

MINUTES
CITY COMMISSION MEETING
OLD CITY HALL, 510 GREENE STREET
TUESDAY, SEPTEMBER 7, 2010

A regular meeting of the City Commission of the City of Key West, Florida was held in Commission Chambers, Old City Hall, on Tuesday, September 7, 2010.

Mayor Craig Cates called the meeting to order at 6:00 p.m.

Answering roll call were Commissioners Barry Gibson, Teri Johnston, Clayton Lopez, Billy Wardlow, Jimmy Weekley and Mayor Craig Cates.

Commissioner Mark Rossi was absent.

Also present were City Manager Jim Scholl, Assistant City Manager David Fernandez, Assistant City Manager Mark Finigan, City Attorney Shawn Smith, City Planner Amy Kimball-Murley, Police Chief Donie Lee, Fire Chief David Fraga, Division Chief of Operations Michael Davila, Division Chief/EMG Management & Training Craig Marston, Community Services Director Greg Veliz, Utilities Manager Jay Gewin, Parking Manager John Wilkins, Senior Project Manager Doug Bradshaw, Senior Property Manager Marilyn Wilbarger, Senior Deputy City Clerk Sue Harrison and City Clerk Cheri Smith.

Reverend Sinclair Forbes, of Bethel AME Church, gave the invocation.

The pledge of allegiance to the flag of the United States of America was given by all present.

CHANGES TO THE AGENDA

City Manager Jim Scholl stated the applicant for Resolution Item 22 had requested a postponement until December 7, 2010.

Commissioner Johnston asked that Item 10 be removed from the Consent Agenda for discussion and clarification.

Without opposition, the agenda was accepted as changed.

PROCLAMATIONS:

- 1) The City of Key West Firefighter Appreciation Month
- 2) Childhood Injury Prevention Month

PRESENTATIONS:

City Attorney's Report

The City Attorney had no report for the Commission.

Commissioner Johnston asked if they were still on track with the Assisted Care Facility. Mr. Smith responded he had forwarded an email from the group to the Commission and they were moving forward to select a provider. He would keep them up to date on the progress.

City Manager's Report

City Manager Jim Scholl updated the Commission regarding the vegetation to be used on North Roosevelt Boulevard after the FDOT work is completed.

Commissioner Johnston asked for an update to maintain the Coconut Palms. He would provide that information.

Mr. Scholl reported on the Truman Waterfront Development process and the marina. He stated the conflict of use had been resolved. Mr. Scholl reported on a meeting held on September 3, 2010 with the Monroe County staff, the County Administrator, County Attorney, Assistant County Attorney and the Executive Director of the TDC regarding the City's request for an Attorney General opinion and other issues on TDC funding.

Commissioner Gibson asked City Attorney Smith if he knew what the time frame would be if they did make a request for an Attorney General opinion. Mr. Smith responded that it could be thirty days. He stated he was not convinced the Attorney General will issue an opinion to the City as they are not the body that controls the funds. He said he watched the County meeting and three County Commissioners indicated the City Commission should seek the opinion because it has a significant stake

in the revenues that are generated in the City. He asked for direction to go ahead and seek the opinion from the Attorney General so they can have a clear signal on what is or is not permissible.

Commissioner Weekley wanted to see the City start planning for a park and make adjustments to the plan that had been approved.

The Commission agreed the City Attorney should seek the Attorney General opinion on the funding source and the sunset issue with the ordinance.

Commissioner Gibson requested the City Manager provide a timeline for approval.

Commissioner Lopez concurred with Commissioner Weekley. He stated he had an item to be presented on September 21, 2010 by resolution to move ahead with something on the Truman Waterfront parcel.

City Manager Scholl would see what he could bring back for them on September 21st with regard to a timeline.

Mayor Cates asked if the developer was prepared to finance the project themselves or would they rely on the County's funding. Mr. Scholl stated they could fund the project by different means but he would provide more detail in that regard.

The City Manager continued reporting they had a fourth public meeting of the Bahama Village / Truman Annex connectivity proposal on September 1, 2010. The final presentation was well received.

Mr. Scholl reported there had been a meeting on the Glynn Archer School property and on September 21, 2010 they will have a framework to look at for a potential agreement with the School Board for acquisition of the property. The School Board would look at the item after that at their meeting on September 28, 2010.

Mr. Scholl reminded the Commission that on September 14, 2010 at 6:00 p.m. they would have the first public hearing on the proposed budget for the next fiscal year and the next meeting to formally adopt the budget would be September 23, 2010 at 6:00 p.m., both meetings held at Old City Hall.

