

**CITY COUNCIL MEETING OF THE CITY OF LEON VALLEY, TEXAS
APRIL 3, 2012**

The City Council of the City of Leon Valley, Texas, met on the 3rd of April, 2012 at 7:00 p.m. at the Leon Valley City Council Chambers, at 6400 El Verde Road, Leon Valley, Texas, for the purpose of the following business, to-wit:

REGULAR MEETING OF THE CITY OF LEON VALLEY CITY COUNCIL, 7:00 P.M.

1. Call the City of Leon Valley Regular City Council Meeting to Order, Determine a Quorum is Present, and Pledge of Allegiance.

Mayor Riley called the Regular City Council Meeting to order at 7:00 p.m. with all City Council Members in attendance: Hill, Reyna, Baldrige, Dean, and Bieber.

City Staff in attendance: City Manager Longoria, City Attorney McKamie, City Secretary Willman, Community Development Director Flores, Economic Development Director Mora, Human Resources Director Caldera, Police Chief Wallace, and City Engineer Sia Sayyadi.

City Attorney McKamie led the assembly in the Pledge of Allegiance.

2. Citizens to be Heard and Time for Objections to the Consent Agenda.

Susan Pamerleau, 230 Dwyer Avenue, # 1102, San Antonio, addressed the City Council informing them of her background. Ms. Pamerleau asked for the City Council's vote in the 2012 Republican Primary on May 29, 2012, and then in the General Election in November 6, 2012.

Liz Maloy, 7411 Chenal Point, addressed the Council indicating she was at the City Council Meeting on February 21, 2012, speaking during the Citizens to be Heard after Mayor Riley had on the agenda the item to expand the notification area [related to the DPS Mega-Center]. Ms. Maloy noted her addressing the City Council was not put into the minutes and asked that the minutes be amended to reflect that occurrence.

Ms. Maloy acknowledged that some of what is being considered this evening is in a draft form from the Planning and Zoning Commission. Ms. Maloy further noted that in the City Council agenda packet there was a difference in the beginning presentation of the decision made by Planning and Zoning on March 27, which is different and is not as inclusive as what Ms. Kristie Flores has put in her presentation concerning amendments made. She explained that if one did not know that there was a difference and did not know to look in the presentation what comes across is that it was not as complex a motion with amendments when it actually was. Ms. Maloy asked that her remarks be entered in the minutes. Mayor Riley thanked Ms. Maloy and indicated her comments would be noted.

Consent Agenda

3. Consider Approval of the Meeting Minutes of the March 20, 2012 Leon Valley Regular City Council Meeting. The City Council approved the draft minutes of the Leon Valley Regular City Council Meeting of March 20, 2012.

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4. **Consider Approval of the Meeting Minutes of the March 24, 2012 Leon Valley Special City Council Meeting.** The City Council approved the draft minutes of the Leon Valley Special City Council Meeting of March 24, 2012.

Motion by Council Member Baldrige and second by Council Member Hill to approve Consent Agenda Items 3 and 4. The motion carried on unanimous vote of the City Council. There were no votes against and no abstentions. Mayor Riley announced the motion carried.

Regular Agenda

Mayor Riley asked City Attorney McKamie to review the zoning process and specific use permit procedure, to provide the City Council guidelines that need to be considered in weighing the specific use permit under consideration, and to define conflict of interest. Mayor Riley indicated that following the City Attorney's remarks, the Council would hear the guidelines for the conduct of tonight's public hearing.

