

MINUTES - MORRO BAY CITY COUNCIL
CLOSED SESSION – JANUARY 11, 2010
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember

STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Grantham moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Winholtz and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

CS-1 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.

Discussions regarding Personnel Issues related to the reorganization of City Maintenance.

CS-2 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY

TRANSACTIONS. Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

- Property: Lease Site 86/86W; 801 Embarcadero
Negotiating Parties: City and Caldwell
Negotiations: Lease Terms and Conditions.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

MOTION: Councilmember Borchard moved the meeting be adjourned. The motion was seconded by Councilmember Smukler and unanimously carried. (5-0)

The meeting adjourned at 5:50 p.m.

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VETERANS MEMORIAL HALL - 6:00 P.M.

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

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	Deputy City Clerk
	Bruce Ambo	Public Services Director
	Mike Pond	Fire Chief
	John DeRohan	Police Chief
	Joe Woods	Recreation & Parks Director
	Kathleen Wold	Senior Planner
	Dylan Wade	Utilities/Capital Projects Manager
	Janeen Burlingame	Management Analyst

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

David Nelson expressed concern that Dynegy is not abiding by their lease agreement by demolishing the tank farm at the power plant. He also encouraged green wastewater treatment plants.

Jack McCurdy stated there are articles in the website www.slocoastjournal.com that address the questions of what happened to the new Morro Bay Power Plant that was planned to replace the existing plant.

Mike Burton, Central Coast Little League President, announced the upcoming registration dates for Little League as well as their need for volunteers to help with umpiring, team parents, snack bar and coaching. He also expressed his thanks to Del Mar Elementary School for their generous donation that will fund scholarships for local kids who can't afford the Little League registration fees.

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Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE DECEMBER 14, 2009 CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 CITY COUNCIL ANNUAL REGULAR MEETING SCHEDULE FOR 2010; (ADMINISTRATION)

RECOMMENDATION: Receive for information.

A-3 REVIEW AND APPROVE RESOLUTION NO. 01-10 AUTHORIZING THE APPLICATION FOR PROPOSITION 84, STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM OF 2008 AND NATURE EDUCATION FACILITIES GRANT PROGRAM FUNDS FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

RECOMMENDATION: Adopt Resolution No. 01-10.

A-4 RESOLUTION DECREASING THE PARKING IN-LIEU FEES FOR 600 MORRO BAY BOULEVARD TO \$4,000 PER SPACE; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 02-10.

A-5 AUTHORIZATION TO FILL THE ADMINISTRATIVE/HOUSING PROGRAMS COORDINATOR POSITION; (PUBLIC SERVICES)

RECOMMENDATION: Authorize Staff to fill the Administrative/Housing Programs Coordinator vacancy.

Mayor Peters pulled Item A-1 from the Consent Calendar; Councilmember Borchard pulled Items A-2 and A-3; Councilmember Winholtz pulled Item A-4; and Councilmember Smukler pulled Item A-5.

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A-1 APPROVAL OF MINUTES FOR THE DECEMBER 14, 2009 CITY COUNCIL MEETING; (ADMINISTRATION)

Mayor Peters requested the following amendments to the minutes of December 14, 2009:

- page 8 – add “...forward to the Public Works Advisory Board for **discussion on Dial-a-Ride services, future funding, and how to increase ridership.**”
- page 16 – (Councilmember Winholtz requested following amendments):

Councilmember Winholtz stated she is not willing to reduce the fee ~~by~~ to \$2,000 at this time.

Councilmember Winholtz stated that is outrageously low; she would ~~approve~~ reduce the amount by \$2,000 per space.

MOTION: Councilmember Winholtz moved the City Council approve the minutes of December 14, 2009 as amended by Council. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-2 CITY COUNCIL ANNUAL REGULAR MEETING SCHEDULE FOR 2010; (ADMINISTRATION)

Councilmember Borchard recommended amending the joint City Council/Planning Commission meeting dates to March 15th and November 15th; Council concurred.

