

CORPORATION OF THE CITY OF WINDSOR



COMPLAINT OF VIOLATION OF CODE OF CONDUCT

(Reports may be typed or legibly written)

(For Office Use Only)

Date: _____ File # _____

Name: _____ E-mail: _____
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Subject of Complaint: Conduct of Mayor Eddie Francis and the Office of the City Clerk

Details of Complaint: Please see attached.

(If more space is needed please attach foolscap or blank paper)

Chris Schauer

(Signature)

E-mail or Mail to: ebasse@basseai.ca
Earl Basse
Integrity Commissioner
Suite 187, 55 Northfield Drive East
Waterloo, ON N2K 3T6

Personal information contained on this form is collected under section 223.4, *Municipal Act*, and will be used to respond to your complaint of violation of the code of conduct. Questions about this collection may be directed to the City Clerk, 350 City Hall Square West, Room 203, (519) 255-6211.

Complaint of a Violation of the Code of Conduct

On Friday, May 1st, 2009 it was revealed on A-News that Mayor Eddie Francis had submitted a \$44-million proposal, known hereafter as “the canal proposal” to the Federal Government.

The online link to the news segment is <http://www.youtube.com/watch?v=8YHKMsnEYOY> for your information.

The Council Code of Conduct applies to all members of council – including the Mayor.

The Code of Conduct states that members:

Refrain from providing individual direction to the Chief Administrative Officer to initiate any action or prepare any report of a significant nature, or initiate any project or study without the consent of the entire Council (Code of Conduct, p. 24).

On Wednesday, April 29th, 2009, a special meeting of council was called to approve funding request for federal infrastructure stimulus dollars.

According to Ward 3 Councillor Halberstadt’s blog, the canal proposal was to be added to the infrastructure application, but council rejected it for lack of information:

The canal-marina was defeated on a 6-4 vote. I couldn't, in good conscience, vote for a project without seeing any details or a business plan. Dave Cooke turned over the documents to the mayor a number of weeks ago, but the plan has yet to be seen or vetted by Council or the public.

However, it was revealed on Friday, May 1, 2009, during another special meeting of council, the Federal Government had already seen the proposal as reported in May 2, 2009 Windsor Star:

Coun. Alan Halberstadt flew into a rage after discovering the project, twice rejected for inclusion on the list by council majorities at earlier meetings this week, was back on the agenda, this time with a team of outside consultants invited by the mayor to present the business and feasibility plans. The Ward 3 councillor was incensed to learn Essex MP Jeff Watson, also at the meeting, and federal bureaucrats in Ottawa, received copies six weeks ago of a feasibility report that city council is still waiting to see.

This apparently was done without the consent of council.

Furthermore, details of the canal proposal were revealed in Windsor Star columnist, Gord Henderson's column on April 11, 2009:

The marina proposal, by the way, has been radically altered. Initially slated for the Caron Avenue cut, that site has been ruled out, for technical reasons, as "prohibitively" expensive.

Instead a transient marina with 35 to 40 berths would be built on the riverfront west of Dieppe Gardens for about \$11 million, which includes significant work that must be done whether the marina proceeds or not.

The 630-metre canal would carry an initial price tag of \$37 million. Extending from the foot of the Caron cut to west of the art gallery at Riverside Drive, it would sit about five metres below ground level.

A Riverside Drive underpass, "open, well-lit and pedestrian friendly," would connect the canal with the riverfront and could feature an elevated boardwalk or pier linking it to the marina.

The shallow canal, boasting walkways, attractive bridges, extensive landscaping and water features like waterfalls and fountains, would act as the spine of an urban village anchored by attractions that could include a children's hidden garden or theme park.

Council and citizens had not been provided the details (the feasibility study and business case) of the project as of May 1, 2009, but the Windsor Star as well as the federal government seems to have been.

Section 224 of the Municipal Act outlines the roles and responsibility of city council namely "to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality; to maintain the financial integrity of the municipality; and to carry out the duties of council under this or any other Act. 2001, c. 25, s. 224; 2006, c. 32, Sched. A, s. 99."

The canal proposal was being submitted to the federal government as part of the capital budget deliberations. However, on April 29th 2009, council was being asked to do so without access to the proposal.

Thus, council would be unable to "maintain the financial integrity of the municipality" without this information as federal infrastructure funding requires a 1/3 contribution from the municipality.

Violation of Procedural Bylaw

It is also of concern that rules as they relate to the calling of a special meeting of council may not have been followed.

