

# CITY OF PALM BAY, FLORIDA

## REGULAR COUNCIL MEETING 2023-25

Held on Thursday, the 5<sup>th</sup> day of October 2023, at the City Hall Council Chambers, 120 Malabar Road, SE, Palm Bay, Florida.

This meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, Palm Bay, Florida.

The meeting was called to order at the hour of 6:01 P.M.

Pastor Ken Delgado, The House Church, Palm Bay, gave the invocation in lieu of Paul Fournier with Lifepoint Church not being present. The invocation was followed by the Pledge of Allegiance to the Flag.

### ROLL CALL:

<b>MAYOR:</b>	Rob Medina	Present
<b>DEPUTY MAYOR:</b>	Donny Felix	Present
<b>COUNCILMEMBER:</b>	Kenny Johnson	Present
<b>COUNCILMEMBER:</b>	Randy Foster	Present
<b>COUNCILMEMBER:</b>	Vacant	
<b>DEPUTY CITY MANAGER:</b>	Joan Junkala-Brown	Present
<b>CITY ATTORNEY:</b>	Patricia Smith	Present
<b>DEPUTY CITY CLERK:</b>	Terri Lefler	Present

Councilman Foster attended the meeting via teleconference.

**CITY STAFF:** Juliet Misconi, Deputy City Manager

### AGENDA REVISIONS:

1. Mrs. Junkala-Brown announced the following revisions:
  - A. Conditions were added to Ordinance 2023-61, for Item 5, under Public Hearings.
  - B. Conditions were added to Ordinance 2023-64, for Item 8, under Public Hearings; however, Condition 2, which was a recommendation from the Planning and Zoning Board, was removed from the ordinance as the City did not have authority to impose such conditions.
  - C. Staff requested that Items 9, 10, and 11, under Public Hearings, be considered prior to the first Public Hearing.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to consider Items 9, 10, and 11, under Public Hearings, prior to the first Public Hearing. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

D. Item 4, under Consent Agenda, had a scrivener's error to the total four-year cost for professional auditing services. The total was \$313,750, rather than \$313,250.

E. Item 12, under Consent Agenda, included an additional request for vehicle and equipment storage relating to the use of Police Impact Fees.

F. Item 13, under Consent Agenda, the funding appropriation request for the nutrient-removing baffle boxes was corrected to \$1.5 million, with a city match of \$500,000.

G. Consideration of utilizing Stormwater Utility Funds for the culvert replacement at Highland Avenue was added as Item 1, under New Business.

#### **PROCLAMATIONS AND RECOGNITIONS:**

The proclamations were read.

- 1. Proclamation: Mayor's Business Spotlight - R & S Water Service Inc. (Mayor Medina)**
- 2. Proclamation: Customer Service Week - October 2-6, 2023.**
- 3. Proclamation: National Hispanic Heritage Month - September 15 - October 15, 2023.**
- 4. Proclamation: National Fire Prevention Month - October 2023.**

#### **PRESENTATIONS:**

- 1. The Honorable Debbie Mayfield, State Senator, District 19 - Presentation of Check for State Appropriations.**

Ian Nolan, Legislative Aide to Senator Mayfield, presented a check to the City for funding appropriations received from the State during the 2023-2024 Legislative Session. The City was awarded \$5 million, which included funding for design and engineering of the

four-lane widening of St. Johns Heritage Parkway, septic-to-sewer conversions, improvements to the Regional Public Safety Training Facility (the Range), and improvements to Sacrifice Park.

**PUBLIC COMMENT(S)/RESPONSE(S): (Non-agenda Items Only)**

Individuals made general comments. There were comments regarding the Majors Golf Course and the City's purchase of same.

Ms. Junkala-Brown provided an update on the Majors Golf Course. She stated the City was still working on the statistics, as well as with developers and the property owner. Staff was still determining whether the purchase of the golf course would be cost feasible for the City.

**PUBLIC HEARING(S):**

Council concurred to consider Items 9, 10, and 11, under Public Hearings, at this time.

