

December 4, 2018

ALLIANCE CITY COUNCIL

REGULAR MEETING, TUESDAY, DECEMBER 4, 2018

STATE OF NEBRASKA)
)
 COUNTY OF BOX BUTTE) §
)
 CITY OF ALLIANCE)

The Alliance City Council met in a Regular Meeting, December 4, 2018 at 7:00 p.m., in the Board of Education Meeting Room, 1604 Sweetwater Avenue. A notice of meeting was published in the Alliance Times Herald on November 28, 2018. The notice stated the date, hour and place of the meeting, that the meeting was open to the public, and that an agenda of the meeting, kept continuously current, was available for public inspection at the office of the City Clerk in City Hall; provided the Council could modify the agenda at the meeting if it determined an emergency so required. A similar notice, together with a copy of the agenda, also had been provided to each of the City Council Members. An agenda, kept continuously current, was available for public inspection at the office of the City Clerk during regular business hours from the publication of the notice to the time of the meeting.

City Clerk Jines opened the December 4, 2018 regular meeting of the Alliance, Nebraska City Council at 7:00 p.m. Present were Council Members, Dafney, Mischnick, Jones, Reynolds and Bentley. Also present were City Manager Kuckkahn, Finance Director Waggener, City Attorney Hoelsing and City Clerk Jines.

- Reorganization of the City Council was the first item to come before the Council.

City Clerk Jines announced she has received the certification from Box Butte County Clerk Judy Messersmith on the election results and acknowledged Mike Dafney and Annora Bentley were elected to the Alliance City Council.

City Clerk Jines administered the Oath of Office to Councilwoman Bentley and Councilman Dafney.

City Clerk Jines conducted the election of President (Ex-officio Mayor). Ballots were cast and signed as follows:

- Councilman Jones voted for Councilman Jones.
- Councilwoman Bentley voted for Councilman Dafney.
- Councilman Reynolds voted for Councilman Jones.
- Councilman Mischnick voted for Councilman Dafney.
- Councilman Dafney voted for Councilman Dafney.

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Councilman Dafney was elected to serve as Mayor.

Mayor Dafney conducted the election of Vice President (Ex-officio Vice Mayor). Ballots were cast and signed as follows:

Councilman Jones voted for Councilman Reynolds.
Councilwoman Bentley voted for Councilman Mischnick.
Councilman Reynolds voted for Councilman Mischnick.
Councilman Mischnick voted for Councilman Mischnick.
Mayor Dafney voted for Councilman Mischnick.

Councilman Mischnick was elected to serve as Vice Mayor.

- Mayor Dafney read the Open Meetings Act Announcement.
- Mayor Dafney made a motion to modify the agenda to move Item H – Board Resignation, Appointment and Announcement before Item G – Establish Joint Meeting Date to Discuss School Track Issues. The motion was seconded by Councilwoman Bentley.

Roll call vote with the following results:

Voting Aye: Dafney, Bentley Mischnick, Reynolds, Jones.

Voting Nay: None.

Motion carried.

- City Manager Kuckkahn introduced Daniel Hinojosa as the City's new Street Maintenance Worker.
- The next item before City Council was the Consent Calendar. A motion was made by Councilman Mischnick, seconded by Councilman Reynolds to approve the Consent Calendar as follows:

CONSENT CALENDAR – DECEMBER 4, 2018

1. Approval: Minutes of the Regular Meeting, November 20, 2018.
2. Approval: Payroll Costs for the period November 3, 2018 through November 16, 2018: \$219,587.98.
3. Approval: Claims against the following funds for the period of November 14, 2018 through November 28, 2018: General, General Debt Service, Trust and Agency, Street, Electric, Refuse Collection and Disposal, Sanitary Sewer, Water, Golf Course,

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Downtown Improvement Districts, R.S.V.P., Keno, and Capital Improvement;
\$292,680.47

4. Approval: The issuance of a Cemetery Certificate to Cindy Campbell for the East Half (E½) Lot Thirty-one (31), Section Two (02), Block Twenty-seven (27), Alliance Cemetery Fourth Addition.
5. Acceptance: A Quitclaim Deed from Marriah Miller, John Miller and Dan Miller to the City of Alliance for the Southeast Quarter (SE¼) Lot Twenty-five (25), Section Eight (8), Block Twenty (20), Third Addition to the Alliance Cemetery and the Northeast Quarter (NE¼) Lot Twenty-six (26), Section Eight (8), Block Twenty (20), Third Addition to the Alliance Cemetery. These two spaces are being sold back to the City following the City's Cemetery Buy Back Policy.