Mr. McKamie informed the assembly that the City of Leon Valley has a zoning ordinance that provides for a specific use permit (SUP) to regulate properties in certain circumstances. Generally SUPs are used to provide a means for protecting surrounding prosperities from development that may be a little more intense than the surrounding developments. In Leon Valley, in a B-2 zoned district, that is generally defined as retail uses, development, including some professional office development. In some of our B-2 zones, the developer or owner of the property can put in such a use that is listed in our ordinance without seeking an SUP. The SUP is required in some circumstances to ensure that surrounding properties are better protected because in our ordinance if the proposed B-2 Retail Use is new and going into an area that is surrounded by what is defined as residential properties, that is exactly the kind of situation for which an SUP is designed to be used and which is defined in the City's ordinance. In this case, since this would be a use that is allowed in a B-2 zone, but it does abut or is right next to residential properties, an SUP is required. An SUP as a zoning device requires ordinance approval by the City Council. But before it is finally implemented, it must go to public hearing, at least two; one at the Planning and Zoning Commission which is statutorily required by law to examine such permit applications and make recommendations to the City Council and the second hearing for final consideration by the City Council. If the SUP is approved, then the development or the project can go forward on that site in accordance with the conditions in our zoning ordinance as well as any conditions that were placed additionally on the property as a result of the SUP process. The reason that is important is because the considerations that are used by the Planning and Zoning Commission and the City Council are traditional zoning considerations. The considerations do not involve financial considerations; they do not involve uses that are nice to have, or what Council likes or does not like. It involves light, traffic, noise, and density, impact on surrounding properties and on the community as a whole. Additionally, the zoning statutes of Texas and our ordinances requires owners of property within 200 feet of the location where the SUP application is proposed; to be given notice of an SUP application and public hearing. The City Council voted to increase the notice in this case to ensure that everyone had an opportunity to respond and be present at the public hearing. Once all of those conditions are met, the City Council is free, after the recommendation of P&Z, to either adopt the recommendation or to turn it down or to add additional conditions in the SUP.

Regarding conflict of interest; Leon Valley is a general law city in Texas, thus the City is regulated only by the Conflict of Interest laws in Texas statutes. Chapter 176 of the Local

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Government Code requires that members of the Planning and Zoning Commission or the City Council that may be considering a matter declare they have a conflict of interest and recuse themselves from deliberation and consideration and vote on an item. If a conflict is identified, that individual official must file an affidavit with the records keeper, the City Secretary, and then refrain from any discussion or vote during the meetings, if their conflict has been declared. The conflict is really financial only. There are some provisions about conflict in zoning matters, such as if you live on the same street or there is some ownership in the property. Generally, there is a conflict of interest if an individual is considering a matter before the Planning and Zoning Commission or the City Council with whom they have earned more than \$2,500 in the last year or the individual or their immediate family members have received more than 10 percent of their income. Otherwise there is no conflict of interest under Texas law and Council Members and P&Z members are free to deliberate, discuss, and vote. On occasion, we have a member who even though they don't have a conflict of interest and aren't required to file the affidavit, do not feel comfortable or feel there might be an appearance of a conflict to the public and they will elect to recuse themselves voluntarily not out of conflict of interest but personal choice.

Mayor Riley summarized the order of the proceedings on Agenda Item 5.

5. **Conduct a Public Hearing and Consider Specific Use Permit Case # 2012-270, with Attached Ordinance, a Request by Barry Williamson, Applicant and Property Owner, for a Specific Use Permit to Construct and Operate an "Office" Specifically a Department of Public Safety Driver's License Mega-Center Adjacent to an R-1 (Single-Family Dwelling) Zoning District," on a B-2 (Retail) Zoned Property, in the 7400 Block of Huebner Road, Being 3.4 Acres of a 5.3 Acre Tract in the Sustainability Overlay, M&C # 03-10-12. On March 27, 2012, the Zoning Commission recommended approval of the request by a vote of 4 to 3.** This agenda item allowed the City Council to conduct a public hearing and consider approval of Specific Use Permit Case # 2012-270, with attached Ordinance, a request by Barry Williamson, Applicant and Property Owner, for a Specific Use Permit to construct and operate an "office" specifically a Department of Public Safety Driver's License Mega-Center adjacent to an R-1 (Single-Family Dwelling) Zoning District, on a B-2 (Retail) Zoned Property, in the 7400 Block of Huebner Road, Being 3.4 Acres of a 5.3 Acre Tract in the Sustainability Overlay. On March 27, 2012, the Zoning Commission recommended approval of the request by a vote of 4 to 3.

Kristie Flores, Community Development Director, summarized the facts of the SUP case before the City Council for consideration. City Engineer Sia Sayyadi was on hand to clarify any traffic-related questions.

