

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
APRIL 6, 2011
5:30 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

INVOCATION/PLEDGE

Ilif Khan, Pastor of Calvary Baptist Church, gave the invocation. **Greg Hyland**, Director of Communications & Public Affairs, led the City Council in the Pledge of Allegiance.

ROLL CALL

Councilmembers Present: Stuart, Mendoza, Beeson, McClendon, Brooks, Johnson and Mayor Krieger
Councilmembers Absent: none
Staffmembers Present: City Administrator, Gregory K. Wilkinson
Various Department Heads or their representative
City Attorney, Steven W. Moore
City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Krieger made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS - none

I. CALL TO THE PUBLIC

Anne Harrison announced that the Yuma County Library will be celebrating its 36th Annual Teddy Bear Picnic; flyers were left at the front desk in the main lobby of City Hall for those interested. Also, the Arizona History Convention will be held in Yuma at the Hilton Garden Pivot Point Conference Center from April 28, 2011 through May 1, 2011. The Mayor will be giving the opening night welcome. The City Council has done it's best to interact with the public and never seem too busy to listen to questions or comments, the courtesies shown to the community by both the City Council and staff is appreciated. Finally, she shared a story of last year's Teddy Bear Picnic where a little boy asked about the Mayor, giving her an opportunity to teach him about City government. She encouraged the Mayor and Council to attend this year's Teddy Bear Picnic to help educate local children on what the Mayor and City Council do for the city.

Diane Umphress, Director of Amberly's Place, 1350 W. Colorado Street, gave the following statistics:

- A report of child abuse is made every ten seconds in this country
- Nearly five children a day die due to abuse, three of which are under the age of four.
- 90% of child sex abuse victims are perpetrated by family members.
- Child abuse occurs in every social, economic, and religious group; there are no boundaries.

- Last year, Amberly's Place provided services to 603 child abuse victims and their non-offending parents.
 - In the first two months of 2011, Amberly's Place provided services to 58 child abuse victims.
- April is Child Abuse Awareness Month

Umpress presented the City Council with a bracelet that says "Every Child Counts" with a card noting "101 ways to praise a child" and thanked the City Council for their continued support of Amberly's place, the victims of abuse and the children that live in Yuma.

Harvey Campbell, 4155 E. County 13½ Street, President of BetterYuma.org, asked why the City has to wait for the outcome of Senate Bill 1525 to make a decision on development fees (aka impact fees). It is the obligation of the City Council to be proactive and to respond to the community's economic needs. The process to lower the citywide development fees was started over 90 days ago and the City Administrator stated it might be an additional 90 days to begin reviewing those development fees. He urged the City Council to appoint local businessmen to a committee to review the development fees, the methodology used to establish the rates and determine if they are fair and reasonable. Reducing or eliminating development fees will create jobs and, therefore, jumpstart the local economy.

John Pugliese, 10412 S. Avenue La Primera, Foxworth-Galbraith, stated that the development fees are discouraging people from building in Yuma, which impacts the amount of jobs available to those in the community. He urged the City Council to consider a temporary break in development fees to kick start the economy.

Paul Muthart, 2144 W. 24th Street, Pasquinelli Produce, stated that a presentation at last night's worksession by Greater Yuma Economic Development Corporation showed statistics of the State efforts in making Arizona one of the top states attracting business. The City of Yuma should piggy back on that effort and promote Yuma as an attractive place to bring business; attracting business to Yuma will bring jobs and economic growth. Businesses have to evolve as times changes. The City of Yuma should ask itself if growth-paying-for-growth is still appropriate today. He urged the City Council to evaluate the citywide development fees to ensure they are appropriately set.

Dan Fauth, 2087 W. 13th Lane, stated that eliminating or reducing development fees will not have an immediate effect; however, it will help to attract businesses and start creating jobs, especially with commercial development. Currently, residential developers are competing with the banks for foreclosed homes; the builders should have a fair chance at selling their properties at fair prices.