MOTION: Councilmember Borchard moved the City Council approve Item A-2 of the Consent Calendar as amended. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

A-3 REVIEW AND APPROVE RESOLUTION NO. 01-10 AUTHORIZING THE APPLICATION FOR PROPOSITION 84, STATEWIDE PARK DEVELOPMENT AND COMMUNITY REVITALIZATION PROGRAM OF 2008 AND NATURE EDUCATION FACILITIES GRANT PROGRAM FUNDS FOR THE TEEN CENTER MASTER PLAN; (RECREATION & PARKS)

Councilmember Borchard requested staff clarification on the timeline and grant funding for the Teen Center Master Plan. Recreation & Parks Director Joe Woods responded the City is seeking 100% funding for this project, and the project will not start without full funding.

MOTION: Councilmember Borchard moved the City Council approve Item A-3 of the Consent Calendar. The motion was seconded by Councilmember Winholtz and carried unanimously. (5-0)

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A-4 RESOLUTION DECREASING THE PARKING IN-LIEU FEES FOR 600
MORRO BAY BOULEVARD TO \$4,000 PER SPACE; (CITY ATTORNEY)

Councilmember Winholtz requested to remove the words “in the Downtown Area for five years” at the end of the NOW, THEREFORE, BE IT RESOLVED paragraph. She also said she would be voting in opposition of this item because it is in the spirit of a gift of public funds, and the City will be out over \$120,000 by approving this.

Councilmember Smukler agreed stating his concern is the City does not have the ability to control how these funds are reinvested.

MOTION: Mayor Peters moved the City Council approve Item A-4 of the Consent Calendar. The motion was seconded by Councilmember Borchard and carried with Councilmember Smukler and Councilmember Winholtz voting no. (3-2)

A-5 AUTHORIZATION TO FILL THE ADMINISTRATIVE/HOUSING
PROGRAMS COORDINATOR POSITION; (PUBLIC SERVICES)

Councilmember Smukler expressed concern with new hires since the City has not yet identified a two-tiered system relating to benefits. He requested clarification on the duties that go along with this position. Public Services Director Bruce Ambo reviewed the duties and responsibilities of the Administrative/Housing Programs Coordinator position.

MOTION: Councilmember Smukler moved the City Council approve Item A-5 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 ADOPTION OF ORDINANCE NO. 553 ADDING SECTION 3.08.105 TO THE
MORRO BAY MUNICIPAL CODE ESTABLISHING A LOCAL BUSINESS
PREFERENCE PROGRAM; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City Council has expressed interest in implementing a local vendor program as a way to help stimulate the local economy and support the formation/retention of local jobs. On November 9, 2009, the City Council reviewed a draft Ordinance that would provide further clarification and importance on giving competitive preference to local industries and businesses doing business with the City. The City Council suggested minor changes which have been incorporated into

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Ordinance 553. Mr. Schultz recommended the City Council accept public comment and then move for introduction and first reading of Ordinance No. 553, by number and title only, adding Morro Bay Municipal Code Section 3.08.105 entitled “Local Business Preference Program.”

Mayor Peters opened the hearing for public comment; there being no public comment, Mayor Peters closed the public comment hearing.

Council discussed amendments to the Ordinance.

MOTION: Councilmember Winholtz moved the City Council amend Ordinance No. 553, page 1, (C): ...”the City Council or the purchasing agency ~~may~~ **shall** give a preference ...”; and, added to (H) “Local business” means a vendor or contractor who has paid its local business tax to the City of Morro Bay at least 6 months prior to bid or proposal opening date; does business in the Morro Bay community by providing goods, services, or construction; and maintains a physical business address located within 5 miles of the jurisdictional limits of the City of Morro Bay and performs business on a day-to-day basis. Post office boxes shall not be used for the purpose of establishing said physical address”. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

City Manager Andrea Lueker read Ordinance No. 553 by number and title only.

B-2 2009 ANNUAL WATER REPORT; (PUBLIC SERVICES)

Senior Planner Kathleen Wold stated this report summarizes building activity for 2009, and provides a recommendation on the maximum number of water equivalency units (WEU) which should be granted for 2010. Due to recent changes in state water deliveries, staff also recommends the Water Supply Portfolio be reviewed as part of the 2010 Urban Water Management Plan update. This review will address both the decrease in the amount of state water being delivered and the reliability of those deliveries. Documentation substantiates that there are sufficient water resources to grant the recommendations while ensuring compliance with all requirements within Ordinance 266. In 2010, the City is facing a short term water challenge due to greatly reduced State Water Project deliveries coupled with the nitrate contamination of both the Morro and Chorro groundwater basins. The timing of these events has caused a short term impact to the City's ability to supply water. As the projects designed to alleviate these issues are implemented these impacts will be ameliorated. Ms. Wold recommended the City Council grant the following allocations for 2010 and key subsequent actions on water supply issues to the forthcoming Urban Water Management Plan update: 1) allocate the mix of residential units at 60 percent single-family and 40 percent multi-family units; and