Claude Guerra, the Zoning Commission Chair, addressed the City Council regarding the Zoning Commission's recommendations on the SUP application. Mr. Guerra noted that most of the discussion dealt with the traffic impact on that area. Other matters that came up for discussion, included the matter of four holding cells; one was required for each, an adult male, adult female, a juvenile male, and a juvenile female. Mr. Guerra noted there would be no overnight detention. He informed the City Council that none of the four San Antonio Department of Motor Vehicle sites will be eliminated. Mr. Guerra discussed the vote of the Zoning Commission with the three additional stipulations included in the recommendations to the City Council; noting that there were 4 votes in support of the SUP approval and 3 votes against the SUP approval. One recommendation is that of

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the three routes that had been proposed to be used by the DPS; the third route that was recommended which took drivers outside of Leon Valley so persons who are taking their driving test not be in City of Leon Valley neighborhoods. The second stipulation or condition is that there are no extended hours; only 8 a.m. to 5 p.m. The third stipulation or condition was that the traffic study and the traffic recommendations be sufficiently clarified and addressed as to the true traffic impact on the area.

Barry Williams, owner and developer of the property, introduced Texas Senator Leticia Van De Putte, District 26. Senator Van De Putte provided an explanation of the legislative intent in proposing the DPS Mega Centers. She noted the fast population growth in Texas, with 60 percent of the growth of Bexar County in the northwest quadrant. There were three new projects authorized by the Texas Legislature in the 81st Legislative Session. Based on changes related to the increased need for identification, the Legislature despite having to cut many programs authorized funds for increased services of this kind and was aimed at compliance with the Federal Real ID Act. She noted that persons using the Center will be community neighbors and persons from the Northwest Bexar County quadrant. She disclosed she is in compliance with the Constitution of the State of Texas that no member of the Legislature shall benefit directly or indirectly with any piece of legislation or any contract.

Rebecca Davio, Director of Licensing with the Department of Public Safety, addressed the City Council informing them that the Legislature directed the DPS to improve the quality of service provided to Texans. In order to accomplish that, the DPS is working to make the driver license process faster and easier. One important element of that effort is to add six larger facilities with more staff. Ms. Davio noted that one of the recommendations by the Zoning Commission, to restrict the operating hours is not acceptable to the DPS because the hours are a direct violation of the lease that the DPS signed. She informed the City Council that the Texas Facilities Commission signed a lease on behalf of the DPS that listed the hours as from 7 a.m. to 7 p.m. She explained the DPS is not currently operating using those hours. She noted that the DPS has a late night on Tuesday nights throughout the State of being open to 6 p.m. at their offices. The DPS is currently looking at expanding their hours of service as one of the initiatives in order to improve their services. The other restriction that might prove problematic is the recommendation from the Zoning Commission that only Route 3 is used for driving tests. She noted, in the event there is a road closure, DPS would not be able to conduct their business. She noted that Route 3 is a farther distance and using it only for driver tests will reduce the location's ability to offer driving tests by 25 percent.

- A. Discussion by the City Council.** Council brought up several questions that Ms. Davio, and Mr. Barry Williamson answered regarding the location at Babcock and the proposed new DPS Mega Center. There were some issues brought up related to the neighbor complaints about the location at Babcock regarding light intrusion at night, and drivers coming to practice parallel parking before testing and to practice learning the neighborhood streets around the Babcock Center. A question was asked about the future of commercial driver testing at the new proposed Mega Center. Council was informed that is a future possibility. Ms. Davio noted that approximately 70 percent of persons coming to transact business do not have to take the driver testing. Mr. Sayyadi clarified that a Level 1 means 100 to 500 cars per hour with immediate impact to the site. He noted

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that the standards used are developed by traffic engineers. Council asked for an example of a Leon Valley business with similar peak per hour trips to help them envision the impact of the traffic at the Mega Center. Mr. Sayyadi indicated that during its peak operational hours, a similar comparison could be made to a Valero Station in Leon Valley. Mr. Sayyadi noted that there will be street infrastructure changes to accommodate the additional traffic. A question was raised about the Mega Center in Pflugerville being in a residential or a commercial property. Paul Medrano, architect, indicated that the Center being built in Pflugerville is 300 yards from the nearest house or residential area but zoned appropriately. Mr. Williamson noted that the City has requested that the peak hour trips be over-engineered four to five times what is expected. He indicated that the expectation is about 560 people for the day based on 35 persons per day per booth.

