

REGULAR BURLEY CITY COUNCIL MEETING
CITY HALL
1401 Overland Avenue
Burley, Idaho
April 6, 2021

REGULAR MEETING

AGENDA - REGULAR SESSION AT 7:00 P.M.

CONSENT CALENDAR

- 1. ACTION ITEM 1.a through c.** Items on the Consent Calendar are considered to be routine and enacted by one motion. Any item may be removed for discussion and made a part of the regular agenda at the request of a member of the Council. Any request shall be made after the Consent Calendar is read and before action is taken.
- a. APPROVAL OF MINUTES FROM REGULAR AND SPECIAL MEETINGS**
- b. BILLS PAYABLE \$1,010,130.01.**
- c. PAYROLL ENDING ON 3/12/21 FOR \$330,136.88
3/26/21 FOR \$217,368.45.**

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| 2. <u>ACTION ITEM</u> | Loan for Fire Dept. Air Packs & Equipment | Shannon Tolman |
| 3. <u>ACTION ITEM</u> | Declare Air Packs as Surplus | Shannon Tolman |
| 4. <u>ACTION ITEM</u> | Waste Water Policy Changes | Dee Hodge |
| 5. <u>ACTION ITEM</u> | Declare Bar Stools & Tables as Surplus | Scott Draper |
| 6. <u>ACTION ITEM</u> | Discussion of Idaho Statue 61 Chapter 3 | Brent Wallin |
| 7. <u>ACTION ITEM</u> | Fees and Fee Resolution Discussion | Mark Mitton |
| 8. <u>ACTION ITEM</u> | Broadband Request for Proposal | Mark Mitton |
| 9. <u>ACTION ITEM</u> | Consideration of Lease for Mini-Excavator | Bryan Reiter |
| 10. <u>ACTION ITEM</u> | Lease of Parks Mowers | Brent Winn |
| 11. <u>ACTION ITEM</u> | Engineering Agreement with HDR for Work on IWTP Bios-gas System | Dee Hodge |
| 12. <u>ACTION ITEM</u> | Annexation of Real Property within the SE1/4 Of Section 28 in T10S R23E BM (City of Burley) | Bryan Reiter |
| 13. | Report and Discussion of Recent City Events | |

Information Items

BUILDING PERMITS:

Lynch Land Development	855 Overland Ave	Single Family	\$ 50,000.00
Solar Homes, LLC	851 Lake Cleveland	Single Family	\$221,410.00
Manuel Barajas	558 W 24 th St	Single Family	\$144,548.00
Emma Jean Hansen	718 Burton Ave	Single Family	\$146,500.00
Palmer Faux Finishing	724-726-728 Burton	Multi-Family	\$164,280.00
Wolverton Homes	1021 Magnolia	Single Family	\$133,200.00
Wolverton Homes	1016 Magnolia	Single Family	\$144,900.00

New Hire:

Coliese Hart	Waste Water Operator Treatment Apprentice	\$16.00 Per Hour
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**REGULAR BURLEY CITY COUNCIL MEETING
CITY HALL
April 6, 2021**

COMMENCE MEETING

Council met in regular session at 7:00 p.m. with Mayor Ormond presiding. Council members present were Casey Andersen, Jon Anderson, John Craner, Janet Hansen, Bryce Morgan and Kimberli Seely.

City Staff present were as follows: City Administrator Mark Mitton, City Clerk Ellen Maier, Attorney Dave Shirley, Sexton Dave Allred, Waste Water Treatment Director Dee Hodge, Golf Pro Scott Draper, Engineer Dave Waldron, Engineer Bryan Reiter, Fire Chief Shannon Tolman, Electrical Supervisor Brent Wallin, Parks Supervisor Brent Winn, Librarian Tayce Robinson, Human Resource Carol Anderson and Sheriff George Warrell.

INVOCATION

The Invocation was offered by Council member Craner followed by the Pledge to the Flag.

CONSENT CALENDAR

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 - b. **BILLS PAYABLE \$1,010,130.01**
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A motion was made by Council member Craner and seconded by Council member Morgan to accept the Consent Calendar as written.

Roll Call Vote.

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

LOAN FOR FIRE DEPARTMENT AIR PACKS & EQUIPMENT

City Administrator Mark Mitton stated that the air packs we have, are past the manufacturers date to be used. He asked Council to approve loan documents with DL Evans Bank for the purchase of 30 air packs, 60 bottles, the refill equipment and masks for each person in the amount of \$300,473.89. Mr. Mitton said the life of the air packs are 15 years and they will be paid back over a six-year term by monthly installments. He also stated that Mr. Shirley has written and reviewed the documents.

