

State of Texas

County of Brazoria

City of Angleton

The City of Angleton, Texas City Council conducted its Regular Monthly Meeting in two separate meetings held at 6 p.m. and 6:30 p.m., Tuesday, September 8, 2009, with the following in attendance:

J. Patrick Henry	Mayor
Rudy Santos	Mayor Pro Tem
Jason Perez	Councilman
Gregg Dykes	Councilman
John Wright	Councilman
Randy Rhyne	Councilman

**OTHERS PRESENT:**

Greg Smith	City Manager
Herbert L. Prouty	Interim City Attorney
Shelly Deisher	City Secretary
Robert Heinemeyer	Public Works Director
Susie Hernandez	Finance Director

And those listed on the guest registry.

**FIRST MEETING:**

1. CALL TO ORDER BY MAYOR HENRY AT 6:00 p.m.

**FIRST PUBLIC HEARING:**

2. Public hearing on tax rate that will result in a tax revenue increase on total tax revenues from properties on the tax roll in the preceding tax year by 1.86 percent.
3. At the hearing, the Mayor announced:

“The City Council of the City of Angleton, Texas will vote on the proposed tax rate of \$0.706000 for each \$100 of taxable value at its regular meeting of September 22, 2009, beginning at 6:00 p.m. to be held in the City Council Chambers at 120 S.

Chenango Street, Angleton, Texas.”

4. Citizens wishing to address public hearing: Judy Shaefer: Thank you for balancing the budget and keeping rates the same.
5. Public Hearing Closed.
6. Discussion and possible action on Resolution No. 2009-R-9A, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, ANNOUNCING THAT IT WILL VOTE ON A TAX RATE THAT WILL RESULT IN A TAX REVENUE INCREASE AT ITS MEETING ON SEPTEMBER 22, 2009; PROVIDING FOR PUBLICATION OF NOTICE OF SUCH VOTE ON THE TAX RATE; AND PROVIDING AN EFFECTIVE DATE.

Herb Prouty: This is redundant in your announcement that by resolution it sets the meeting when you will vote on the tax rate and through Brazoria County, we have to publish another notice, giving notice of when you will vote on tax rate. Another Truth and Taxation Requirements.

Motion by Mayor Pro Tem Santos to approve Resolution No. 2009-R-9A,  
Second by Councilman Wright.

Roll call vote:

Mayor J. Patrick Henry - yes  
Councilman Randy Rhyne - yes  
Councilman Jason Perez -yes  
Councilman John Wright - yes  
Mayor Pro Tem Santos – yes  
Councilman Gregg Dykes – yes

Motion passes with 6 for; 0 against.

7. First meeting adjourned at 6:04 p.m.

Jason Perez left because of illness.

## **SECOND MEETING**

1. CALL TO ORDER BY MAYOR HENRY at 6:30 p.m.
2. Pledge of Allegiance.
3. Moment of Silent Reflection/Prayer.
4. **Citizens wishing to address council:** None.
5. **Requests to address Council other than citizenry.** None.
6. **Consent items:**
  - A. Minutes from August 25, 2009 council meeting.
  - B. Capital Improvements List

Motion by Councilman Wright to approve consent items,  
Second by Councilman Rhyne.

Motion passes with 5 for; 0 against; 1 absent.

## **PUBLIC HEARING:**

7. Public hearing on 2009-2010 Fiscal Budget of the City of Angleton, Texas.

At the hearing, the Mayor announced:

"The City Council of the City of Angleton, Texas will vote on the Proposed 2009-2010 Fiscal Budget of the City of Angleton, Texas at its regular meeting of September 22, 2009, beginning at 6:00 p.m. to be held in the City Council Chambers at 120 S. Chenango, Angleton, Texas."

Citizens wishing to address public hearing: None.

PUBLIC HEARING CLOSED.

**ACTION ITEMS:**

8. Discussion and possible action on RESOLUTION NO. 2009-R-9B; A RESOLUTION OF THE CITY OF ANGLETON, TEXAS, ANNOUNCING THAT IT WILL VOTE ON THE 2009-2010 FISCAL BUDGET OF THE CITY OF ANGLETON, TEXAS (BUDGET) AT ITS MEETING OF SEPTEMBER 22, 2009; PROVIDING A RATIFICATION CLAUSE AND PROVIDING AN EFFECTIVE DATE.