NOTE: City Manager Kuckkahn has reviewed these expenditures and to the best of his knowledge confirms that they are within budgeted appropriations to this point in the fiscal year.

Any item listed on the Consent Calendar may, by the request of any single Council Member, be considered as a separate item in the Regular Agenda.

Roll call vote with the following results:

Voting Aye: Dafney, Bentley Mischnick, Reynolds, Jones.

Voting Nay: None.

Motion carried.

- The Preliminary Plat request of the Alliance Berean Church located South of 20th Street and West of Emerson Avenue was the next item before Council. Resolution No. 18-136 has been prepared for Council's consideration and will approve the Preliminary Plat. The following information was provided:

[The City of Alliance is in receipt of an application for a Preliminary Plat from the Alliance Berean Church. The Preliminary Plat application is to plat lands within corporate City limits. The parcel of land to be platted is located south of 20th Street and west of Emerson Avenue.

The Berean Church is requesting to plat the lot, an alley along the south side of the lot, Colorado Avenue, and the west portion of Emerson Avenue so that the lot may be sold to a developer who may then divide the land as they see fit for single family housing.

Water and sanitary sewer were installed in 20th Street as part of Newberry Addition. Electric, the development of curb and gutter along Emerson, the development of Colorado Avenue, and a 20' alley would be the required public improvements on this plat. Before the Final Plat is approved, the Church will either need to install

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improvements in the platted area or provide guarantees to the City that they will be installed at a future time.

Further subdivision of the lot by the purchaser or developer will be able to be done by Administrative Subdivision if they install the infrastructure and do not dedicate any new rights of way or easements.

The property is bordered to the north, east, and south by R1a - Single Family Residential and to the west by A - Agriculture. The land being platted is correctly zoned R1a. The lots to the north, east, and south are residential in use. The land to the west are used for agricultural purposes.

The City of Alliance Planning Commission met at its regular meeting November 13, 2018 and found that the material presented to them was satisfactory. They voted yes on a recommendation to the Alliance City Council for the approval of the Preliminary Plat of Berean Second Addition to the City of Alliance, located in the Northwest Quarter of Section 26, Township 25 North, Range 48 West of the 6th Principal Meridian, Box Butte County, Nebraska.]

Community Development Director Brent Kusek was in attendance and explained the difference between a Preliminary Plat and a Final Plat. The Final Plat includes the Public Works element of the development.

A motion was made by Councilwoman Bentley, seconded by Councilman Reynolds to approve Resolution No. 18-136 which follows in its entirety:

RESOLUTION NO. 18-136

WHEREAS, The City of Alliance has received an application from the Alliance Berean Church for approval of the Preliminary Plat of Berean Second Addition to the City of Alliance, Box Butte County, Nebraska located in the Northwest Quarter of Section 26, Township 25 North, Range 48 West of the 6th P.M.; and

WHEREAS, The Planning Commission held a public hearing on November 13, 2018, and has recommended the approval of the Preliminary Plat; and

WHEREAS, The Preliminary Plat contains information required by the City Code at Section 113-70, which is relevant to this request.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the Preliminary Plat of Berean Second Addition to the City of Alliance, Box Butte County, Nebraska located in the Northwest Quarter of Section 26, Township 25 North, Range 48 West of the 6th P.M. is hereby approved and the subdividers are authorized to proceed with any required public works elements and preparation of a Final Plat.

BE IT FURTHER RESOLVED that this approval shall expire one year from this date unless the Final Plat has been submitted. This approval does not constitute Final Plat approval or

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guarantee the approval of the subdivision by the City Council or the City Council's authorization to proceed with construction of improvements within the subdivision.