Brian Hall, 3064 S. Avenue B, stated that most of the people today haven't experienced economic times as bad as they are now. The City Council has some very tough decisions to make that will impact the community. Today, businesses in Yuma are also making difficult decisions regarding layoffs and/or closing their doors and employees are facing foreclosures on their homes. The Federal Government attempted to jump start the economy by offering a home buyer credit last year, but, as the money ended so did the building. He urged the City Council to repeal the citywide development fee ordinance.

Page Misenhimer, 3069 W. 12th Lane, stated a group of local businessmen got together and contacted the City in order to discuss citywide development fees. The City claims the ordinance cannot be modified; however, there will be a review by the end of the year. It is troubling to see on the agenda a modification of the development fee ordinance changing the three-year mandatory review to a permissive review. State law

says the City is supposed to spend the money on what it was raised for; however, the City cannot specify where the money was spent. Large businesses seeking to come to Yuma are receiving incentives for new development, while hometown businesses are not receiving any incentives. Development fees need to be equitable across the table, regardless of whether one is local. The City Council should conduct a full review of the development fees, and not use an out-of-town analyst, but rather a committee of local businessmen who are familiar with the community.

II. MOTION CONSENT AGENDA

Motion (Mendoza/Stuart): To adopt the Motion Consent Agenda as recommended. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meetings:

Regular Worksession	December 14, 2010
Regular Worksession	January 4, 2011
Special City Council Meeting/Roundtable	February 1, 2011

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (Attny)
2. Approve an application for a Permanent Extension of Premises/Patio Liquor License Permit submitted by William Edward Malo, agent for LZ Bar & Grill, 2175 S. Harley Drive, Yuma, Arizona, for multiple yearly events. (EP11-03) (Admin/Clerk)
3. Declare as surplus and authorize sale of equipment through the online auction, using the cooperative purchase agreement originated by the City of Tucson, to Public Surplus, LLC, Provo, Utah. (Bid #2007000461) (Fin/Pur)
4. Award Sole Source contract for the upgrade of the existing software, maintenance and support (one-year) at \$108,163.00 (plus tax) and future annual maintenance and support costs estimated not to exceed \$100,000.00 to Radio IP, Montreal Quebec, Canada. (Fin/Pur)
5. Award to the lowest responsive/responsible bidder for the new 12" Waterline - Avenue 3E South of 16th Street, at a total cost of \$289,463.95 to CEMEX Construction Materials South, LLC, Yuma, Arizona. (Bid #2010000369) (Eng)
6. Award to the three responsive/responsible bidders with the highest discount offered for PVC Plastic Pipe Fittings and Related Accessories, a one-year contract with the option to renew for four additional one-year periods. Renewal will depend on the appropriation of funds and satisfactory performance. It is estimated the first year cumulative cost will be approximately \$15,000.00, which will exceed \$50,000.00 over the five-year life of the contract with the following firms: Ewing

Irrigation Products, Yuma, AZ; Yuma Nursery Supply, Yuma, AZ; and, Yuma Winnelson Company, Yuma, AZ (Bid #2011000220) (City Wide)

7. Authorize the use of various cooperative purchase agreements for the purchase of Fleet Services Warehouse Stock Items, at an estimated annual amount of \$500,000.00 (excluding tax) to: State of Arizona; Western States Contract Alliance (WSCA); Mohave Educational Services Cooperative; US Communities; The Cooperative Purchasing Network (TCPN); Strategic Alliance for Volume Expenditures (SAVE); Yuma Educational Purchasing Association (YEPA); and, Cooperative Agreements with various Municipal Agencies. (Bid #2008000488 and #2011000295) (Field Ops/Fleet Svcs/Warehouse)
8. Authorize staff to execute a one-year contract with the option to renew for four additional one-year periods, depending on the appropriation of funds and satisfactory performance, to be utilized by the Human Resources Department of the City of Yuma at an estimated annual cost of \$29,850.00 for the first two years, to TriStar Risk Management, Long Beach, CA. (RFP #2011000172) (HR)
9. Approve the Yuma Parks and Recreation facility naming list for the purpose of standardizing the names of City facilities. (Parks & Rec/Admin)
10. Approve an Intergovernmental Agreement (IGA) between the City of Yuma, Yuma County and the Yuma County Recorder for the provision of election services for Fiscal Years 2011-2016. (Admin/Clerk)
11. Approve an Intergovernmental Agreement with Yuma County for waterline installation along Avenue C, between 8th Street and 1st Street, at an estimated amount of \$545,565.00. (Eng)
12. Authorize the City Administrator to execute a License Agreement with Mattel, Inc. (PD)
13. Approve an Intergovernmental Agreement (IGA) between the City of Yuma and Yuma Metropolitan Planning Organization (YMPO) for the provision of vehicle wash services. This IGA is for one-year term renewable for four additional one year terms. (PW/Fleet Svcs)