B. Open Public Hearing. Mayor Riley opened the Public Hearing at 8:14 p.m.

Ray Rosin, from the Rosin Group, 759 Sweetbrush, San Antonio, is the project civil engineer and the author of the TIA. Mr. Rosin indicated the Mega Center could be called a convenience center. He noted that the traffic is not mega traffic and represents only 2 to 3 percent of the traffic on Huebner. He noted the positive attributes of the Mega Center including turn lanes which will help control the traffic flow.

Adolfo Garza, 6617 Evers Road, spoke as a business owner on Evers Road. He indicated that he was an investor who had proposed a business development in this area and noted that his business project was also rejected. He pointed out that the same neighbors with the same arguments keep coming forward. He noted, that in his opinion, if the neighbors choose to live in front of a commercial property, the neighbors should respect the rights of commercial properties as well.

Charles Malouff, 6514 Fontana Point. Mr. Malouff read from a prepared statement. He indicated that there has been a lack of due diligence on behalf of the City engineer, City staff, and the Zoning Commission in doing their duty in understanding the impact of current and anticipated traffic flow on Huebner and Evers Roads. He asked the City Council to set up a town hall meeting so all residents who may be affected can attend and have an opportunity to be heard on the impact of the Mega Center.

Betty Wolfshohl, 7414 Canterfield. Ms. Wolfshohl indicated her proximity to the development and noted she favored a doctor's office to be placed in the location. She noted that there is a safety issue for children and small wildlife. She noted problems with extra traffic, lights, and noise. She asked if the DPS is tax exempt.

Liz Maloy, 7411 Chenal Point. Ms. Maloy noted her experience as former City Council Member, former chair of the Leon Valley Planning and Zoning Commission, a degreed urban planner, and current president of the Pavona Place Home Owners Association. She noted the efforts of the City to bring hike and bike and walking trails as a loss to persons who might have otherwise

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engaged in those activities due to safety issues including senior citizens and children. Ms. Maloy cited incompatibility issues and the negative impact on the surrounding community as the basis of her opposition.

Jeton Kellogg, 6615 Fontana Point. Ms. Kellogg voiced concern for children from Leon Valley Elementary, the devaluing of neighboring properties, and the overuse of the City's streets. She stated the Mega Center does not belong in the neighborhoods and recommended that the Mega Center be placed on Bandera Road.

Paul Ottavio, 7415 Chenal Point. He noted that a project this large should be scheduled in a town hall meeting format so all residents of Leon Valley can attend and be heard. He indicated that he was not sure that the surrounding churches, residents, and businesses were aware that this project was going on. He voiced concern for water and rain runoff because the building and the parking traffic area.

Carole Smith, 7230 Grass Valley Drive, noted increased traffic as a concern and noted the suggested traffic flow remedies were not convincing. She explained traffic would come from all directions and noted that this will affect many more homeowners than just those at Huebner at Evers Road. She and her husband drove to the DPS location at Babcock and saw trash, burglar bars, and a security camera at Babcock Road.

Brett Ballio, 24245 Wilderness Oak, # 506, San Antonio. He indicated he is in favor of the development. He owns property that is adjacent to the church. He noted that he is impressed with Mr. Williamson's efforts to comply with the City. He stated that the property has been zoned commercial for a long time. He indicated he was glad the property was going to be developed into something nice.

Mary Key, 4718 Canterfield. She indicated she is opposed to the location because of the traffic and the noise. She voiced concern for the safety of children.

Robert Trout, 7418 Ellerby Point, Pavona Place, Leon Valley, suggested that residential be placed in the location and suggested that the Mega Center be placed behind Chachos or the Dodge Dealership. He noted that traffic between 4:30 p.m. and 6:30 p.m. is so bad he cannot turn into Pavona Place. He asked how traffic can be controlled. He asked if the City is going to hire more police, EMS, or firefighters.