Section 3.3(c) of Procedural Bylaw states:

The Clerk shall give notice to the members of the Council of all special meetings of Council whenever required, and such notice shall be delivered to each member by any of the following means (personal delivery, facsimile transmission, electronic mail) so as to reach his residence or place of business at least twenty-four hours before the time fixed for the special meeting.

Council had been informed of the special meeting of council at 11 a.m. on Friday, May 1, 2009 for the meeting of May 1, 2009 that began at 3 p.m.

Furthermore, A-News reported that consultants had flown in from Toronto to attend the meeting.

How is that consultants from Toronto as well as a Federal MP could make travel plans to arrive in Windsor for the designated time and yet councillors and citizens were the last to learn about this special meeting of council?

Incomplete minutes

Section 228 of the Municipal Act outlines the responsibilities of the City Clerk as they related to city council minutes:

- (1) A municipality shall appoint a clerk whose duty it is,
 - (a) to record, without note or comment, all resolutions, decisions and other proceedings of the council;
 - (b) if required by any member present at a vote, to record the name and vote of every member voting on any matter or question;

On April 29th, 2009, the canal plan infrastructure application had been rejected in a 6-4 vote by council according to Councillor Halberstadt's blog cited above. The minutes are attached.

Notably absent in the minutes are a record of "all resolutions, decisions and other proceedings of the council."

Since the Code of Conduct incorporates the Municipal Act; the Office of the City Clerk violated the Code of Conduct, not to mention the Municipal Act in failing to record the canal proposal decision.

In summary, pursuant to the Council Procedural Bylaw, the Municipal Act as well as the Code of Conduct, I am submitting a complaint as it relates to the conduct of Mayor Eddie Francis as well as the Office of the City Clerk.

Sincerely,

A handwritten signature in cursive script that reads "Chris Schnurr". The signature is written in black ink on a light-colored background.

Chris Schnurr



[Databases selected:](#) Canadian Newsstand

Critics may howl, but city's canal idea has merit

Gord Henderson. The Windsor Star. Windsor, Ont.: Apr 11, 2009. pg. A.8

Abstract (Summary)

The shallow canal, boasting walkways, attractive bridges, extensive landscaping and water features like waterfalls and fountains, would act as the spine of an urban village anchored by attractions that could include a children's hidden garden or theme park.

Full Text (786 words)

Copyright CanWest Digital Media Apr 11, 2009

Those who think a dying city's salvation lies in hunkering down to await its fate, fixing potholes and not much else, won't like it one bit.

But people who believe that praying for better days won't cut it -- that Windsor must take its fate in its own hands -- will surely feel the blood quickening when they see details of the \$48-million canal/marina project proposed for downtown.

Scores of anonymous e-mail critics had a field day last weekend, railing against the "utter madness" of this "April Fool's Joke" after The Star revealed feasibility studies endorsed it as realistic.

The news provided fodder for nattering nabobs who've been in mourning since their previous chew toy, the WFCU Centre, came in on time and on budget and scuppered their doomsday predictions.

Dave Cooke, the former provincial cabinet minister who brought the casino to Windsor, wasn't surprised by the hostile reaction to the research commissioned by his committee. He knew it would create fireworks in some quarters, especially with the local economy comatose.

But he's also encouraged by the many positive comments, especially from young, outward-looking entrepreneurs hungry for reasons to believe this besieged city has a future.

Cooke has one question for the critics: "If not this, then what?" In other words, if you have a better idea for salvaging a downtown that defines Windsor, where is it?

"The option is to leave that part of downtown vacant for a long, long time," warned Cooke, referring to the dead zone south of the art gallery and east of Bruce Avenue.

He said Windsor has never answered that fundamental question, how to get people out of the casino/convention/entertainment centre "vacuum" to explore the core.

The canal, modelled on successful waterway projects in San Antonio, Texas and, especially, the Bricktown Canal District of thriving Oklahoma City, could provide that reason.

The marina proposal, by the way, has been radically altered. Initially slated for the Caron Avenue cut, that site has been ruled out, for technical reasons, as "prohibitively" expensive.

Instead a transient marina with 35 to 40 berths would be built on the riverfront west of Dieppe Gardens for about \$11 million, which includes significant work that must be done whether the marina proceeds or not.

The 630-metre canal would carry an initial price tag of \$37 million. Extending from the foot of the Caron cut to west of the art gallery at Riverside Drive, it would sit about five metres below ground level.

A Riverside Drive underpass, "open, well-lit and pedestrian friendly," would connect the canal with the riverfront and could feature an elevated boardwalk or pier linking it to the marina.

The shallow canal, boasting walkways, attractive bridges, extensive landscaping and water features like waterfalls and fountains, would act as the spine of an urban village anchored by attractions that could include a children's hidden garden or theme park.