III. RESOLUTION CONSENT AGENDA

Motion (Johnson/Mendoza): To approve the Resolution Consent Agenda as recommended.

Bushong displayed the following titles:

Resolution R2011-05

A resolution of the City Council of the City of Yuma, Arizona, providing for a Call of Election for the 2011 Primary and General elections, designating the election dates and purpose, designating the deadline and location for candidates to file nomination petitions and designating the deadline for voter registration

(Three Councilmember seats and one Municipal Judge; 2011 Primary and General Election) (Admin/Clerk)

Resolution R2011-06

A resolution of the City Council of the City of Yuma, Arizona, authorizing and approving a Development Agreement deferring citywide development fees for Ingold Family Investments, LLC (Property: Lot 4B of the Yuma Commerce Center, Lot 4 Multi-Tenant Building Lot Split) (Eng)

Roll call vote: **adopted** 7-0.

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

A. Ordinance O2011-09: Rezone properties located at Avenue B and 31st Street, Yuma, AZ from the General Commercial (B-2) District to the General Commercial / Aesthetic Overlay (B-2/AO) District. The applicant is the City of Yuma on behalf of Stephen and Shirley Kleppe, Bobby and Elizabeth Merritt. (Z2010-015) (DCD/Planning)

Motion (Johnson/McClendon): To continue *Ordinance O2011-09, the Rezoning of Properties at the Northwest Corner of Avenue B and 31st Street, Yuma, Arizona* to the Regular City Council Meeting of October 5, 2011, or sooner, if revisions to the Aesthetic Overlay District are approved by City Council. Voice vote: **approved** 7-0.

V. INTRODUCTION OF ORDINANCES

B. Ordinance O2011-11: Amend City Code, Title 15, Chapter 157, sections 157-005(B), making the three-year update of Citywide Development Fees permissive rather than mandatory. (Eng)

Speakers

John A. Weil, 3064 S. Avenue B, spoke in opposition to O2011-11. The original ordinance was adopted in 2005 and has had two reviews where the City wanted to raise the fees. Public hearings pointed out that information provided by the consultant was inaccurate. Thereafter, numerous changes were made to the ordinance. Residents were also assured that there would be a mandatory review every three years, and, if assumptions about growth proved to be untrue, then the ordinance would be changed or repealed. Recently a number of individuals have approached the City, asking for a review and claiming the fees to have a negative impact on the economy. The original ordinance assumed that the City would not receive any Federal money; however, the City received \$10 million dollars in Federal stimulus money. The City should have conducted a full review of the development fees immediately after receiving the stimulus money. Is it necessary to continue to tax those who are trying to create jobs in the community?

Ken Rosevear, 180 W. 1st Street #A, Yuma County Chamber of Commerce, stated that he has worked on the issue of development fees since 2005. Yuma County is approaching 12,000 layoffs and over 100 businesses have closed. On Friday, January 20, 2009, the Yuma County Chamber of Commerce held a public press conference at the Yuma Community Food Bank promoting an event called Operation Jump Start, a proposal to the City that it jump start the local economy by suspending development fees for one year. However, the proposal was promptly dismissed by the previous City Administrator. Now, 27 months later, the issue has not been resolved and unemployment is worse than ever. Part of the problem is that the City has been paralyzed by its legal department rejecting every effort of solution stating that any revision or

alteration of the development fees is against the law. The community strongly disagrees; the current Arizona freeze on development fees states that a city cannot add new fees or raise fees. It does not say that a city cannot lower or do away with fees. Senate Bill 1525 is the response to various cities in Arizona that have abused development fees. If SB1525 passes, the City should implement the law immediately; if it fails the City then should have necessary changes ready to go.