**9. Ordinance 2023-96, vacating a portion of the rear public utility and drainage easement located within Lot 9, Block 31, Port Malabar Country Club Unit 4 (Case VE-11-2023, Christopher Arutt), first reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve Ordinance 2023-96. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**10. Ordinance 2023-97, vacating a portion of the rear public utility and drainage easement located within Lot 11, Block 2023, Port Malabar Unit 46 (Case VE-12-2023, Chante Jackson), first reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant was not present for the hearing. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to continue Ordinance 2023-97 to the October 19, 2023, regular Council meeting as the applicant was not present. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**11. Ordinance 2023-98, vacating a portion of the side public utility and drainage easement located within Lot 24, Block 427, Port Malabar Unit 11 (Case VE-13-2023, LGI Homes–Florida LLC), first reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. Trey Williams, representative for the applicant, presented the request to Council.

Esther Martin, resident, opposed this request as her house was much lower and it would flood her lot when it rained. She felt it would help to install gutters around the home.

Tom Luikart, resident, questioned if the vacating would affect the drainage into or maintenance of the canal.

Mr. Williams responded to the comments. He stated that the Florida Building Code mandated the finished floor elevation. The applicant was also required by law to cut swales and drain water away from the house. If gutters were required, they would be installed. All requirements had to be met in order to receive a Certificate of Occupancy.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-98. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

Council resumed the consideration of items in order as shown on the agenda.

**1. Ordinance 2023-92, granting approval of a Final Development Plan to be known as ‘Chaparral Amenity Center’ within the Chaparral Planned Unit Development on property located south of and adjacent to Abilene Drive, in the vicinity south of Malabar Road and east of Flying U Lane (6.66 acres) (FD23-00007, Chaparral Properties LLC), final reading. (Quasi-Judicial Proceeding)**

The City Attorney read the ordinance in caption only. The public hearing was opened. The applicant presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-92. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**2. Ordinance 2023-93, amending the Code of Ordinances, Chapter 170, Construction Codes and Regulations, Subchapter 'Walls and Fences', by modifying provisions contained therein (Case T23-00023, City of Palm Bay), final reading.**

The City Attorney read the ordinance in caption only. The public hearing was opened. Mrs. Junkala-Brown presented the request to Council.

Bill Battin, resident, felt there were several negatives with these changes. He commented on the fence height variation in the back yard as opposed to the front yard, as well as the fence types and who determined what fencing was aesthetically pleasing. He asked that Council leave the ordinance as is and deny this request.

Mrs. Junkala-Brown responded that the fence height would be six (6) feet in the back and four (4) feet in the front. Ms. Smith advised that as far as beautification, it was the purpose in the memo but was not a standard adopted into the ordinance and was not a criterion upon which to evaluate the fences. If you had a wooden fence that needed repair, you would have to repair it with a wooden fence, not another type of fencing.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to adopt Ordinance 2023-93. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**3. Ordinance 2023-38, providing for the annexation of certain real property located west of and adjacent to Minton Road, in the vicinities north of Palm Bay Road and south of Hield Road, into the City (2.11 acres) (Case A23-00002, Bruce Coffman/Affordable Trailer Service and Supply, Inc.), first reading. (CONTINUED FROM 09/19/23 RCM)**

The City Attorney read the ordinance in caption only. The public hearing was opened. Cole Oliver, representative for the applicants (Affordable Trailer Service and Supply, Inc. and West Malabar Properties, LLC), presented the request to Council.

Mr. Johnson asked if the property would still be developed within Brevard County (County) if the annexation was not approved by the City of Palm Bay. Mr. Oliver stated the developer had no interest in changing the land use at the time.

Numerous citizens spoke against the request. Comments included concerns with emergency vehicles being able to access site with the proposed development, safety of the area and roadway, stress on existing neighbors and adding to the gridlock that

currently occurred daily.

Mr. Oliver responded to comments. He did not feel there was a safety issue as the parcel had one access on and off Minton Road. He agreed that the Citizen Participation Meeting was short notice, but it was also the third meeting with the citizens.

Mayor Medina asked if possible future improvements to the intersection were shared with residents. Mr. Oliver said the residents were shown the improvements as planned by the County and the applicant was also in communication with the County to make further safety improvements. He noted that the apartment complex across the street had road improvements that needed to be completed as well.

Mayor Medina questioned the responsibility of the apartment complex with regard to intersection improvements. Mr. Oliver believed it was a condition of the traffic study for construction of the apartments. He responded to further questions posed by councilmembers.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve Ordinance 2023-38.