Mayor: Do we need to do a roll call vote on that one?

Herb Prouty: Yes.

Motion by Mayor Pro Tem Santos to approve Resolution No. 2009-R-9B;  
Second by Councilman Dykes.

Roll call vote:

Mayor J. Patrick Henry - yes  
Councilman Randy Rhyne - yes  
Councilman Jason Perez - absent  
Councilman John Wright - yes  
Mayor Pro Tem Santos – yes  
Councilman Gregg Dykes – yes

Motion passes with 5 for; 0 against; 1 absent.

9. Discussion and possible action on approval of RESOLUTION NO. 2009-R-9C, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, ADOPTING THE 2009 INVESTMENT POLICY FOR THE CITY OF ANGLETON; AUTHORIZING THE FINANCE DIRECTOR AS AN INVESTMENT OFFICER TO TAKE A TRAINING COURSE AND TO ENGAGE IN INVESTMENT TRANSACTIONS; PROVIDING AN OPEN MEETINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

Greg Smith: This resolution is required by state law.

Councilman Rhyne: We do this every year?

Mayor Henry: Yes, and if I am not wrong, cities are limited on investments they can make anyway.

Greg Smith: State has recommended investment criteria.

That is what Susie goes to training for.

Motion by Councilman Dykes to approve 2009-R-9C;  
Second by Councilman Wright.

Motion passes with 5 for; 0 against; 1 absent.

10. Presentation and demonstration of new fire truck.

Greg Smith: Let us move on and come back to this one.

11. Discussion and possible action on approval of change order no. 1 for the Tinsley Waterline Project.

Greg Smith: Item approved a couple of months ago. Initially thought one part of the line at the intersection is 8" PVC and as it turns out, it is 6" cast iron and asked contractor for price to include line through intersection. The request is for \$9,970 which does still keep us under budget for this project. Staff recommends approval of this change order.

Councilman Rhyne: We thought it was PVC but it is actually cast iron?

Greg Smith: Yes.

Councilman Rhyne: So we are going back with cast iron?

Greg Smith: No, with PVC. It is at the intersection. We actually thought the other line where it connected with an 8", we are just extending further and connecting into the line existing.

Robert Heinemeyer: (Inaudible) have leak right now in that spot.

Councilman Wright: Is here any other places on this project where you are seeing the old cast iron that could potentially be another spot?

Robert Heinemeyer: Ridgecrest is 6". That will be another project. We know that down toward Cannon was brought out with 8" and we will tie in there.

Motion by Mayor Pro Tem Santos to approve Change Order No. 1 for the Tinsley Waterline Project;  
Second by Councilman Wright.

Councilman Wright: Is this the first change order?

Robert Heinemeyer: Yes.

Councilman Dykes: So the way we are doing things now by inventory, there won't be any surprise many years down the road of what we have in different places, because we are inventorying everything?

Greg Smith: That is correct.

Motion passes with 5 for; 0 against, 1 absent.

12. Discussion and possible action on approval of RESOLUTION NO. 2009-R-9D, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS, NOMINATING CANDIDATE(S) FOR A POSITION ON THE BOARD OF DIRECTORS OF THE BRAZORIA COUNTY APPRAISAL DISTRICT, AND DECLARING AN EFFECTIVE DATE.

Mayor Henry: We get to name between one and five members for this board. Henry Munson has served on it for a number of years. It generally makes sense to appoint one person.

Councilman Wright: Why have we in the past only appointed one person if we have five?

Mayor Henry: You don't water down your representative.

Councilman Wright: He is getting 55 votes by himself?

Mayor Pro Tem Santos: That is correct. Is Henry able to do it again?

Mayor Henry: I haven't heard otherwise.

Councilman Wright: If he is unable to serve, can this come back to us?

Mayor Henry: Yes, I think so. We have until October 15.

Councilman Rhyne: Do we take action on that tonight?

Mayor Henry: Yes.

Motion by Councilman Rhyne to reappoint Henry Munson to appraisal board;  
Second by Councilman Dykes.

Motion passes with 5 for; 0 against, 1 absent.