Thomas Robertson, with Alamo Park Properties, 8110 FM 1692, Miles, Texas. He indicated he will be the site superintendent for the project. He informed the City Council that Alamo Park Properties met with City staff in early January after confirming with City staff that the property met the zoning. He stated they learned what the process would be to obtain a permit. The project was developed according to the design standards and after two rounds of comments, they took the comments and did what was asked of them. Once the design was

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certified to meet compliance, the project was scheduled for the Zoning Commission. He detailed the developer's efforts to meet the City's standards.

Miguel Cason, 2247 Sondra Ridge, San Antonio. He noted that the project has a right to be developed and that the increased traffic is based on population growth. He encouraged the development to go forward. He informed the City Council of a recent effort to get his driver's license at the Babcock location noting it was very crowded.

Sonny Hepp, 8100 Huebner, indicated he is a resident and business owner in Leon Valley. He noted he is in favor of the new development. He informed the City Council that he is the owner of the nearby convenience store.

Duane Smith, 7230 Grass Valley Drive, cited numerous reasons for being vehemently opposed to the development. He voiced concern that none of the persons speaking in favor of the development live in the area. He indicated couldn't see any real deterrent that the DPS will have on crime, as the troopers will only be present 45 percent of the time. He noted the changes in the commitment to comply with the recommendations from the Zoning Commission between what was indicated at the Zoning Commission meeting and tonight's City Council meeting.

Walter Geraghty, 7315 Ellerby Point. As former City Council Member, former Mayor Pro Tem, as a Member of the Leon Valley Stormwater Committee, and as a citizen, Mr. Geraghty noted this as a limited opportunity to affect the decision of his neighborhood. Mr. Geraghty discussed the problem with flooding on Evers Road. He discussed the problem with traffic congestion and asked the City Council to vote its conscience.

Renee Baird, 6611 Forest Bend North, indicated she was very disturbed by the tone of the attacks on the Zoning Commission Members. She pointed out that Zoning Commission Members actually take time to study the locations and proposed changes before listening to the input of the proponents and opponents. She noted that the location is a commercial area and asked the City Council to make a decision based on what should be considered.

Carol Poss, 7201 Huebner. She indicated there is a lot of traffic congestion at the Leon Valley Elementary School on Huebner. She stated that the area is obviously a residential center, even if there is some commercially zoned property.

Robert Allen, 7414 Chenal Point. He informed the City Council that he and his fiancée chose Leon Valley for its natural beauty. He voiced concern with traffic that gets backed up on Evers Road and noted his opposition to the development.

Lyn Joseph, 6324 Trotter Lane. Ms. Joseph noted that there are children who are dropped off on her street and that no one stops at the stop sign on her street. She asked that the police patrol there for a while. She asked if other properties were considered.

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Sean Wood, 6526 Fontana Point, indicated he is a long time resident of Leon Valley and that he is opposed to this development. He noted that no one has said anything positive about the location at Babcock. The last time he was at the Babcock location, there was graffiti and dirty diapers on the ground and his concern was that the residential area in Leon Valley will look like that in 5 to 10 years.

Louise Malouff, 6514 Fontana Point, asked questions about whether car insurance premiums will increase, about the hours of operation, and asked for clarification about the traffic flow.

Joe Hinojosa, 5506 Thunderbird Drive, stated that he sent a letter to the Mayor and City Council and asked that it be entered into the record. He asked that if the stipulations of the Zoning Commission are now being rescinded, if that meant the developer needs to return to the Zoning Commission for new consideration.

Rudy Garza, 6510 Pavona Ridge, indicated he is opposed to the project. He indicated that the location is the wrong place for this development.

Ann Sawyer, 6230 Walking Gait, noted that at the Zoning Commission Meeting, there was confirmation that the traffic study is two years old. She indicated she also did not appreciate the change of operation hours by the DPS from the Zoning Commission Meeting on March 27 to the City Council Meeting on this evening. She indicated this particular location is not an ideal location.

Tommy Branson, 6634 Fontana Point, indicated he carried a sign up and down in front of the development. He counted cars within a two hour period on Monday, Friday, and Saturday and came up with between 67 and 78 cars per hour.

Janet Parrish, 6506 Fontana Point, indicated she is against the extra light, the extra traffic, and the extra noise. She stated she is a mother and does not believe her child will be safe to go to the park. She indicated she is against the project.