A motion was made by Council member Jon Anderson and seconded by Council member Morgan to approve the loan document and allow the Mayor to sign it.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

DECLARE AIR PACKS AS SURPLUS

Fire Chief Shannon Tolman stated that the air packs we have, are past the manufacturers date to be used, and asked Council for permission to surplus them. He stated that he has had interest from some departments in the city to have some on hand in case needed. Also the Sheriff's department would like some of them as backups for the jail, and there has been interest from volunteer fire departments around this area. He mentioned that there is no value in them for us.

It was also stated that a waiver would need to be signed stating they are outdated by NFPA standards.

A motion was made by Council member Morgan and seconded by Council member Craner to declare expired air packs as surplus.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

WASTE WATER POLICY CHANGES

Waste Water Treatment Supervisor Dee Hodge said that instead of raising the sewer tap fees he would like to change our policy to require the contractor or licensed plumber be responsible to make the tap into the sewer line. He said he would like to change the term (tap fee) to (connection fee). He stated that in the past the city employee has done the tap. It is a dangerous work environment because of the depth of the trenches and that we do not have the training or equipment to make this safe. Mr. Hodge said that if Council approves these changes he will bring back a standard operating procedure policy for Council’s approval.

A motion was made by Council member Craner and seconded by Council member Casey Andersen to authorize drafting of an operating procedure to be brought back to Council for approval.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

DECLARE BAR STOOLS & TABLES AS SURPLUS

Golf Pro Scott Draper asked Council to declare 22-bar stools and 4-taller 24” tables as surplus. He said he would like to sell them on Burley Buy Sell and Trade and put that money toward 8-foot banquet tables.

A motion was made by Council member Jon Anderson and seconded by Council member Morgan to declare the tables and bar stools as surplus and sell them as best he can.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

DISCUSSION OF IDAHO STATUE 61 CHAPTER 3

Electrical Supervisor Brent Wallin stated that years ago Rural Electric serviced the North end of town and Unity Electric serviced the South end of town. An Electrical Stabilization Act was put into place which is part of the utility section of Idaho Statue 61 Chapter 3. An agreement was signed by United Electric and Unity Electric to service 10 miles out from the McDonald’s and Air-Gas area, the City of Burley would service out only 400 feet. Mr. Wallin feels going forward we should service within the City of Burley, especially as we annex in new sub-divisions. He stated that this is dangerous if there is a fire and the fire department is not sure who the power is

through for a quick disconnect. It was mentioned that City Attorney Dave Shirley has a conflict of interest because his office also represents United Electric. Mr. Wallin stated he has been working with the same attorney, Paul Zeal, that did an agreement for the City of Idaho Falls and clarifying what their service allocation area is. Mr. Wallin said that if Council supports this he will contact United Electric with the code Section 61-333B which states:

In the event the annexing municipality has been furnishing electric service to its residents at the time of such annexation, or thereafter commences the furnishing of such service to its residents, nothing in this chapter shall prevent such municipality from extending its service to the annexed or incorporated area, upon the payment of just compensation, as defined in section 7-711...

A motion was made by Council member Craner and seconded by Council member Morgan to allow Mr. Wallin to proceed, with all of the research he has done, and entering into an agreement with Attorney Paul Zeal to pursue everything presented this evening.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

FEES AND FEE RESOLUTION DISCUSSION

City Administrator Mark Mitton told Council that we are working on doing our master fee resolution. He said this is to clean up fees we have found were not included in the last master fee resolution, along with some new fees and fees that are old and we are not sure where they came from. He said years ago they were probably done legally but we just cannot find the background on them. Mr. Mitton said we will send out a newsletter for all of the proposed fee increases and as a notice of a public hearing or advertise in the Times News for the public hearing. He then reviewed them with Council. After the public hearing Council will be asked to approve the master fee resolution which will be all of the fees we know of now.

BROADBAND REQUEST FOR PROPOSAL

City Administrator Mark Mitton addressed Council about the extra bandwidth the city has. He stated that like most of rural Idaho we are broadband challenged which allowed us to qualify for the million-dollar grant. We spent about 1.6 million total because we installed a lot more door locks and cameras and have some extra capacity in the system that can be used to benefit the citizens in the community. The administrative committee met to discuss leasing out the broadband. It was decided that to be more transparent they would do a request for proposal for the excess system bandwidth. We received proposals from Anthem Broadband/Safelink and ETS which were then scored by city employees. Out of 300 points Anthem scored 168 and ETS scored 256. He said Anthem did not turn in their proposed costs at the time the proposal was due, so it was not scored. Anthems proposal was mainly to use some of the vertical structures, pay a lease payment of \$500.00 per month to the city and use that to help get their business into the

community. They spec'd out good equipment and have good experience, but we also wanted to see if we could get something more beneficial to the city. Both bidders applied for federal funds to buy down the cost of internet for low income families. Mr. Mitton said it is the reviewing groups recommendation to negotiate a contract with ETS.