Commissioner Johnston asked the City Manager about the soccer fields. Mr. Scholl said the HOB soccer field would not be available for use due to the construction of the new school at the location. He did say Dr. Burke had promised all of the athletic facilities would be available to support the soccer leagues during the disruption at HOB. They are committed to relocating all the matches that would have taken place there to other properties. The field should be returned to athletic use after construction of the school. There is also a commitment to place soccer fields at Poinciana School.

CONSENT AGENDA:

The Clerk read the titles of the Resolutions.

It was moved by Commissioner Johnston and seconded by Commissioner Weekley to approve the consent agenda items.

The Mayor acknowledged the motion and second and requested verbal approval. The response was unanimous to approve the Minutes and pass the Resolutions as read.

APPROVAL OF MINUTES:

- 3) April 24, 2010 (Joint Workshop)
- 4) July 26, 2010 (Budget Workshop)
- 5) July 27, 2010 (Budget Workshop)
- 6) July 27, 2010 (Commission Workshop)

RESOLUTIONS:

RESOLUTION NO. 10-248

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPOINTING BRYAN GREEN TO THE HISTORICAL ARCHITECTURAL REVIEW COMMISSION (HARC); PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-249

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RE-APPOINTING DANILO CRESPO TO THE KEY WEST TREE COMMISSION; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-250

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RE-APPOINTING GREGORY A. CURRY, SR. TO THE KEY WEST TREE COMMISSION; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-251

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES TO MARK ROSSI AND THE HEMINGWAY HOUSE FOR AN EVENT TO TAKE PLACE AT THE HEMINGWAY HOUSE AT 907 WHITEHEAD STREET DURING THE HOURS OF 6:00 P.M. TO 11:30 P.M. ON SATURDAY, OCTOBER 9, 2010; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-252

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES TO THE PIER HOUSE RESORT & CARIBBEAN SPA FOR AN EVENT TO TAKE PLACE DURING THE HOURS OF 8:00 P.M. TO 11:30 P.M. ON THURSDAY, OCTOBER 28, 2010; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-253

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING CONCH REPUBLIC OFFSHORE POWERBOAT RACING ASSOCIATION TO CONDUCT THE KEY WEST WORLD CHAMPIONSHIP RACES ON NOVEMBER 7 – 12, 2010; A BOAT PARADE ON SUNDAY NOVEMBER 7, 2010 STARTING AT 4:00 P.M., A BLOCK PARTY ON FRIDAY NOVEMBER 12, 2010 FROM 7:00 P.M. TO 10:00 P.M.; AND AWARDS CEREMONY AT THE TRUMAN WATERFRONT ON SATURDAY, NOVEMBER 13, 2010 FROM 6:00 P.M. TO 10:00 P.M. PARADE WILL BE STARTING AT TRUMAN ANNEX SOUTHARD STREET GATE TO WHITEHEAD STREET – RIGHT GOING SOUTH TO UNITED STREET – LEFT TO DUVAL STREET – LEFT GO NORTH TO FRONT STREET TO WHITEHEAD STREET – LEFT GO SOUTH TO SOUTHARD STREET AND RIGHT BACK TO TRUMAN ANNEX; A STREET PARTY ON FRIDAY, NOVEMBER 12, 2010, FROM 7:00 P.M. TO 10:00 P.M. PURSUANT TO TERMS AND

CONDITIONS SET FORTH BY THE CITY MANAGER; AUTHORIZING THE CLOSURE OF DUVAL STREET BETWEEN FLEMING AND FRONT STREETS INCLUDING GREENE FROM ANN TO FITZPATRICK STREETS AND DUVAL STREET; GRANTING A SPECIAL EVENT PERMIT PURSUANT TO SECTION 6-86 OF THE CODE OF ORDINANCES; AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE ENCLOSED AREA; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-254

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE SUSTAINABILITY ADVISORY BOARD TO ASK FDOT TO CONSIDER THE USE OF LED LIGHTING IN THE NORTH AND SOUTH ROOSEVELT BOULEVARD RECONSTRUCTION PROJECTS; DIRECTING STAFF TO CONSIDER THE USE OF LED LIGHTING IN A PILOT PROJECT ON PINE AND OLIVIA STREETS IN KEY WEST; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-255

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A \$500.00 GRANT FROM LAW ENFORCEMENT TRUST FUND TO THE KEYS CENTER ACADEMY FOR USE IN SUPPORT OF THE COUNSELING COMPONENT OF THE PROGRAM; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-256

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, ACCEPTING AMENDMENT #1 TO 2009 EMERGENCY SHELTER GRANT AGREEMENT #KFZ33 FROM THE STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-257

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING THE SOLE SOURCE PURCHASE PURSUANT TO CITY CODE 2-797(1)(B), OF CITY BUS FARE BOX SOFTWARE UPGRADES FROM GFI GENFARE IN AN AMOUNT NOT TO EXCEED \$22,500.00 IN ACCORDANCE WITH CITY CODE SECTION 2-844 FOR THE KEY WEST DEPARTMENT OF TRANSPORTATION; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-258