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authorize the corresponding water equivalency allocation for residential uses at 50 WEU; 2) process residential allocation limits on a first-come first-serve basis, based on the priorities contained in the current General Plan and Local Coastal Plan policies; 3) authorize allocation of 130% of the residential WEU (65 WEUs) to commercial and industrial projects, within the priority categories consistent with the current Local Coastal Plan and General Plan policies; and 4) review the Water Supply Portfolio in light of recent decreases in the reliability of the State Water Project water deliveries as part of the 2010 Urban Water Management Plan update.

Mayor Peters opened the hearing for public comment; there were no public comments, and Mayor Peters closed the public comment hearing.

Mayor Peters thanked the community for the reported savings in water last year.

Councilmember Smukler stated he is uncomfortable with the assumption that this is a short-term issue, especially given the challenges with the local water supply portfolio.

MOTION: Councilmember Borchard moved the City Council grant the following allocations for 2010 and key subsequent actions on water supply issues to the forthcoming Urban Water Management Plan update: 1) allocate the mix of residential units at 60 percent single-family and 40 percent multi-family units; and authorize the corresponding water equivalency allocation for residential uses at 50 WEU; 2) process residential allocation limits on a first-come first-serve basis, based on the priorities contained in the current General Plan and Local Coastal Plan policies; 3) authorize allocation of 130% of the residential WEU (65 WEUs) to commercial and industrial projects, within the priority categories consistent with the current Local Coastal Plan and General Plan policies; and 4) review the Water Supply Portfolio in light of recent decreases in the reliability of the State Water Project water deliveries as part of the 2010 Urban Water Management Plan update. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

Mayor Peters called for a break at 8:15 p.m.; the meeting resumed at 8:25 p.m.

B-3 TERMINATION OF AGREEMENT BETWEEN ROANDOAK AND THE CITY OF MORRO BAY; (CITY ATTORNEY)

City Attorney Robert Schultz stated the City entered into an agreement with Roandoak of God in 1982. Because of the degradation to the water quality and the changes in regulations, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin as well as provide water that meets all State and Federal

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standards to customers in the basin. In order to both provide water to the customers outside the City limits and maintain the Chorro Groundwater resource for the benefit of the customers within the City limits, major modifications to the City's infrastructure would be required. These modifications would be needed to effectively deal with the nitrate contamination while also providing disinfection of the occasional bacteriological contamination events that impact the Chorro Groundwater Basin. In December of 2008, the California Department of Public Health inactivated all of the wells in the Ashurst well field including Well No. 9A. Until a method of providing treatment for nitrate removal or blending is in place, the City is unable to use this well as a supply source. Therefore, since Well No. 9A can no longer serve the purpose of municipal water supply without major modifications to the City's infrastructure, Staff is comfortable relinquishing control of that well at this time. The degradation of water quality in the Chorro Valley, coupled with the connection of water services to the pumping line, and further complicated by more stringent regulations, will continue to strain the City's water resources until resolved. Mr. Schultz recommended the City Council begin the process by terminating the agreement with Roandoak; Staff will then negotiate the terms of removal of service with the impacted property owners, in accordance with any existing agreements, and for the benefit of the residents of the City of Morro Bay.

Mayor Peters opened the hearing for public comment.

Carrie Burton stated there are property owners that did not know about the lease agreement when they purchased their property because it was not disclosed at the time of purchase. She addressed the contaminated water and how those in Chorro Valley are going to be provided clean water. Ms. Burton also stated this has caused property values to go down.

David Nelson stated he read the lease and termination is justifiable by the City. He said the City cannot afford to send water outside of the City.

Mike Burton stated when he bought his home five years ago he assumed he had water by receiving a City water bill. He said there is no way hydraulically to pump water from the Well 9-A to the homes in Chorro Valley. Mr. Burton requested the City be considerate of their situation.