It was asked by Council member Morgan what would be wrong with scoring it now. A discussion followed. Mr. Mitton said it would be inappropriate to score it now under the rules of the RFP or a bid. He said to be considered or to get points for that portion you have to submit everything at one time.

It was asked by Council member Seely if ETS was able to score better than Anthem because they were privy to inside information. It was stated that ETS built the system so they would know the system. The RFP was done as fair as possible and it was also stated that missing information can be turned in any time before the deadline.

Electrical Supervisor Brent Wallin stated he was one of the reviewers. He said when he read the proposal it was not in cooperation with our grant and that Anthem put forth a picture that they liked our towers and poles and would put up their own equipment to further the Anthem product. He said he did not see where Anthem would take the excess broadband and formulate it into the product they were going to sell.

Council member Craner said that ETS might have had a leg up because they installed the system but all of the information was provided in the RFP.

Mike Ricks with Anthem said they were told there was 100 gig capacity on the phone which was a misrepresentation. He said the advantage was ETS would still be managing all of the upstream capacity. ETS's SLA would be within the next day and Anthem would not want the internet customer to be down for a day, so they would have to install their own redundant backhauls. He also said that for the last two years they have been trying to locate on city towers to provide another connection to people and never got a response back from Mr. Mitton or Mr. Shirley. Anthem proposed \$500.00 per month to be on the two water towers. Mr. Ricks said that ETS can use the equipment that is already up and has full control, but them as a third party could not use the existing equipment and that is where the value is. He said ETS is already hanging equipment on all of our towers prior to the RFP being approved for their use.

Stegan Phillips with Kiosk Wireless said he did not submit an RFP because he felt it was leaning toward the company that had one leg up. He said he would like them to support local companies not a Utah company. He said the SLA is a concern and he does not think a Utah based company could have employees here in time to meet the time frame. He clarified an SLA is an agreement with the customer and what time frame you have to have service back up to them.

Council member Casey Andersen said in the committee meeting they decided to do an RFP and that he is glad they had more than one response, but someone has to come in second. He said it is being implied that it was unfair and he feels we should not disqualify the people that won because the people that didn't win did not follow all of the rules. Mr. Andersen said that it was

discussed in the committee meeting that we did not have to do an RFP, but decided to so the community would know what we are doing.

Jacob Johnson from ETS addressed Council. He stated that RFP's have deadlines to prevent information seen in submitted RFP's allowing someone to then turn in information based on what the other RFP's have submitted. He also stated that the more things like dishes you co-locate on a tower the harder it is to deliver service to areas. Mr. Johnson said they are a Utah Company that is incorporated in Idaho and a licensed public works contractor that carries a very high bond rating in Idaho. He said to honor the SLA with the City of Burley, he now lives in Declo, has employees from Utah that live here and have six or seven job opening that they will try to hire locally. ETS is offering to assume the entire cost of replacement to the network that has been installed. Mr. Johnson also stated that the Cares Act put in 1 million dollars and the City put in half a million dollars with ETS putting in one hundred and forty-five thousand dollars to hang equipment on the towers for excess capacity that the city could use. He said that equipment belongs to the City of Burley not ETS.

A motion was made by Council member Casey Andersen and seconded by Council member Jon Anderson that based on the results of the RFP that we negotiate with ETS.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

Councilmember Seely said that it is worth noting that through this process Council learned Mr. Ricks had requested access to the towers.

CONSIDERATION OF LEASE FOR MINI-EXCAVATOR

Engineer Bryan Reiter said that the lease they entered into in 2016 for a mini- excavator has expired. He asked Council to approve a new 5-year lease for a 2021 mini-excavator. It will run from April 8, 2021 to April 8, 2026. The first annual payment will be 4,662.84 that includes a \$300.00 doc fee and each payment after will be \$4,362.84. He stated the attorney has reviewed it and the loan would be through Summit National Bank.