Mr. Johnson felt comfortable moving forward with the annexation and wanted to focus on one request at a time. Deputy Mayor Felix felt this corridor needed improvement but was unsure of the right type of business at that location. He said discussions would be different if the improvements had already taken place. Mayor Medina concurred with Deputy Mayor Felix's comments and stated that timing was everything and the residents felt slighted. He said the apartment complex had generated so much traffic and he went through the area during rush hour, and it was a devastating sight. He did not support the request.

Motion failed with members voting as follows:

Mayor Medina	Nay
Deputy Mayor Felix	Nay
Councilman Johnson	Yea
Councilman Foster	Yea

Mr. Oliver withdrew Items 4 through 8, under Public Hearings.

**4. Ordinance 2023-60, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located west of and adjacent to Minton Road, in the vicinities north of Palm Bay Road and south of Hield Road, from Community Commercial Use (Brevard County) to Commercial Use (City of Palm Bay) (2.11 acres) (CP23-00013, Bruce Coffman/Affordable Trailer Service and Supply, Inc.), only one reading required. (CONTINUED FROM 09/19/23 RCM)**

Due to the denial of Case A23-00002, this item was withdrawn by the applicant.

**5. Ordinance 2023-61, rezoning property located west of and adjacent to Minton Road, in the vicinities north of Palm Bay Road and south of Hield Road, from BU-1 (General Retail Commercial) (Brevard County) to CC (Community Commercial District) (City of Palm Bay) (2.11 acres) (Case CPZ23-00007, Bruce Coffman/Affordable Trailer Service and Supply, Inc.), first reading. (Quasi-Judicial Proceeding) (CONTINUED FROM 09/19/23 RCM)**

Due to the denial of Case A23-00002, this item was withdrawn by the applicant.

**6. Ordinance 2023-37, providing for the annexation of certain real property located at the southwest corner of Hield Road and Minton Road, into the City (4.58 acres) (Case A23-00001, Cole Oliver/West Malabar Properties, LLC), first reading. (CONTINUED FROM 09/19/23 RCM)**

Due to the denial of Case A23-00002, this item was withdrawn by the applicant.

**7. Ordinance 2023-63, amending the City’s Comprehensive Plan Future Land Use Map to change the designated use of property located at the southwest corner of Hield Road and Minton Road from Residential 2 Use (Brevard County) to Commercial Use (City of Palm Bay) (4.58 acres) (Case CP23-00010, Cole Oliver/West Malabar Properties, LLC), only one reading required. (CONTINUED FROM 09/19/23 RCM)**

Due to the denial of Case A23-00002, this item was withdrawn by the applicant.

**8. Ordinance 2023-64, rezoning property located at the southwest corner of Hield Road and Minton Road from RP (Resident Professional) (Brevard County) and AU (Agricultural Residential) (Brevard County) to CC (Community Commercial District) (City of Palm Bay) (4.58 acres) (Case CPZ23-00006, Cole Oliver/West Malabar Properties, LLC), first reading. (Quasi-Judicial Proceeding) (CONTINUED FROM 09/19/23 RCM)**

Due to the denial of Case A23-00002, this item was withdrawn by the applicant.

**9. Ordinance 2023-96, vacating a portion of the rear public utility and drainage easement located within Lot 9, Block 31, Port Malabar Country Club Unit 4 (Case VE-11-2023, Christopher Arutt), first reading.**

This item was considered earlier in the meeting, prior to Item 1, under Public Hearings.

**10. Ordinance 2023-97, vacating a portion of the rear public utility and drainage easement located within Lot 11, Block 2023, Port Malabar Unit 46 (Case VE-12-2023, Chante Jackson), first reading.**

This item was considered earlier in the meeting, prior to Item 1, under Public Hearings.

**11. Ordinance 2023-98, vacating a portion of the side public utility and drainage easement located within Lot 24, Block 427, Port Malabar Unit 11 (Case VE-13-2023, LGI Homes–Florida LLC), first reading.**

This item was considered earlier in the meeting, prior to Item 1, under Public Hearings.

**12. Request by Florida Institute of Technology for a variance to allow three (3) proposed parking garage buildings to encroach twenty feet (20') into the 20-foot front-yard setback for accessory structures, as established by Section 185.058(F)(8)(e), Palm Bay Code of Ordinances (6.92 acres) (V23-00006). (Quasi-Judicial Proceeding)**

This item, addressed under Agenda Revisions, was withdrawn by the applicant.

A brief recess was taken after which time the meeting reconvened.