Roll call vote with the following results:

Voting Aye: Dafney, Bentley, Mischnick, Reynolds, Jones.

Voting Nay: None.

Motion carried.

- A Public Hearing on the application of Anthony Parascand for a Conditional Use Permit to operate a salvage yard at 923 West 3rd Street was next on the agenda. The following background information was provided:

[The City of Alliance is in receipt of an application for a Conditional Use Permit to allow a salvage yard at 923 West 3rd Street. The proposed location is currently an idle salvage yard.

The lots are zoned M-2, Heavy Industrial. The lots are bordered by M-2 to the east, west, and south, and C-3 Highway Commercial to the north. Salvage yards are not Permitted Uses in M-2 zoning districts but are allowed with the approval of a Conditional Use Permit by the Alliance City Council.

Notification Petitions were mailed to property owners within a 300' radius of the subject property. The City mailed 26 petitions and as of November 9 had received one of them back in favor of the CUP.

This property is located in the West Gateway Neighborhood. The Plan identifies this neighborhood as lacking in continuity in regards to land use and that it currently detracts from the initial impression of the community. One of the goals for the neighborhood is to promote redevelopment and adopt code that provides for more congruent land uses and neighborhood design.

The Plan also states that this neighborhood should function as "bait" to attract visitors to explore Alliance and that its current mixed use status, its lack of cohesiveness, and poor image contributes to Alliance's stop and go status as opposed to stop and stay.

The Community Redevelopment Authority discussed the proposed CUP at their November 1, 2018 meeting. The CRA recently hired M.C. Schaff to prepare a streetscape beautification plan for West 3rd Street from its intersection with Highway 385 to the underpass. The CRA's goal is to improve the appearance of the entryway into Alliance as this area was regarded as needing some attention. The CRA came to the consensus that the issuance of the CUP would be

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counterproductive to their West 3rd Street revitalization efforts and did not recommend it.

The land use has existed since 1949 as is indicated by the applicant. The City has grown around the land use and most of the properties along West 3rd Street are now commercial to both the east and west. There were two other salvage yards in this part of town. One was at 3rd Street and Cody Avenue and the other was at 3rd Street and Williamette Avenue. The 3rd Street and Cody Avenue property was cleaned up in the 1990s and the 3rd Street and Williamette Avenue property was cleaned up in the 1950s. Both properties are now currently zoned Highway Commercial.

The original zoning of this part of town was Industrial. The City has been rezoning portions of this part of town along West 3rd Street to Highway Commercial since the 1970's to benefit from the increased traffic along West 3rd Street. There are a few portions of Industrial zoning left that could very well benefit from a rezone to Highway Commercial.

There is also the issue of the salvage yard encompassing an alley and two City owned lots that will need to be taken care of regardless of the CUP. There is a 20' wide alley running east and west that splits the property in half. This was fenced off and included as part of the yard. There are also two lots the City has owned since the underpass was built as the storm sewer that drains the underpass runs south through these lots. There is also sewer main and sewer trunk main that runs through the yard in the alley right of way and City lots.

Staff has provided pictures of the yard in Alliance as seen from public rights of way. It is speculated that the proposed buyer owns and runs the yard in Hemingford so pictures were provided of that salvage operation as well. Initial impressions on entering Hemingford to take the pictures was that the wall detracts from the town's image and isn't very welcoming. There was salvage material piled higher than the wall that was visible from the highway as well. There were salvage cars and an RV parked out front and in the street right of way which also detracted from the image. Staff believes a salvage yard is important and necessary to keep the streets and yards in Alliance clean but there are more suitable locations than adjacent to the highway that functions as the main thoroughfare through the community.

The City of Alliance Planning Commission met at their regular meeting November 13, 2018 and voted to recommend the City Council approve a Conditional Use Permit for 923 West 3rd Street, otherwise described as Lots 1-4, Block 1, Reddish Addition; Lots 12-14, Block 1, Reddish Addition; and Lots 1-10 and 13-16, Block 1, Snedekers Addition, with the conditions that the fence be removed from the City alley right of way through the yard and the City owned lots; the cars be removed and kept off the alley and City lots; put up a fence shielding the salvage yard from view; and access from W 3rd Street must be closed and moved to West 2nd Street.]