A motion was made by Council member Morgan and seconded by Council member Hansen to approve the lease purchase for the mini-excavator for the water department and allow the Mayor to sign it.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

LEASE OF PARKS MOWERS

Parks Supervisor Brent Winn stated that the lease for 3 John Deere parks mowers is up and asked Council to approve a new lease agreement for 3 John Deere mowers from Stotz Equipment starting April 15, 2021 and ending on April 15, 2024 with an annual payment of \$9,459.18. He stated that our Attorney negotiated two changes that Stotz was not able to print for us before the Council meeting. Mr. Shirley asked Council to approve the document with the hand written changes to the contract.

A motion was made by Council member Casey Andersen and seconded by Council member Morgan to approve the lease documents with the changes that have been made by Council and allow the Mayor to sign it.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

ENGINEERING AGREEMENT WITH HDR FOR WORK ON IWTP BIOS-GAS SYSTEM

This item was tabled.

ANNEXATION OF REAL PROPERTY WITHIN THE SE1/4 OF SECTION 28 IN T10S R23E BM (CITY OF BURLEY)

Engineer Bryan Reiter stated this is property that the City owns between Hiland Avenue and 150 East, just South of the Pleasant View Cemetery. He stated this is contiguous and recommended Council approve this annexation.

A motion was made by Council member Casey Andersen and seconded by Council member Seely to Dispense with the rule requiring three separate readings and read Ordinance No. 1376 once by title only.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

Engineer Bryan Reiter then read Ordinance Number 1376 once by title only.

A motion was made by Council member Craner and seconded by Council member Morgan to approve Ordinance No. 1376 and allow the Mayor to sign it.

Roll Call Vote:

The results of the votes were as follows:

Casey Andersen	Aye	Janet Hansen	Aye
Jon Anderson	Aye	Bryce Morgan	Aye
John Craner	Aye	Kimberli Seely	Aye

Motion carried.

ORDINANCE NO. 1376

AN ORDINANCE OF THE CITY OF BURLEY, IDAHO; ANNEXING ADJACENT AND CONTIGUOUS LANDS LOCATED IN CASSIA COUNTY; DIRECTING THE CITY ENGINEER TO LODGE AND FILE A LEGAL DESCRIPTION AND MAP FOR SAID ANNEXED LANDS; PROVIDING THAT COPIES OF THIS ORDINANCE SHALL BE FILED WITH OFFICIALS OF CASSIA COUNTY AND THE IDAHO STATE TAX COMMISSION; PROVIDING THAT A COPY OF SAID MAP AND LEGAL DESCRIPTION BE RECORDED WITH THE CASSIA COUNTY RECORDER AND FILED WITH THE CASSIA COUNTY ASSESSOR AND THE IDAHO STATE TAX COMMISSION, AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

PREAMBLE

WHEREAS the following parcel of land described on Exhibit "A" is adjacent and contiguous to the City of Burley in Cassia County, Idaho; and

WHEREAS the City of Burley is the owner of the parcel and has and does hereby consent in writing to the annexation of said parcel;

NOW, THEREFORE:

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BURLEY:

Section 1. The following described real estate in Cassia County, Idaho, shall be and the same is hereby annexed to the City of Burley:

See Exhibit "A" Attached hereto and by this reference made a part hereof.

Section 2. The annexed real property shall be subject to all authorized powers of the City of Burley.

Section 3. The land use classification of the real property shall remain as it was classified immediately before annexation.

Section 4. The City Engineer is hereby directed to lodge and file with the City Clerk within ten (10) days after the passage and approval hereof, a legal description and map prepared in a draftsmanlike manner which shall plainly and clearly designate the property annexed.

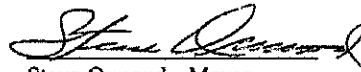
Section 5. The City Clerk is hereby directed to file, within ten (10) days after the passage and approval hereof, a certified copy of this Ordinance with the Cassia County Auditor, Treasurer, Assessor, and the Idaho State Tax Commission, and to file a copy of said legal description and map, as prepared and lodged with the City Clerk by the City Engineer, with the Cassia County Assessor, the Cassia County Recorder and the Idaho State Tax Commission, all as provided by Idaho Code Sections 50-223 and 63-215.

Section 6. This Ordinance shall be effective upon its passage, approval and publication.

PASSED April 6, 2021

APPROVED April 6, 2021

CITY OF BURLEY



Steve Ormond - Mayor

ATTEST:

Ellen Maier
Ellen Maier - City Clerk

PARCEL 1

L E G A L D E S C R I P T I O N

Part of the SE $\frac{1}{4}$ of Section 28 in Township 10 South, Range 23 East of the Boise Meridian, Cassia County, State of Idaho.