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED PURSUANT TO SECTION 2-797(3) OF THE CODE OF ORDINANCES THE BID OF GARBER AUTOMALL IN THE TOTAL AMOUNT OF \$24,469.00 FOR ONE E-85 FLEX FUEL COMPLIANT VEHICLE FOR USE BY THE KEY WEST POLICE DEPARTMENT; APPROVING BUDGET TRANSFERS; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-259

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AWARDED THE BID OF SEAMAR DIVERS, INC. IN THE AMOUNT OF \$4,935.00 PER MOORING FIELD INSPECTION; PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. 10-260

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AUTHORIZING AN ADJUSTMENT IN THE AMOUNT OF \$7.50 FOR THE USER FEE OF EACH EQUIVALENT STORMWATER UNIT (ESU); PROVIDING FOR AN EFFECTIVE DATE

RESOLUTION NO. Postponed to December 7, 2010

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING A MAJOR MODIFICATION TO THE MAJOR DEVELOPMENT PLAN; APPROVING MODIFICATION TO REQUIRED AISLE WIDTH AND PARKING STALL SIZE PER SECTION 122-699(9) AND SECTION 108-91(A)(2)(B) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA, FOR THE PROPERTY LOCATED AT 512 GREENE STREET (RE #00001170-000000); PROVIDING CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

The said Resolutions were thereupon declared by the Mayor to have been duly passed and adopted and were authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. 10-261

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, SUPPORTING THE SURVEY PROPOSED BY PROFESSOR KAREN A. LARSON REGARDING HOMELESS SERVICE PROVIDERS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following person spoke on the matter:

Wendy Coles, Executive Director SHAL

It was moved by Commissioner Gibson and seconded by Commissioner Lopez that the Resolution be passed and adopted replacing “endorsing” with “encouraging” support for the survey.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Wardlow, Weekley and Mayor Cates

Nays: None

The said Resolution was thereupon declared by the Mayor to have been duly passed and adopted and was authenticated by the signatures of the Mayor and the Clerk of the Commission.

SO ORDERED

RESOLUTION NO. Postponed to November 3, 2010

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, DIRECTING THE CITY MANAGER TO TAKE ALL NECESSARY STEPS TO PREPARE THE SITE AT 525 ANGELA STREET FOR DEMOLITION AND CONSTRUCTION OF A NEW FIRE STATION; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Resolution.

The following people spoke on the matter:

Jim Scholl, City Manager
Shawn Smith, City Attorney
Marilyn Wilbarger, Senior Property Manager
Michael Ingram, Architect
David Fernandez, Assistant City Manager

It was moved by Commissioner Weekley and seconded by Commissioner Johnston for the item to be postponed to November 3, 2010.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Wardlow, Weekley and Mayor Cates

Nays: None

SO ORDERED

ORDINANCE - FIRST READING:

ORDINANCE NO. Second Reading September 21, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY ADDING SECTIONS 2-700 THROUGH 2-704 IN ORDER TO ESTABLISH THE "CAROLINE STREET CORRIDOR TAX INCREMENT FINANCING BOARD"; PROVIDING FOR ITS CREATION, COMPOSITION, TERMS, DUTIES AND SUNSET; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Mike Mongo, 1218 Pearl Street
Mark Finigan, Assistant City Manager
Amy Kimball-Murley, City Planner
Shawn Smith, City Attorney

It was moved by Commissioner Johnston and seconded for discussion by Commissioner Gibson that the Ordinance be amended removing the sentence in Section 2-701(a) stating "which appointment shall be subject to approval by a majority vote of the city commission. The city commission shall strive to obtain broad representation among the members by appointing persons of different incomes, housing circumstances and life and work experiences."

After discussion the City Attorney suggested additional language regarding notification to the commission at a public meeting.

Commissioner Johnston withdrew her motion and moved to accept the ordinance with the amendment striking the statement “which appointment shall be subject to approval by a majority vote of the city commission” and language to be added that their appointment be noticed in a public meeting.

The Mayor declared the motion failed for lack of a second.