13. Discussion and possible action on appointment of representative from the City of Angleton to the H-GAC 2010 General Assembly.

Greg Smith: This is an annual appointment we have to make. We currently have Gregg Dykes appointed and Wright as alternate.

Councilman Wright: I am willing to stick it out.

Motion by Mayor Pro Tem Santos to reappoint Councilman Wright and Councilman Dykes;  
Second by Councilman Rhyne.

Motion passes with 5 for; 0 against; 1 absent.

14. Discussion and possible action on approval of Ordinance No. 2009-O-9A, AN ORDINANCE OF THE CITY OF ANGLETON, TEXAS ("CITY") REVIEWING THE REQUESTED RATE INCREASE REQUEST OF CENTERPOINT ENERGY ENTEX ("CENTERPOINT"); SETTING AND ESTABLISHING RATES AND TARIFFS; ORDERING THE REFUND OF BASE RATE INCREASES IMPLEMENTED ON AUGUST 1, 2009; ESTABLISHING AN EFFECTIVE DATE FOR THIS ORDINANCE AND THE IMPLEMENTATION OF NEW RATES; PROVIDING FOR FINES FOR NON-COMPLIANCE WITH THIS ORDINANCE NOT TO EXCEED \$500 PER VIOLATION AND MAKING EACH DAY A VIOLATION OF THIS ORDINANCE CONTINUES A SEPARATE VIOLATION; FINDING THAT THE MEETING COMPLIED WITH THE OPEN MEETINGS ACT; PROVIDING A SEVERABILITY CLAUSE; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE TOPICS SET FORTH IN THIS CAPTION.

Herb Prouty: After CenterPoint filed for an increase of over \$2 million dollars, you suspended their rates for 90 days to let our consultants study and made a recommendation. Unfortunately, CenterPoint chose to disregard your resolution and well as the resolution of other cities and went ahead and implemented the rates on August 1 of this year. We received a report from consultants that indicated that rate increase appears substantially high, but couldn't complete their recommendation because CenterPoint refused to respond to their requests for information. This Ordinance finds that CenterPoint's rate increase is unlawful and failing to carry out suspension set out by cities and implements new tariffs which would basically wipe out the increase of about 55 cents per month for average customer. It reserves the right if CenterPoint refuses to accept these rates to impose a penalty up to \$500 and also if CenterPoint appeals, it will go ahead and study the rates by consultants and even impose lower rates or more substantial reduction.

Councilman Wright: What date did we take action on this?

Herb Prouty: It was your first or second meeting in July. The resolution is attached to the Ordinance.

Councilman Rhyne: What good is this going to do if it makes a violation of an ordinance of the City of Angleton? We can't even enforce the other side. Is this a symbolic issue?

Herb Prouty: It is not based on a criminal violation. It is difficult to enforce this against a corporation. Basically it is a civil penalty. If they do something again like failing to obey your suspension or disregard your suspension resolution, at least we will have a means to make them pay for it.

Mayor Henry: If we stay in the party and the party is bunches and bunches of attorneys, then we get a refund. If we don't stay in the party, we don't get a refund.

Councilman Wright: Did railroad commission tell them that they could do this?

Herb: No, actually the railroad commission actually found that their \$2 million dollar rate increase was too high by about \$350,000. Railroad Commission did not approve this action.

Motion by Councilman Wright to approve Ordinance 2009-O-9A;

Second by Councilman Dykes.

Motion passes with 5 for; 0 against, 1 absent.