Millie Benson reviewed the history of her family's properties on Canet Road, and noted Chorro Valley needs clean water not only for the families out there now but for the future development of Morro Bay.

Mayor Peters closed the public comment hearing.

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Mayor Peters stated the last thing the City wants is to have people without water. She said what has happened is a problem has arisen and the City is trying to resolve it and hopefully it is going to be fair for everyone.

Councilmember Smukler stated it seems clear that water service would not be discontinued until there is a positive agreement between the community and the Chorro Valley residents. He said Council should move ahead with this tonight and be kept informed as far as how the negotiations are going. Councilmember Smukler stated there are some interesting water supply options that could help address the issues without tapping into the ground water or bringing in water from an outside source.

Councilmember Borchard stated part of the problem is the City has no sphere of influence since the County took that away. The City does not have the ability to have oversight out in the Chorro Valley in regards to usage and their unpermitted septic tanks; those are County issues. She said neighboring residents requested Roandoak's water usage with the City be stopped because they thought it was being used in a manner that was not fair. Councilmember Borchard stated she feels the City has come to a point where they can end the agreement with Roandoak.

Councilmember Grantham stated he would be voting in favor of terminating the agreement with Roandoak and encouraged fair negotiations on the part of the City.

Councilmember Winholtz noted the date of the original agreement is 1982 and at that time there was ample water in the Chorro Valley and the City needed water and an exchange was made, which was the honorable thing to do at that time. She said now because of the contamination, the City should continue to honor the fact of being able to progress because of the Chorro Valley water. Councilmember Winholtz noted although the City does not have a sphere of influence, the City population can go up to 12,000 which will require more water. She said the City or County will need to address cleaning up the Chorro Basin. She recommended amending the motion that service will continue.

Mayor Peters stated she would like to maintain a regular water customer relationship until another agreement is reached.

MOTION: Councilmember Winholtz moved the City Council direct staff to terminate the Agreement between Roandoak and the City of Morro Bay pursuant to Paragraph 9 of the Agreement which states it will terminate in 120 days; in addition, there will be no discontinuation of water service until a new agreement is reached. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

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C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS

D-1 DISCUSSION ON WATER QUALITY TESTING IN MORRO BAY'S
DRINKING WATER; (PUBLIC SERVICES)

Utilities/Capital Projects Manager Dylan Wade stated the City of Morro Bay is regulated as a Large Water System since it serves a population of more than 10,000 people. As such, the City is subject to the requirements of the Safe Drinking Water Act (SDWA). Under the SDWA the US EPA sets national standards for drinking water based on sound science to protect against health risks, considering available technology and costs. These National Primary Drinking Water Regulations (Attached) set enforceable maximum contaminant levels for particular contaminants in drinking water or required ways to treat water to remove contaminants. Each standard also includes requirements for water systems to test for contaminants in the water to make sure standards are achieved. The City conducts a routine monitoring program testing the quality of both the source waters and the treated waters that enter into the distribution system. The water is tested for the more than 100 contaminants for which both primary and secondary drinking water standards have been established. Other testing is performed by the City as needed to ensure the integrity of the treatment process being used, or in the case of the recent nitrate studies, as an indicator of source water characteristics. Mr. Wade recommended the City Council review the report and accompanying attachments, and provides direction to staff as it deems necessary.

Councilmember Grantham addressed SB966 regarding ways of disposing medications, and the numerous pharmaceuticals found in water sources and expressed the importance of testing our water sources.

Councilmember Smukler stated there are also a significant amount of contaminants found in our water sources that are available off the shelf including fertilizers, herbicides, and pesticides. He said there is a program that Miners Hardware Store is participating in called “Our Water Our World”, which directs people to alternative options for these different applications, and he encouraged people to search out this program.

Councilmember Borchard stated as the City’s Integrated Waste Management Authority representative, the disposal of pharmaceuticals is an on-going issue that has to be reviewed at the state level with many mandates due to the disposal of controlled substances.

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Councilmember Winholtz stated what the community can do is be more preventative in terms of use and disposal of pharmaceuticals and pesticides, herbicides and fertilizers.

The City Council received the report for information; no further action was taken on this item.