Mike Tucker, 12656 S. Avenue 4½ E, opined that the development fees are negatively impacting the local economy and need to be reviewed. The City needs to find a better way to keep the City running. In a recent newspaper article, the City Administrator stated that the burden of growth is currently on developers. That is not true because the developers pass this cost down to consumers. Small projects can cost up to \$20,000 in fees, which does not include the cost of permits – development fees need to be repealed. Being a homebuilder in Yuma since 1976, he lived through the recession of 1980, but has never seen economic times this bad.

Wilkinson stated he agrees with some of the previous comments. He met with three representatives of betteryuma.org and felt the meeting went well. What is going on in the community is affecting the City in different ways. He noted the following:

- The original development fee ordinance went into effect in December 2005, with the first review completed in December 2008; the third review is due December 2011.
- The City of Yuma has been flexible, in collecting fees by deferring development fees until a project was completed or sold.
- The City's legal department has not rendered an opinion on development fees and is not preventing changes.
- As far as the trickle down effect, the real issue is who pays for what and how much. At some point, someone has to pay for the infrastructure to build homes and businesses.
- Dropping development fees may be a short-term fix, but offering incentives to out-of-town companies is a better way to bring in new businesses and create jobs.
- Changing "shall" to "may" will protect the City should someone decide to sue over development fees.
- What was true in 2007 may not be true today.
- The forecasted increases in development have not materialized.
 - Developers built homes that were selling and the City was preparing to expand a wastewater plant to handle the growth, but development has ceased.
- Reviewing the fees may require an outside consultant because of the complicated nature of the work. However, the City Council could choose to appoint a group of people to review the development fees.

Mayor Krieger stated that he hoped the community perceived a change in the openness and transparency of the City government over the past 15 months. The City Administrator has made a tremendous effort to be open to ideas and find solutions to issues. The issues of development fees are polarizing. The State Legislature has taken up the issue. Development fees help pay for additional police and fire stations, personnel, training and equipment. The City spent a half a million dollars responding to lawsuits from one company in particular. The City has an obligation to protect its citizens. No one on the City Council has sufficient background to tackle development fees alone; however, he is committed to listening to the public and attempting to resolve this issue.

Johnson stated that initially the ordinance did not include a mandatory review; however, he worked to include one because a three-year review is necessary to determine if the development fees need change. The amendment tonight only changes the word "shall" to "may" in the related section; the City Administrator will undoubtedly conduct the reviews on a three-year basis. The only way to protect taxpayers from a lawsuit is to make the word change.

Wilkinson stated that staff will seek a representative from betteryuma.org in the review process.

Wilkinson stated he has read the development fee review in its entirety, and held a couple internal meetings to determine the review process. Further, he has met with a few City Councilmembers and will be meeting with the rest soon. The review cannot be performed internally; the City wants to be fully prepared with a consultant in case Senate Bill 1525 passes. **Mayor Krieger** asked when a decision on SB1525 is expected. **Wilkinson** explained that the bill is currently in negotiations in the House. He, Wilkinson, and the Mayor will be in Phoenix to speak to the City's legislative contingency. **Moore** explained that a decision may come by the end of April.

Mayor Krieger asked if the City repealed the development fees today, how many homes would be built in the next 120 days. **Campbell** stated that can not be determined. Recently, the United States Government gave an \$8,000 home buyer's credit to individuals on their taxes, which resulted in a substantial increase in home buying. **Mayor Krieger** stated that, even with the credit, there was no financial impact to the federal government. **Campbell**: That is correct; however, maintaining the status quo accomplishes nothing. The methodology used to determine the development fees was flawed. **Mayor Krieger** stated that development fees weren't an issue when the economy was good. **Campbell** disagreed. There were 100 people in the audience protesting the methodologies used by the consultants; the City Council agreed with them and approved the development fees at 70% of what was proposed. Eliminating development fees will have a positive impact on the economy. The City's need for financing does not justify development fees. The public expects City services to decline just as state and federal services have.