15. Presentation and discussion of report by BWA representative, Larry Shaefer.

Larry Shaefer: I reported about 10 months ago to Brazosport Water Authority. In the past 10 months, we have had pretty interesting times. BWA is about 20 years old. Bonds have 20 years to go to be paid off. 2009/2010 budget request of 5% was carved down to 3.65%. The recent Dow water release surcharge of 17 cents per thousand has been absorbed by BWA. This will require budget trimming. We got a bill the other day from Dow for about \$100,000 and we are not through with our drought. However, we negotiated a new multi-year electric power contract which is a major factor in the water business and that will help. Are other things BWA will be looking at. Recently resolved an outside contractor issue which will save about \$50,000 per year in maintenance. The Board Members in the past have not been heavily involved in the budget process. General Manager prepares the budget and the cities have 30 day window after it has been prepared to express their comment and have not typically done so. I think we need to do more to express comments. The \$100,000 water release – we have luckily dodged the bullet. Board has budgeted \$20,000 per year and were lucky. Unfortunately, they did not open a savings account, they used it for something else. At the last meeting, we have instructed the general manager to open a savings account and start putting that money in the account. This won't help this year and probably not next year, but will help in the future. We are at the mercy of Brazos River Authority. BRA has gone from \$6 to \$57 and going to \$60. The cities are going to have to help the Board discuss water issues in more of a unified approach with legislature and the Gulf Coast Industries, and to the BRA. Have visited recently with Gulf Coast Water Authority. They are past their 40 year bonds. They have about the same water rights and issues as we do. They have 4 diversion canals verses one that we have. We should work with Gulf Coast Authority as well as chemical industries to come up with unified

plans for water; better budgets, more flexibility for the future. I understand the cities used to attend at least quarterly meetings and I am going to introduce a resolution that we start having at least quarterly meetings with the owner/cities for discussions. Communication is an issue that needs to be worked on. Very small staff—two ladies and water manager. They don't have the training or advocacy to deal with water authority, BRA, legislative matters and unfortunately, the volunteers of the board don't have time to assist in that. Member cities and their staff are going to have to assist in the BRA issues and issues that are bound to come up. There are a lot of conservation issues being talked about. Desalination is an option I have looked into. They are going to have to be examined even more in the future. Navy ships have used it for quite a long time. We have an unlimited supply of salt water sitting right there. The water coming down from the north is getting less and less.

Mayor Henry: Gulf Coast water Authority is the one east of us?

Larry Shaefer: It is actually Galveston County and also serves a bit of Friendswood and Pearland. They have 4 diversion canals starting in Pearland that come off Brazos River.

Mayor: Didn't they actually buy another one?

Larry Shaefer: They do. They come as far south as Manvel.

Mayor Henry: We just received material on the fact that it was ruled that since they purchase their water from the lakes, it is not stealing water out of the river.

Larry Shaefer. Their bond issue is gone so their water prices are somewhat different. They have more experience with BRA.

Councilman Rhyne: Isn't there a desalination thing in Freeport?

Larry Shaefer: I am anxious to see it come to pass. Surfside turned it down for issues that may be good. Freeport is ready to build it right now. Will be a prototype plant. Problem with desalination is that you have to do something with the salt after you take it out of the water. It is more concentrated. You can put it back in the gulf and it is not considered a waste product as such.

Mayor Henry: Well, maybe. It depends on how concentrated it is and how far out.

Larry Shaefer: That is correct. That is encouraging and an encouraging way to build that plant is to build it out in the gulf – transportation issues, storage, all of those issues are solved. You get energy out of it and good water. That is something that is going to have to be studied and budgeted. We are at the tail end of the river. We get the leftovers.

Councilman Wright: Do you think Freeport will go in for desalination or do you think that is something BWA can head up? Do they have the capacity?

Larry Shaefer: BWA manager doesn't really want to talk about desalination. Must be presented by the Board. I think Freeport is talking about it because they have capped four of their five wells in the past. They only have one water well. They are at the mercy of BWA if they have a problem. I think the quarterly meetings will be helpful in formulating a policy.

16. Discussion of hurricane protection for the windows and front door of City Hall.

Greg Smith: This is a discussion item only. At the rec center we have done hurricane fabric. When we saw the product done, it brought us back to looking at City Hall for storm protection. Last year we looked into storm shutters. Do you want us to look at something? Need to get a new bid from the storm shutter guy. That bid does not include the windows at the top of the lighted entryway. Multiple reasons for this -- staff time of installing wood and drilling into aluminum window frames. Cost is about 12-13 thousand dollars between the two of them. There are funds left in our certificate of obligations and that would be a funding source if we wanted to proceed forward with this. Storm shutters would be corrugated meta panels that have top and bottom rails. Panels would fit into rails and secure. Would be an electrical roll-up door for front door. Side door would be enclosed by panels. Do you think this is something we should consider?

Mayor Henry: I think so.