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Mayor Dafney stated “now is the date, time, and place to conduct a Public Hearing to hear support, opposition, criticism, suggestions, or observations of the taxpayers relating to the Conditional Use Application of Anthony Parascand and opened the public hearing at 7:12 p.m.

Attorney Curt Fellhoelter, 105 East 16th Street, Scottsbluff, NE was in attendance representing Mr. Parascand and his family and stated the reasons for selling the property which has been in existence since the 1940’s. Mr. Fellhoelter stated Anthony Parascand is now in a nursing home and the family has interested buyers who would also like to add recycling efforts to the salvage yard operation. The new operation would employ three individuals.

Mike McGinnis, 1512 West 3rd Street, Alliance, NE a member of the community and vehicle restoration enthusiast also spoke to Council stating the salvage yard is a good fit for Alliance and a nice place to go to find parts for his restoration hobby.

Hearing no additional testimony was offered and the Public Hearing closed at 7:20 p.m.

Councilwoman Bentley suggested the owners could rezone the property and sell for a different purpose which would be more in line with the beautification of 3rd Street.

Councilman Jones stated he didn’t think this would be fair as it could potentially decrease the value of the property.

Mayor Dafney stated he was in favor of the Conditional Use Permit to operate a salvage yard. He expressed his concern that if the property was not sold it could be abandoned and the City would have to undertake steps to get the property cleared.

A motion was made by Councilman Mischnick, seconded by Councilman Reynolds to approve Resolution No. 18-137.

Councilman Mischnick offered an amendment to the resolution to include a condition that stipulates there cannot be any stacking of materials higher than the shielding fence. The motion to the amendment was seconded by Councilman Reynolds.

Roll call vote on the proposed amendment with the following results:

Voting Aye: Dafney, Bentley, Mischnick, Reynolds, Jones.

Voting Nay: None.

Motion carried.

AMENDED RESOLUTION NO. 18-137

WHEREAS, The City of Alliance, through its Community Development Department regulates building and zoning within the City of Alliance and the two mile jurisdiction; and

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WHEREAS, Anthony Parascand has requested a Conditional Use Permit for Lots 1–10 and Lots 13–16, Block 1, Snedekers Addition and Lots 1-4, and Lots 12-14, Block 1, Reddish Addition to the City of Alliance, Nebraska, to allow for a salvage yard; and

WHEREAS, The Community Development office has examined the request and finds that the request to allow for a salvage yard is not appropriate for the granting of a conditional use; and

WHEREAS, The Community Development Director has recommended against the issuance of a Conditional Use Permit for the following reasons: (1) the use is not supported by the Comprehensive Plan, (2) would be counterproductive to the goals of the Community Redevelopment Authority, (3) detracts from the image of the neighborhood, (4) the operation and layout of the proposed use after sold are unknown as the site plan submitted does not show future use details, and (5) other land uses along West 3rd Street are commercial and not industrial; and

WHEREAS, On the 13th day of November, 2018, the Planning Commission for the City of Alliance held a public hearing on behalf of the Conditional Use Permit for Anthony Parascand; and

WHEREAS, The Planning Commission voted to approve the Conditional Use Permit and forward Mr. Parascand's request for the Conditional Use Permit to the City Council for their review and consideration with the following conditions: (1) access must be moved to 2nd Street and closed off on 3rd Street, (2) a fence must be repaired and placed around the yard to shield it from view for aesthetic purposes; and (3) City owned lots and alley that have been fenced off must be unfenced and cleaned up.

WHEREAS, The City Council has reviewed the request and determined it to be in the best interest of the City of Alliance to grant a Conditional Use Permit to Mr. Parascand.

