Executive Session were Mayor Rose, Council Members Scott Damman, Jim McCormick, Jay Moore, Steven Stewart, Keith Baker and Tom Yerkey. Also present were City Administrator Jack Lewis and City Attorney Karl Hanlon.

**ADJOURNMENT –**

A motion was made by Moore to adjourn the meeting at 8:22 p.m. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

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**Mayor**

**[SEAL]**

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**Assistant Deputy City Clerk**

Respectfully submitted by Jennifer Orr, Assistant Deputy City Clerk