Councilman Wright: Could you go over the budgeted part again? You are going to take this from the CO...how much is left over in the CO?

Greg Smith: We are well under budget. I don't have exact figures for you tonight because we have not received figures for bid for front of City Hall. I can tell you on one project alone we are ¼ million dollars under budget.

Mayor Henry: I like the idea that the less our employees have to do to get ready for the storm on our stuff, the more they can be doing out in the community.

Councilman Rhyne: I see two prices. One for that side and one for this side?

Greg Smith: No. This is all on the front. You see two prices because it is different materials – different scope.

Councilman Wright: How did you find this company?

Greg Smith: Cat 5 hurricane shutters...Robert found them last year. Actually started looking at this last year before the hurricane hit. It was probably a June project to get prices. We held on to it and wanted to work through everything else before we got to it. Need to look at something similar for the PD and fire station.

Councilman Rhyne: What about rec center?

Greg Smith: Already done. Fabric is done at the center. New part has impact resistant glass.

Councilman Wright: Was this building done with impact resistant glass?

Greg Smith: Yes sir.

Councilman Wright; So really we have a residual cost that will come along if we decide to start doing this. This is just for one building. We are going to have to start looking at other buildings. Can we get a better deal for pricing for all together?

Greg Smith: That is what we will do if Council is interested.

We also have fire station and police station and probably public works.

Councilman Wright: Wouldn't hurt to see.

Mayor Henry: Go ahead and check on that.

17. Discussion on roof repair or replacement of roof at City Hall.

Greg Smith: Not something we have an option on. Roof is 10 years old. Consistent water leaks. You will see prices for repair or replacement of the roof. Price to repair leaks is at \$3,000 and no guarantee that those leaks will be resolved. New roof with 15 year warranty will be \$35,000 and have local contractor to do this. We want to get your thoughts. Put new roof on or proceed with roof repairs.

Councilman Wright: leaking in the IT room? That is a lot of money.

Greg Smith: The old IT room. There is still money in there, but not what it used to be. There is still one server over there.

Mayor Pro Tem Santos: What is your existing roof?

Robert Owens: It's not a rubber, but kind of a plastic over (inaudible). There is where the patching problem comes in. If you try to put the roofing system over the cloth, it doesn't adhere real well. The JACO is PVC roof.

Greg Smith: We have a JACO roof at the fire station right now. We did a change order to do new addition with same JACO roof. The JACO patching to an existing roof will be no problem. The roof will have a 15 year warranty as well. It's a lot of money and not budgeted. You could spend \$3,000 this year and hope it works, or we can spend \$35,000 and know it is going to work for the next 15 years.

Robert Owens: We are having leaks and sooner or later it will eat up roof decks. Had to replace 2/3rds of roof decking when we moved in here. The longer it keeps leaking the more chances we are going to have (inaudible).

Councilman Rhyne: Clarification issue on line item 5 – said

they are not responsible for leaks. Are they talking before they get their product fully installed?

Robert Owens: Everything is designed and put together and install it. If you have a/c cabinet system leaking or wall system on our flare story leaking, they are not responsible for that...just strictly the roof itself. If you have a vent system...like our exhaust in our restrooms, that type of equipment leak, they are not responsible for. They are not replacing that, they are only replacing the roof.

Mayor Henry: Would this be a budget amendment already?

Greg Smith: No, not a budget amendment to the operating budget because we would take the money out of the CO's.

Mayor Pro Tem Santos: What is on the new part of the building, Robert?

Robert Owens: Metal roof.

Mayor Pro Tem Santos: They will have transitions that will tie into it?

Greg Smith: No transitions because there is no connection between the old and new roof.

Mayor Pro Tem Santos: Should we take off the fleece lining roof and see what the integrity of the deck is while we are at it and repair anything that is questionable and then put the new roof on it?

Robert Owens; Might be a good idea where it is leaking.

Mayor Pro Tem Santos: That way you have good deck and with a good roof you have 15 and then you can go another 10 without any worry...if we have the CO money.

Councilman Dykes: This is based on an overlay. This would not include tearing out to look at that...that would be additional, right?

Greg Smith: Correct.

Councilman Dykes: Because this says overlay. For us to dig in, it would cost more for any decking problems.