**13. Request by CHM Palm Bay LLC for a final plat to allow for a proposed eight-lot commercial subdivision to be known as 'Cypress Bay Commercial Center Phase 1' in PUD (Planned Unit Development) zoning (24.49 acres) (Case FS23-00005). (Quasi-Judicial Proceeding)**

The public hearing was opened. Jason Kendall, CPWG Engineering, Inc. and representative for the applicant, presented the request to Council.

Ms. Junkala-Brown noted the following condition: approval of the final plat was subject to the final execution and recordation of the Conveyance and Maintenance Agreement, which was approved by City Council on September 19, 2023 via Resolution 2023-28. She asked that the condition be included in the motion.

Bill Battin, resident, questioned if there were any culverts under Capital Drive and if the



culverts were the responsibility of the homeowner's association (HOA) or the City. Ms. Junkala-Brown confirmed that the culverts were maintained by the HOA.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Mr. Foster, to approve the request, subject to staff's comments. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**14. Consideration of Brevard County HOME Consortium 2023-2028 Assessment of Fair Housing (AFH) Plan, only one reading required.**

The public hearing was opened. Joan Junkala-Brown, Deputy City Manager presented the request to Council. The public hearing was closed.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**15. Consideration of a Substantial Amendment to the City's approved Program Year 2022/2023 Annual Action Plan for Community Development Block Grant funds, only one reading required.**

The public hearing was opened. Ms. Junkala- Brown presented the request to Council.

Mayor Medina asked if staff had considered any properties. Ms. Junkala-Brown advised that under a separate funding program through the Community Development Block Grant, Council had authorized funding for the construction for four (4) affordable single family homes.

The public hearing was closed.

Motion by Mr. Johnson, seconded by Mayor Medina, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**CONSENT AGENDA:**

All items of business under the 'Consent Agenda' heading were enacted by the following motion:

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, that the Consent Agenda be

approved as presented with the removal of Items 7 and 10 from consent. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

Mrs. Junkala-Brown requested Council consensus to consider the area known as the Compound as an area that would be eligible for the Opportunity Zone. This would be presented during the Legislative session. Council concurred.

**1. Adoption of Minutes: Meeting 2023-20; August 17, 2023.**

The minutes, considered under Consent Agenda, were approved as presented.

**2. Adoption of Minutes: Meeting 2023-22; September 7, 2023.**

The minutes, considered under Consent Agenda, were approved as presented.

**3. Adoption of Minutes: Meeting 2023-24; September 20, 2023.**

The minutes, considered under Consent Agenda, were approved as presented.

**4. Award of Proposal: Professional Auditing Services - RFP 48-0-2023 - Finance Department (MSL, P.A. - \$313,250).**

Staff Recommendation: Approve the Auditor Selection Committee's recommendation of the award for professional auditing services with MSL, P.A. (Orlando), in the amount of \$313,750, for a one-year term contract, renewable by the Procurement Department for three (3) additional one-year terms.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**5. Miscellaneous: 'Other Agency' term contracts utilized for Fiscal Year 2023-2024 'as needed' purchases of equipment, materials and supplies – multiple city departments.**

Staff Recommendation: Approve the Fiscal Year 2024 annual purchases of equipment, services, materials and supplies on an "as needed" basis through utilization of the other agency term contracts, to include renewals, re-solicitations, and replacement contracts when a contract expires, and only if funds are appropriated by Council.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**6. Consideration of a purchase offer from Palm Bay Landings, LLC for Bayfront CRA properties located at 1608 Orange Blossom Trail (Tax ID: 2832603) and address unassigned Orange Blossom Trail (Tax ID: 2866312) (\$150,000).**

Staff Recommendation: Accept the purchase offer from Palm Bay Landings, LLC, and authorize the City Manager to execute the Vacant Land Contract in the amount of \$150,000.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**7. Consideration of revisions to the Commercial Property Enhancement Program (CPEP) guidelines.**

Staff Recommendation: Approve revisions to the Commercial Property Enhancement Program (CPEP) guidelines.