NOW, THEREFORE, BE IT RESOLVED that the Conditional Use Permit of Anthony Parascand to allow for a salvage yard on Lots 1–10 and Lots 13–16, Block 1, Snedekers Addition and Lots 1-4, and Lots 12-14, Block 1, Reddish Addition to the City of Alliance, Nebraska (923 West 3rd Street), is hereby approved with the following conditions:

- (1) Access must be moved to 2nd Street and closed off on 3rd Street;
- (2) Before operating, a fence must be repaired and placed around the yard to shield it from view for aesthetic purposes; and
- (3) Nothing can be stacked higher than the height of the shielding fence; and
- (4) Before operating, City owned lots and alley that have been fenced off must be unfenced and cleaned up; and
- (5) A Certificate of Occupancy must be received from the City of Alliance prior to starting operation; and
- (6) A review the operation will be required annually to ensure conditions are continuing to be met.

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BE IT FURTHER RESOLVED, that the Conditional Use Permit shall be presumed inactive if the conditional use is not commended within twelve months of December 4, 2018.

Roll call vote on amended Resolution No. 18-137 with the following results:

Voting Aye: Mischnick, Jones, Reynolds, Dafney, Bentley.

Voting Nay: None.

Motion carried.

- Resolution No. 18-138 which will determine the detour option for the 3rd Street underpass repair project was the next item on the agenda. The following information was provided to Council:

[The City of Alliance was notified by the Nebraska Department of Transportation that they are planning to perform pavement repair work underneath the BNSF bridge on 3rd Street. They are anticipating this will take approximately 3 weeks using a detour option, and longer if the repairs are completed one lane at a time allowing for traffic. All traffic control and signage will be provided by the State's contractor.

In no particular order, the NDOT believes the following options are available:

- Detour the highway traffic around the viaduct on the highway system utilizing US-385, L7E and N-87.
 - Local traffic would not be allowed under the viaduct and could use Kansas Street, 10th or 25th Streets to cross over the tracks.
 - Due to the distance and compliance difficulties, this may not be the most desirable option.
- Detour the traffic to the 10th Street viaduct with the eastern and western connections from 3rd Street to be determined.
 - Local traffic would not be allowed under the viaduct.
 - There could be concerns due to the increase in traffic through residential areas.
- Detour the traffic to the Kansas Street viaduct with the eastern and western connections from 3rd Street to be determined.
 - Local traffic would not be allowed under the viaduct.
- Signalize the construction work on 3rd Street allowing a one-lane, width restricted roadway under the bridge.
 - Traffic over 10' wide would not be allowed, due to the traffic control barriers required for worker protections.

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- Traffic backups, constricted work areas, and longer durations make this a less desirable option.

In any of the detour cases, NDOT's contractor will install and maintain traffic control.

After reviewing the options, City staff believes the best proposal would be to detour the traffic to the Kansas Street viaduct with the eastern and western connections from 3rd Street to be Cody Avenue and Potash Avenue.]

A motion was made by Councilman Reynolds, seconded by Councilman Bentley to approve Resolution No. 18-138 selecting the Kansas Street option.

Following a short discussion, Mayor Dafney proposed an amendment to include language within the resolution indicating the Council's preference to have the Nebraska Department of Transportation encourage truck traffic to remain on Kansas Street in lieu of directing truck traffic back into the community. The amendment was seconded by Councilman Reynolds.

Roll call vote on the proposed amendment with the following results:

Voting Aye: Dafney, Bentley, Mischnick, Reynolds, Jones.

Voting Nay: None.

Motion carried.

AMENDED RESOLUTION NO. 18-138

WHEREAS, The pavement repair work underneath the BNSF bridge on a portion of U.S. Highway 385 (locally known as Third Street) in Alliance, Nebraska has been proposed by the Nebraska Department of Transportation; and

WHEREAS, The Nebraska Department of Transportation has proposed four options for detouring traffic during the repair for Council's consideration:

1. Detour the highway traffic around the viaduct on the highway system utilizing US-385, L7E and N-87;
2. Detour the traffic to the 10th street viaduct with the eastern and western connections from 3rd Street to be determined;
3. Detour the traffic to the Kansas Street viaduct with the eastern and western connections from 3rd Street to be determined;
4. Signalize the construction work on 3rd Street allowing a one-lane, width restricted roadway under the bridge; and

WHEREAS, The traffic control and signage for this project will be provided by the State's contractor; and

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WHEREAS, The City Council finds that the pavement repair work underneath the BNSF bridge on a portion of U.S. Highway 385 is in the public interest to provide safe and modern roadways in the City.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Alliance, Nebraska, that the City Council has selected detour Option 3, detour the traffic to the Kansas Street viaduct with the eastern and western connections from 3rd Street being Cody Avenue and Potash Avenue during pavement repair work underneath the BNSF bridge on a portion of U.S. Highway 385 as presented by the Nebraska Department of Transportation.