Beginning at the South $\frac{1}{4}$ Corner of Section 28 in T.10 S., R.23 E., B.M. said corner marked by a brass cap; Thence North 00 degrees 01 minutes 07 seconds East along the west line of the SE $\frac{1}{4}$ for a distance of 416.54 feet to a $\frac{1}{2}$ " rebar which shall be the Point of Beginning;

THENCE North 00 degrees 01 minutes 07 seconds East along said $\frac{1}{4}$ section line for a distance of 2227.81 feet to a $\frac{3}{8}$ " rebar with 2" aluminum cap at the Center $\frac{1}{4}$ Corner;

THENCE South 89 degrees 01 minutes 50 seconds East along the north line of the W $\frac{1}{2}$ SE $\frac{1}{4}$ for a distance of 1318.98 feet to a U.S. GLO iron pipe with brass cap at the Northeast Corner of the W $\frac{1}{2}$ SE $\frac{1}{4}$;

THENCE South 00 degrees 27 minutes 04 seconds East (S 00°58'16" E, Rec.) for a distance of 1504.40 feet to a $\frac{1}{2}$ " rebar;

THENCE South 00 degrees 11 minutes 11 seconds East (S 00°18'30" W, Rec.) for a distance of 929.69 feet (929.77', Rec.) to a $\frac{1}{2}$ " rebar;

THENCE North 89 degrees 28 minutes 17 seconds West (N 88°35'17" W, Rec.) for a distance of 16.44 feet (16.74', Rec.) to a $\frac{1}{2}$ " rebar on the east line of the W $\frac{1}{2}$ SE $\frac{1}{4}$;

THENCE North 89 degrees 06 minutes 44 seconds West (N 89°36' W, Rec.) for a distance of 208.68 feet to a $\frac{1}{2}$ " rebar;

THENCE South 00 degrees 02 minutes 22 seconds West (South, Rec.) for a distance of 8.69 feet;

THENCE North 89 degrees 06 minutes 23 seconds West (N 89°36' W, Rec.) for a distance of 10.91 feet to a $\frac{1}{2}$ " rebar;

THENCE North 89 degrees 06 minutes 23 seconds West (N 89°36' W, Rec.) for a distance of 167.99 feet to a $\frac{1}{2}$ " rebar;

THENCE North 89 degrees 00 minutes 23 seconds West (N 89°36' W, Rec.) for a distance of 198.40 feet to a $\frac{3}{8}$ " rebar;

THENCE North 88 degrees 49 minutes 53 seconds West (N 89°36' W, Rec.) for a distance of 200.14 feet to a $\frac{3}{8}$ " rebar;

THENCE South 00 degrees 12 minutes 37 seconds West (South, Rec.) for a distance of 176.29 feet to a $\frac{1}{2}$ " rebar;

(Con't on Page 2)

PARCEL 1 (Con't)

Page 2

THENCE South 00 degrees 12 minutes 37 seconds West (South, Rec.) for a distance of 25.00 feet to the south line of Section 28;

THENCE North 89 degrees 06 minutes 20 seconds West (N 89°36' W, Rec.) along said section line for a distance of 209.95 feet (188.02' +/-, Rec.);

THENCE North 02 degrees 23 minutes 13 seconds East (N 02°01' E, Rec.) for a distance of 25.00 feet to a ½" rebar;

THENCE North 02 degrees 23 minutes 13 seconds East (N 02°01' E, Rec.) for a distance of 388.48 feet to a ½" rebar;

THENCE North 88 degrees 34 minutes 20 seconds West (N 89°02' W, Rec.) for a distance of 338.60 feet to the Point Of Beginning.

Said property contains 73.74 acres more or less.

REPORT AND DISCUSSION OF RECENT CITY EVENTS

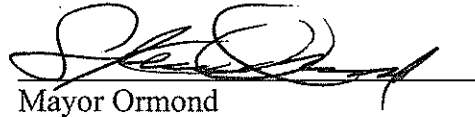
Councilmember Casey Andersen thanked the electrical department for being prompt in turning off the power due to a tree in the lines and also restoring the power.

Councilmember Jon Anderson stated that is was a wonderful announcement that the LDS Church will build a temple in Burley.

A motion was made by council member Casey Andersen and seconded by Council member Morgan to adjourn the meeting at 8:59 P.M.

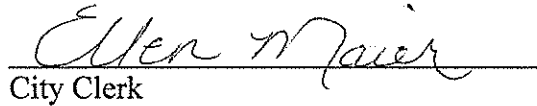
All "Aye."
Motion carried.

City of Burley



Mayor Ormond

ATTEST:



City Clerk