Motion by Deputy Mayor Felix, seconded by Mr. Johnson, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**8. Consideration of a Commercial Property Enhancement Program Grant for Audio Images of Brevard for improvements to commercial property located at 3300 Dixie Highway NE, Suite A, Palm Bay (\$5,052.50).**

Staff Recommendation: Approve a Commercial Property Enhancement Program (CPEP) grant award in the amount of \$5,052.50 to Audio Images of Brevard Inc. for eligible improvements to commercial property located at 3300 Dixie Highway NE, Suite A, Palm Bay, Florida, 32905; and authorize the City Manager to execute the grant agreement.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**9. Consideration of a Commercial Property Enhancement Program Grant for Morel's Bar and Grill for improvements to commercial property located at 1921 Robert J Conlan Boulevard NE, Unit 1, Palm Bay (\$5,243).**

Staff Recommendation: Approve a Commercial Property Enhancement Program (CPEP) grant award in the amount of \$5,243.00 to Morel's Bar and Grill for eligible improvements to commercial property located at 1921 Robert J Conlan Boulevard NE, Unit 1, Palm Bay, Florida, 32905; and authorize the City Manager to execute the grant agreement.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**10. Consideration of Memorandum of Understanding between Brevard County and the City of Palm Bay for a Veteran Service Officer position.**

Staff Recommendation: Approve the Memorandum of Understanding (MOU) between Brevard County and the City of Palm Bay for a Veteran Service Officer position in the amount of \$80,017 for the initial term of October 1, 2023, through September 30, 2024; and authorize the City Manager to execute the MOU.

Bill Battin, resident, asked if the position would be a stand-alone position or if additional staff was needed. He also asked where the office would be located.

Ms. Junkala-Brown responded that the supporting staff of the Veteran Service Officer would be at Brevard County. Office space would be provided within the City facility.

Motion by Mr. Johnson, seconded by Mayor Medina, to approve the request. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**11. Consideration of utilizing budgeted funds for a replacement refrigerated evidence storage unit within the Police Department (\$14,000).**

Staff Recommendation: Approve the utilization of budgeted operating funds for a capital asset replacement of a refrigerated evidence storage unit within the Police Department, in the amount of \$14,000.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**12. Consideration of utilizing Police Impact Fees to acquire vehicles for new personnel funded in the adopted Fiscal Year 2024 budget (\$536,285).**

Staff Recommendation: Approve the appropriation of Police Impact Fees from the 32907, 32908, and 32909 Nexus on the next budget amendment for the capital outlay and capital

improvement projects for the Fiscal Year 2024, approve new personnel and vehicle storage needs for the Police Department, in the amount of \$706,285.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**13. Consideration of the City's 2024-2025 State Legislative Priorities and Match Commitments.**

Staff Recommendation: Approve the City's 2024-2025 State legislative priorities and requested City match; authorize staff to secure necessary letters of support and engage with the contracted lobbying firm, Sunrise Consulting Group, to advocate on behalf of the City of Palm Bay.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**14. Consideration of travel and training for specified City employees (Fire Rescue Department).**

Staff Recommendation: Approve the travel and training as specified.

The item, considered under Consent Agenda, was approved as recommended by City staff.

**NEW BUSINESS:**

**1. Consideration of utilizing Stormwater Utility Funds for culvert replacement at Highland Avenue (\$450,000). (AGENDA REVISION)**

Staff Recommendation: Approve the utilization of Stormwater Utility Funds for a budget transfer for Project 23SU12 Unit 60 Pipe Replacement for Highland Avenue NE, in the amount of \$450,000.

Mrs. Junkala-Brown presented the request to Council.

Motion by Mr. Johnson, seconded by Deputy Mayor Felix, to approve the use of Stormwater Utility Funds for the culvert replacement at Highland Avenue. Motion carried with members voting as follows: Mayor Medina, Yea; Deputy Mayor Felix, Yea; Councilman Johnson, Yea; Councilman Foster, Yea.

**COUNCIL REPORTS:**

1. Mayor Medina asked Council to consider more workshops to focus priorities for the City's infrastructure. Mr. Johnson requested an update from the City Manager from the last workshop in which infrastructure was discussed. Council concurred.

**ADMINISTRATIVE AND LEGAL REPORTS:**

1. Ms. Junkala-Brown advised that the updates to the Land Development Code were still available on the City's website for comment by the public.

**PUBLIC COMMENTS/RESPONSES:**

Individuals made general comments.

**ADJOURNMENT:**

There being no further business, the meeting adjourned at the hour of 8:52 P.M.

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Rob Medina, MAYOR

ATTEST:

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Terri J. Lefler, DEPUTY CITY CLERK