Johnson stated that people have lost their jobs and businesses have closed. Development fees are supposed to pay for infrastructure necessary for growth. If there isn't any growth, then development fees aren't collected. The stimulus money that was supposed to be given to the City mostly went to state projects, not to the City. The federal government has nearly run the country into bankruptcy by printing more money and shifting responsibilities to other levels of government. The State Legislature is sweeping the vehicle license tax and gasoline tax this year; almost \$200 million. The money was supposed to be spent on roadway projects but is now being used for General Fund activity. Additionally, the State Legislature is passing new expenses down to cities and counties. The City needs to stop funding optional services before considering having to lay off fire fighters. He urged people to attend the City of Yuma budget hearings. **Campbell** agreed; the City needs to provide only the most effective services to the public, public safety should be first priority.

McClendon expressed her concern with changing "shall" to "may" in the ordinance. Although the City Administrator says he will get a review done, what happens if something changes and it doesn't get done? It is good to have the review every three years; maybe there is better language that can be used to continue the reviews. **Mayor Krieger** asked if McClendon has alternative wording, the issue is to mandate the reviews or not to. **McClendon** stated she doesn't have alternative wording but feels the City should keep the reviews. When people continuously sue the City, it is wrong and shame on them; the City shouldn't have to change a word in the ordinance to protect the citizens from lawsuits. **Johnson** reminded the City

Council that the ordinance is in the introduction phase and will not have a vote tonight. Changing the word "shall" to "may" doesn't stop the City Council from directing the City Administrator to conduct a review; it will no longer be the law. If the City Administrator fails to do so, he can be replaced.

Mendoza stated that the development fee ordinance will likely not be repealed, but can the fees be reduced. Yes. The City of Yuma has been known as being inflexible and not business friendly; however, the City Council has shown flexibility, development fees have been deferred. The word "shall" is a mandatory statement and brings accountability to any business whether it is the federal, county, state or municipal government. Shall is a directive that states actions will occur or there will be consequences. Lawsuits will happen regardless, it is the cost of doing business; shame on those who do it just to clog the system in a malicious way. There are a lot of foreclosures in the community and many subdivisions that have been started but not completed. People looking to buy will look for a home already built. If the ordinance is repealed, how many homes will be built? The answer is unknown. It is preferable to have a mandatory review rather than a permissive that allows staff to get to the review whenever they get to it. The comment about development fees being excessive and abusive is just a personal opinion; development fees do pay for necessary infrastructure.

Mayor Krieger asked Moore to explain the process of introducing ordinances. **Moore** explained that the introduction of an ordinance introduces new legislation to the public so they can review it before it goes to the City Council for final adoption. When the ordinance is the introduction stage, the ordinance is displayed and read into the record by the City Clerk and there typically is no action taken. At the very next City Council meeting, the ordinance is placed on the agenda as an adoption, or a second reading, and then adopted as law.

Beeson stated that he would like to see development fees reduced or eliminated for infill projects that are less than a few acres. **Mayor Krieger** reminded Beeson that particular subject was not on the agenda. **Beeson** asked if the City Council is replacing "shall" with "may", why can't we cut the numbers back for a few years until the economy looks better? He suggested looking at the different categories where the fees go and reconsider what to contribute to.

Wilkinson suggested coming to a middle ground by changing the word "shall" to "may" and when the City comes back with new numbers, it can reinsert the mandatory review.

Bushong displayed the following titles:

Ordinance O2011-10

An ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 154 of the Yuma City Code, as amended, providing for changes to the Zoning Code to grant authority to the Hearing Officer to hear and decide applications for time extensions of Conditional Use Permits and providing penalties for violations thereof

(DCD/Planning)

Ordinance O2011-11

An Ordinance of the City Council of the City of Yuma, Arizona, amending Chapter 157 of the Yuma City Code, Section 005(B) to make the three year update permissive rather than mandatory

(Amendment: Citywide Development Fees) (Eng)

Ordinance O2011-12

An Ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that certain parcels of real property, hereinafter described, be conveyed by easement to Arizona Public Service Company by the City of Yuma, for the reason that such easement is required for the construction, expansion, operation and maintenance of City of Yuma facilities
(Easement to APS for power supply to Joe Henry Park facilities) (Eng)

VI. PUBLIC HEARINGS – none

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Announcements

Johnson announced the State would be cutting \$25 million from the State Transportation Board's Capital Improvement Program, monies that were expected to come into Yuma County for the widening of Highway 95 and for improvement at San Luis I Port of Entry. A meeting is scheduled for April 15, 2011 at 9:00 am in Phoenix. He urged citizens to attend and let the State know how critical these projects are to Yuma.