It was moved by Commissioner Weekley and seconded for discussion by Commissioner Johnston that the Ordinance be passed as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Lopez, Weekley and Mayor Cates

Nays: Commissioners Johnston and Wardlow

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. Second Reading September 21, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES ENTITLED “ENVIRONMENT” BY AMENDING SECTION 26-194 TO PROVIDE FOR THE REGULATION OF SOUND EMANATING FROM A PUBLIC RIGHT OF WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

The following person spoke on the matter:

Shawn Smith, City Attorney

It was moved by Commissioner Weekley and seconded for discussion by Commissioner Johnston that the Ordinance be passed as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Lopez, Wardlow and Weekley

Nays: Commissioner Johnston and Mayor Cates

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. Second Reading September 21, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 110 OF THE CODE OF ORDINANCES ENTITLED "RESOURCE PROTECTION" BY AMENDING SECTION 110-255 TO PROVIDE FOR PALM WEAVING PERMIT ISSUANCE PURSUANT TO SECTION 6-1 THROUGH 6-9; RESTRICTING THE METHODOLOGY OF COCONUT PALM TREE TRIMMING; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

It was moved by Commissioner Weekley and seconded by Commissioner Gibson that the Ordinance be passed as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Lopez, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

The Mayor requested a ten minute recess.

Commissioner Lopez left Commission Chambers and did not return for the remainder of the meeting.

ORDINANCE NO. Second Reading September 21, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 58 OF THE CODE OF ORDINANCES ENTITLED "SOLID WASTE" BY AMENDING SECTION 58-64 TO ADJUST NAVY GENERATED SOLID WASTE RATES; AMENDING SECTION 58-65 TO ADJUST RESIDENTIAL RATES; AMENDING SECTION 58-66 TO ADJUST COMMERCIAL SOLID WASTE RATES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

The following person spoke on the matter:

Jim Scholl, City Manager

It was moved by Commissioner Weekley and seconded by Commissioner Gibson that the Ordinance be passed as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Wardlow and Weekley

Nays: Mayor Cates

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ORDINANCE NO. Second Reading September 21, 2010

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 74 OF THE CODE OR ORDINANCES ENTITLED "UTILITIES" BY AMENDING SECTION 74-246 TO ADJUST THE SEWER SERVICE MONTHLY BASE CHARGE UNIT (BCU); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

The Clerk read the title of the Ordinance.

The following people spoke on the matter:

Jim Scholl, City Manager
Jay Gewin, Utilities Manager
David Fernandez, Assistant City Attorney

It was moved by Commissioner Weekley and seconded by Commissioner Gibson that the Ordinance be passed and adopted as read.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Johnston, Wardlow, Weekley and Mayor Cates

Nays: None

The said Ordinance was thereupon declared by the Mayor to have been duly passed on first reading.

SO ORDERED

ADMINISTRATIVE APPEAL:

RESOLUTION NO. 10-262

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, DENYING THE APPEAL OF RICK RICHTER FOR THE PLANNING BOARD APPROVAL OF A CONDITIONAL USE AS CONTAINED IN RESOLUTION 2010-028 FOR A WIRELESS TELECOMMUNICATIONS FACILITY AS A PRIVATE UTILITY TO BE LOCATED AT 1010 KENNEDY DRIVE; PROVIDING FOR AN EFFECTIVE DATE

AN APPEAL OF THE PLANNING BOARD APPROVAL OF A CONDITIONAL USE AS CONTAINED IN RESOLUTION 2010-028 FOR A WIRELESS TELECOMMUNICATIONS FACILITY AS A PRIVATE UTILITY TO BE LOCATED AT 1010 KENNEDY DRIVE BY RICK RICHTER, PRESIDENT KEYS WI-FI, INC.

The following people spoke on the matter:

Shawn Smith, City Attorney
Rick Richter, Keys Wi-Fi, Inc.
John Allison, Attorney representing the Kennedy Building Associates

It was moved by Commissioner Johnston to send the application for conditional use back to the Planning Department to process through the system from the beginning.

The Mayor asked for a second to the motion, seeing none the motion died.

It was moved by Commissioner Weekley and seconded by Commissioner Gibson to deny the appeal.

The Mayor requested the Clerk call the roll.

Yeas: Commissioners Gibson, Wardlow, Weekley and Mayor Cates

Nays: Commissioner Johnston

SO ORDERED

CITIZEN COMMENTS:

Christine Russell, 1014 Grinnell Street

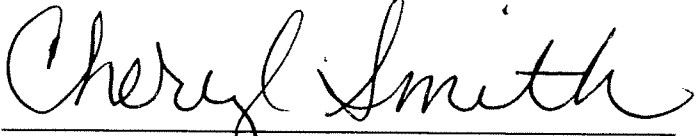
COMMISSION COMMENTS:

Commissioner Weekley asked the City Manager to arrange a meeting regarding the Frances Street issue with Mr. Britton within the next few weeks.

Commissioner Wardlow asked the City Manager to have the planters along the new section of Flagler Avenue to White Street cleaned up.

ADJOURNMENT:

There being no further business the Mayor adjourned the meeting at 9:23 p.m.


Cheryl Smith, MMC, CPM
City Clerk