Councilman Rhyne: Every roofer I have ever talked to is not large advocate of overlaying old roof with new one. This concerns me.

Eric Smith: DuraLast is designed to overlay over paneled metal roofs, flat tar and gravel roofs. DuraLast is lightweight and is designed to overlay. Lay pad between existing and new roof. It is top notch as far as I am concerned.

Councilman Rhyne: And it might be, but I am thinking if you already have structural issues....

Eric Smith: That can all be inspected inside the building by taking your ceiling tiles out and inspecting from the inside.

Mayor Henry: Greg, find out more about looking at underlying decking and what it would cost.

Greg Smith: I will bring it back both ways; removing existing and more information on underlying panels and more prices. This will have to go out for quotes. Getting close to \$50,000 so we would have to take sealed bids.

18. Discussion and possible action of appointment of representative for the Brazosport Water Authority Board position to serve from October, 2009 to September, 2011.

Mayor Henry: You have in the packet the application from Mr. Shaefer.

Motion by Councilman Rhyne to appoint Mr. Larry Shaefer to the Brazosport Water Authority Board;  
Second by Councilman Wright.

Motion passes with 5 for; 0 against; 1 absent.

Councilman Wright: Thank you, Mr. Shaefer, for all your hard work. My biggest concern is the group coming together and working better together to get the solutions.

Larry Shaefer: I see it happening better. I think that is what

is going to have to happen.

19. Discussion and possible action on approval of an Interlocal Agreement between the City of Angleton and Brazoria County Emergency Services District #3 for fire protection, fire suppression, and rescue services.

Greg Smith: This is same interlocal agreement we signed in the past with a couple of modifications. Changes are that there is a requirement that the funds be audited and check will come to City Council. This Council will be solely responsible the way that money is distributed to the fire department which will be an agenda item at September 22 meeting.

Mayor Henry: And that is by statute?

Greg Smith: According to the ESD, yes.

Councilman Wright: Is this for fire and EMS?

Greg Smith; No, sir. Fire and rescue.

Mayor Henry: And that is the ESD which is our ETJ, correct?

Greg Smith: Yes sir, it is in the county. Dollar amount is \$235,000 and gets approved annually. One year agreement.

Motion by Councilman Rhyne to approve interlocal agreement between City of Angleton and ESD #3;  
Second by Councilman Dykes.

Motion passes with 5 for; 0 against; 1 absent.

20. **Council Information**

Mayor Patrick Henry- I attended the Brazoria County Calvary Ride honoring Melvin Brown and all Vietnam Vets and it was a worthwhile and a moving experience. This is a season where a lot is going on. We need to let each other know what is going on because we can't be everywhere and everybody thinks their event is the most important.

Greg Smith: I need to know what councilmember wants to attend the public official training for NIMS? It is coming up 29<sup>th</sup>. It is a three hour course held here and it is one night. That is public officials. We need everybody to go with

exception of Randy and Jason because they have already done it. All agree to go. Can we all go together?

Herb Prouty: There is exception when you are attending training. We will take a look at it.

Mayor Pro Tem Rudy Santos – nothing.

Councilman Jason Perez – absent.

Councilman Gregg Dykes – went to 12 at 12 at Chamber with Greg and Councilman Perez. Went well and had good discussion. Good job that the city does; neighbor leaving for Iraq next week and had send-off at Dickey Park, and City waives rental fees and deposits on that. Parks Dept. employees are really good at working with us getting set up. Kudos to them.

Councilman John Wright – nothing.

Councilman Randy Rhyne – I am just happy to be here and it is raining outside.

21. Council will adjourn into executive session as authorized by Texas Government sections 551.074 (Personnel Matters) and Texas Government Code Section 551.071 (Consultations with Attorney) to discuss the appointment, employment and duties of the City Attorney and to consult with the Interim City Attorney concerning this matter, where to discuss this matter in open session would conflict with duty of the Interim City Attorney under the Texas Disciplinary Rules of Professional Conduct.

Adjourned into executive session after presentation of fire truck.

Action out of executive session: none.

Adjourn 8:07 p.m.

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J. Patrick Henry, Mayor

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Shelly Deisher, City Secretary