D-2 REVIEW OF 2009 TROLLEY SEASON PERFORMANCE; (PUBLIC SERVICES)

Management Analyst Janeen Burlingame stated the City's Trolley service is a seasonal fixed route transit system serving the general public by linking the Downtown Business District, Waterfront, state parks in the north and south ends of the community through the use of three trolley routes operating within the City limits. In addition, the service provides a connection to the regional transit system at City Park. While the number of operating days did not change between the 2008 and 2009 seasons; the end of day service hours on Friday and Saturday were reduced to 7 p.m., and the fare structure was modified to include a different fare for children and adults. Ms. Burlingame recommended the City Council receive and file the 2009 trolley season performance report.

Councilmember Winholtz stated she would like to cut one more hour at the end of the day to end at 6 p.m.

Mayor Peters stated she would prefer to maintain the 7:00 p.m. time frame until the end of the fiscal year.

Councilmember Smukler stated he would like the Public Works Advisory Board to discuss the trolley ridership when they consider the Dial-a-Ride concept as Council continues to get further into the budget process.

The City Council received this report for information; no further action was taken on this item.

D-3 EVALUATION FOR CONSISTENCY WITH CITY COUNCIL POLICIES AND PROCEDURES REGARDING A LETTER SENT TO THE CALIFORNIA COASTAL COMMISSION DATED DECEMBER 8, 2009; (CITY COUNCIL)

Councilmember Winholtz stated on Friday, December 11, 2009, the California Coastal Commission (CCC) ruled in favor of a Coastal Development Permit for 801 and 833 Embarcadero, commonly called the Conference Center, a project previously voted on by City Council. That week, Council Members received in their mailboxes a hard copy of a letter dated December 8, 2009 signed by the Mayor as mayor on City letterhead. She said it was her contention that this letter does not follow the Policies and Procedures outlined

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in Resolution 50-07, in that the letter is not clear who it represents. Councilmember Winholtz requested the City Council discuss and consider sending the following statement to the Mayor: the following statement should be sent to the Mayor in the form of a letter: "While you have been an effective advocate for the City of Morro Bay, you have chosen more than once not to follow adopted correspondence procedures. Consider this a letter of (counsel/admonishment/reprimand) that such action is unacceptable and depreciates the integrity of the Council as a whole. We believe that you can easily correct this situation and assume you are willing to do so."

The City Council discussed the issue and decided to move forward; bring back the entire City Council Policies and Procedures Manual with an amendment that letters from the Mayor and City Council begin with the first paragraph stating who is being represented in the letter, and the signing of documents.

No further action was taken on this item.

D-4 APPOINTMENT OF VICE-MAYOR TO SERVE A ONE-YEAR TERM;
(ADMINISTRATION)

Mayor Peters stated based on Policies and Procedures, for appointment as Vice Mayor, a Council Member must be on the Council at least one year. Of those who have been on the Council for at least one year, the Council Member who has not yet held the position shall be appointed Vice Mayor. If there are two Council Members who have not yet held the position, the Council Member receiving the highest number of votes in the most recent election shall be appointed Vice Mayor. Both Councilmember Borchard and Councilmember Smukler have served on the Council for one year; Councilmember Smukler received the highest number of votes in the November 2008 election.

MOTION: Mayor Peters moved the City Council appoint Councilmember Smukler as Vice-Mayor to serve a one-year term. The motion was seconded by Councilmember Grantham.

Councilmember Smukler requested that Councilmember Borchard be appointed Vice-Mayor this year, and he would take the role as Vice-Mayor next year.

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Mayor Peters withdrew her motion; Councilmember Grantham withdrew his second to the motion.

Councilmember Winholtz stated although it is the exception to the Policies and Procedures, since it is being done publicly, she will support it.

MOTION: Mayor Peters moved the City Council appoint Councilmember Borchard as Vice-Mayor to serve a one-year term. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Winholtz requested to agendaize a discussion on the City Council Internal Sub-Committee Appointments; Council concurred.

Councilmember Winholtz requested the discussion on the cell tower issue be scheduled to a date certain; Council concurred.

Councilmember Grantham requested to agendaize a discussion on testing water for pharmaceuticals; Council concurred.

ADJOURNMENT

The meeting adjourned at 9:48 p.m.

Recorded by:

Jamie Boucher
Deputy City Clerk