Scheduling

Beeson requested adding the topic of Meet and Confer to a future agenda for City Council discussion.

Appointments

Motion (McClendon/Stuart): To appointment James Allen as the Chair and Dr. William Masland as Vice Chair to the Housing Authority of the City of Yuma. Voice vote: **approved** 6-0-1; Mendoza declared a conflict of interest.

Motion (Brooks/Beeson): To appoint David M. Haws to the Housing Authority of the City of Yuma to fill an unexpired term ending December 31, 2011. Voice vote: **approved** 6-0-1; Mendoza declared a conflict of interest.

Motion (McClendon/Johnson): To appoint Tim Taylor to the Clean & Beautiful Commission with a term to expire on December 31, 2015. Voice vote: **approved** 7-0.

Johnson reported a meeting in Phoenix he will be attending for the State Transportation Board.

Mayor Krieger reported the following:

- Traveled to Washington D.C. with Wilkinson to meet the City's lobbyist's, the Ferguson Group, and Arizona's senators and representatives regarding the state of affairs in Arizona and issues that directly affect the City of Yuma.
- Traveled with Wilkinson, along with representatives from the Chamber of Commerce, Airport Authority, and Greater Yuma Economic Development Corporation - the City represented the County

- in lobbying efforts with representatives from Lockheed Martin in Dallas Fortworth, Texas and toured the plant that manufactures the F35 Strike Fighters.
- Traveled to Tucson, El Paso and Washington D.C. and met with the Secretary of Homeland Security, Janet Napolitano regarding the City of Yuma's border security and the subsequent damage done to the community due to the National media's stories on border violence that does not accurately reflect the situation in Yuma.
- Travel to Washington, D.C. to meet with the Secretary of Homeland Security; the Chief of Immigration and Customs Enforcement (I.C.E); representatives from United States Customs and Border Protection; and, a representative of the United States/Mexico Chamber of Commerce.
- Upcoming travel, with Wilkinson, to Phoenix to meet with Yuma's legislators.

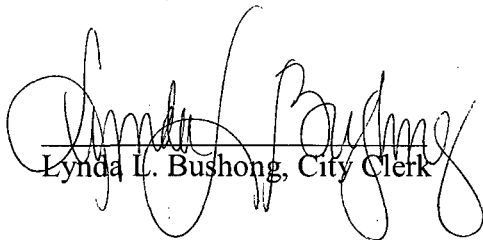
VIII. SUMMARY OF CURRENT EVENTS

Wilkinson reported the following:


- On Saturday, April 9, 2011, the City of Yuma will be conducting the Household Hazardous Waste collection on 2nd Avenue from 8:00 am to 12:00 pm.
- The ten-week Neighborhood Cleanup Program that started on January 31, 2011 will be coming to an end on April 18, 2011.
- Saturday, February 9, 2011 the Yuma Civic Center will be hosting the Taco Festival at Desert Sun Stadium from 11:00 pm to 6:00 pm; judging begins at 12:00 pm.
- Saturday, February 9, 2011 the Housing Festival will be held at the Dr. Martin Luther King Jr. Neighborhood Center, 3rd Street and 13th Avenue
- The fundraiser for the Special Olympics, the Polar Plunge, raised \$9,800.

IX. EXECUTIVE SESSION/ADJOURNMENT

Motion (Beeson/Mendoza): To adjourn to Executive Session. Voice vote: **approved** 7-0. The meeting adjourned at 7:02 p.m.


Lynda L. Bushong, City Clerk

APPROVED:


Alan L. Krieger, Mayor

Approved at the City Council Meeting of:
April 6, 2011
Secretary: Janet L. Pierson
City Clerk: Janet L. Pierson