BE IT FURTHER RESOLVED that signage would instruct truck traffic to remain on Kansas Street in lieu of utilizing Cody Avenue or Potash Avenue to return to 3rd Street.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the associated documents with the State of Nebraska for the selection of Option 3, detour the traffic to the Kansas Street viaduct with the eastern and western connections from 3rd Street being Cody Avenue and Potash Avenue as the detour route for the pavement repair work underneath the BNSF bridge on a portion of U.S. Highway 385.

Roll call vote on Resolution No. 18-138 as amended with the following results:

Voting Aye: Dafney, Bentley, Mischnick, Jones, Reynolds.

Voting Nay: None.

Motion carried.

- A Board resignation and appointment were next on the Council's agenda.

A motion was made by Councilman Reynolds, seconded by Councilman Jones to accept the resignation of Matthew Harris from the Alliance Housing Authority effective December 31, 2018 and to thank him for his service.

Roll call vote with the following results:

Voting Aye: Dafney, Jones, Bentley, Reynolds, Mischnick.

Voting Nay: None.

Motion carried.

A motion was made by Councilman Reynolds, seconded by Councilman Jones to reappoint Byron Reed to the Alliance Housing Authority for a term ending December 31, 2023.

Roll call vote with the following results:

Voting Aye: Dafney, Jones, Bentley, Reynolds, Mischnick.

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Voting Nay: None.

Motion carried.

The following Board vacancies were announced: Board of Adjustment (2), Downtown Improvement Districts A-2 (2), Economic Development Plan Citizen Advisory Board (2), Housing Authority (2), junior ex-officio member of the Library Board (1), Park and Tree Board (1) and Planning Commission (1). There are also upcoming vacancies for a Homemaker, Social Services, Business and Native American Representatives on the Police Advisory Board. Anyone interested in serving on these Boards should contact the City Clerk's Office. Information on all of the City Boards is also available on our web site, www.cityofalliance.net.

- The last item on the agenda was to establish a date to conduct a joint meeting with the School Board to discuss what needs to be done to correct problems as a result of the construction of the new school track. Mayor Dafney suggested that since there are two new members on Council which may not be aware of all of the issues involved they should be provided an overview of the real estate issues prior to conducting a joint meeting.

Mayor Dafney motioned, pursuant to Section 84-1410 Reissue Revised Statutes of Nebraska 1943 that the Alliance City Council finds a closed session is necessary for the protection of the public interest to discuss real estate transfers and give staff direction on the transfer negotiation of real estate. The motion was seconded by Councilman Jones. Mayor Dafney requested City Attorney Hoelsing, City Manager Kuckkahn, Deputy City Manager Sprock and City Clerk Jines remain for the session.

Roll call vote with the following results:

Voting Aye: Dafney, Bentley, Jones, Mischnick, Reynolds.

Voting Nay: None.

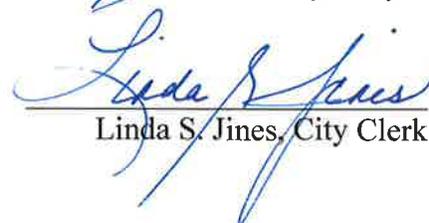
Motion carried.

The closed session began at 7:42 p.m. and ended at 7:53 p.m. No action taken.

- Mayor Dafney stated, "there being no further business to come before the Alliance City Council, the meeting is adjourned at 7:54 p.m."

(SEAL)


Mike Dafney, Mayor


Linda S. Jines, City Clerk