Tanya Wood, 6526 Fontana Point, indicated she is against the project. She asked if the City Council needs for the rest of the persons present at the Council meeting who did not come forward to speak to stand up to voice their opposition. Mayor Riley indicated the City Council had a good sampling of how people feel. Councilman Reyna asked that those who want to have their voice heard may also email the City Manager and him directly.

- C. Close Public Hearing.** Mayor Riley closed the public hearing at 9:47 p.m. and called for a short break.

Mayor Riley reconvened the meeting at 9:58 p.m. Mayor Riley reviewed the questions that remain to be answered. The question about the development being tax exempt is incorrect; ad valorem taxes have to be paid on what is private property which happens to be leased to the State of Texas.

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When was the City first contacted? After Thanksgiving in 2011.

For what offenses are people put in holding cells? These are small rooms to take persons away from the general population being serviced while being interviewed about outstanding warrants and other legal matters.

What is the amount of time that persons can be held? The shortest amount of time that persons can be held.

What exit off of Interstate 410 will the Department of Transportation be telling persons to exit? That would be something to be determined between the Department of Transportation, the developer, and the City of Leon Valley.

What about graffiti? Because the new development / facility will be privately owned, it will be better maintained.

What is the square footage? Square footage of the new Mega Center is 24,302 square feet.

What is the square footage of the location on Babcock? 5,500 square feet.

What is the growth in the Northwest quadrant? The State of Texas is growing at 21 percent. The Northwest quadrant is growing at 60 percent.

Is the recommendation to the City Council null and void because some of the conditions may change? City Attorney McKamie indicated the City Council retains the full legislative authority with the right to impose additional conditions related to traditional planning considerations.

A question was raised about the operation hours. The answer was from 8 a.m. to 5 p.m. Locations in San Antonio stay open later on Tuesdays.

Would you clarify the route to be used for driver testing? The developer understands that the City would prefer that the route be used away from Leon Valley.

What evidence do you have that DPS is a crime deterrent? Mr. Williamson spoke with the individual (Richard Cook) who runs the Babcock location. Indications are that in 13 years, there have been no complaints.

What is the date of the last traffic data used? Two traffic counts were done in 2006 and in 2009. It was noted that with minor increases, those traffic counts remain valid.

Were other properties notified other than this site? The Texas Facilities Commission identified for this area for a certain number of area codes. Property owners can only compete within those area codes.

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Will our car insurance go up? The response was provided that occurrence was highly doubtful.

Questions about the turning lanes were raised and answered.

What about the property values? Councilman Biever noted that national studies indicate that property values did not go down nor did it take any longer to sell property in a variety of spots throughout the country based on his experience with homes for disabled vets and ex-offenders.

David Earl, attorney, 15303 Huebner, informed the City Council that he was hired just the previous Friday and came to advise the Council about something that it needs to be aware of. He said his client is not waiving any of its rights with respect to the issue. He explained that in his legal opinion these proceedings are not appropriate because this property does not abut residential property. In this case, there is a strip of property that is owned by the City.

Motion by Councilman Reyna and second by Council Member Baldrige to postpone this matter to have an additional traffic study done.

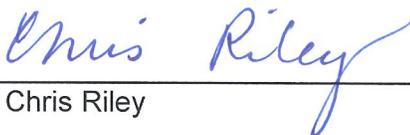
There was discussion about the need to have time to allow the City Attorney to advise the City Council in an Executive Session.

Councilman Reyna withdrew his motion. Council Member Baldrige withdrew her second.

Motion by Councilman Reyna and second by Council Member Hill to postpone this deliberation to Executive Session to April 17th and for the public to be notified via the newsletter that this item will be considered at the May 1st meeting. Voting Aye: 3 in favor; Hill, Reyna, and Biever. Voting Nay: Baldrige. Recused: Dean. Mayor Riley announced the motion carried.

The City Council dispensed with the remaining agenda due to the late hour.

10. Adjourn. Motion to adjourn without objection at 11:10 p.m. by Mayor Riley.



Mayor Chris Riley

ATTEST:



Janie Willman, City Secretary