Too damn expensive, the critics holler. Too damn expensive for a city that's being stripped of its industrial muscle.

That's just the point, isn't it? A city undergoing rapid and permanent de-industrialization must be creative in finding new ways to sustain itself.

Tourism is one way. It's easy to overlook, since few take note of housekeepers and waiters losing their jobs, but since 9-11 Windsor's tourism industry has taken the same kind of beating that the auto industry is now undergoing.

Right now, apart from Caesars, our downtown doesn't have a lot going for it. With a brutally high vacancy rate and few attractions other than gaming and boozing, the heart of this city has become Windsor's embarrassment.

Radical action is needed. And what could be more radical than tearing up barren asphalt and extending our acclaimed waterfront into downtown?

This approach worked wonders for other cities. Oklahoma City Mayor Mick Cornett told a conference in Chicago last year that at one point in the 1990s the only people with permanent addresses in his derelict downtown were inmates of the city jail.

But a massive development plan approved by city taxpayers in 1999, which included a canal in the Bricktown entertainment district, paid huge dividends. Oklahoma's downtown, which has since attracted billions in public and private investment, now ranks as one of the five best in the southern U.S. and its canal area attracts 10 million visitors annually.

It worked there because people who saw the canal dream's potential outnumbered those who scoffed at the concept.

Can Windsor overcome its instinctive resistance to new ideas, even one like a canal whose construction costs could be covered without raising city taxes by so much as a dime, and which could be eligible for senior government infrastructure funds?

There's the challenge.

g_henderson61@yahoo.ca

Credit: Gord Henderson; Special to The Windsor Star

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The Mayor And Me



WRITTEN BY ALAN HALBERSTADT
THURSDAY, 30 APRIL 2009

Some linear thinkers are equating my resolute position on the current labour negotiations as evidence that I am now a lapdog of Mayor Eddie Francis.

Those who know me, know different. I happen to agree with the mayor on this seminal issue for the City of Windsor, and other smaller ones as well. On other issues, such as Enwin Utilities earning a profit while increasing hydro rates, or paying Cliff Sutts a fortune on a senseless venture to purchase or lease the Detroit side of the Windsor-Detroit tunnel, I couldn't disagree with him more.

Some prefer to see everything in black and white, branding you as anti-union, or a union-buster, if you disagree with any position the union takes, no matter how dire the circumstances in the community. I believe unions are necessary, in fact, I helped start one at the Windsor Star in the early 1980s. I also believe that today they need a reality check.

Getting back to my alleged subservience to the mayor, I can use last night as a good example to refute such charges. I cast opposing votes on two of the mayor's pet infrastructure stimulus projects that will be forwarded to the federal government -- \$30 million to service urban sprawl greenfields in the old Sandwich South, and some \$48 million for Eddie's west waterfront marina-canal. One third of the projects cleared last night will be funded by city taxpayers if approved by the senior governments. I was the lone dissenter on the urban sprawl project.

The canal-marina was defeated on a 6-4 vote. I couldn't, in good conscience, vote for a project without seeing any details or a business plan. Dave Cooke turned over the documents to the mayor a number of weeks ago, but the plan has yet to be seen or vetted by Council or the public.

Council, too often, is asked to make such decisions at the 11th hour, with procedural notice bylaws waived, shutting out any public input and pointing a gun to fatigued Councillors' head. This happened last night since stimulus applications have to be in on May 1. Council didn't see any of administration's candidate projects until late Monday night, after all regular business was dealt with, in the sweaty Walkerville room.

The mayor will argue that these gun-to-the-head sessions are unavoidable given everything on his and administration's plate. Sometimes maybe this is the case. But it happens too often to make an argument that this is not a tactic used to jam through certain agendas.

No one has commented on this article.

Please keep your comments brief and on topic. Personal attacks or abusive language will not be tolerated.

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Is fire hot or cold ?



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Tempers flare at council over canal plan

'Your arrogance knows no bounds,' mayor told

BY DOUG SCHMIDT, THE WINDSOR STAR MAY 2, 2009



Coun. Alan Halberstadt became enraged Friday after learning the downtown canal and marina development was placed back on the agenda by Mayor Eddie Francis after council had twice rejected it for inclusion on the list of capital projects for senior government funding.

Photograph by: Nick Brancaccio, The Windsor Star, The Windsor Star

Mayor Eddie Francis's dream of a landmark downtown canal and marina development appears in danger of being scuttled after fireworks erupted Friday at a special council meeting to finalize Windsor's multimillion-dollar wish list of capital projects for senior government stimulus funding.

Coun. Alan Halberstadt flew into a rage after discovering the project, twice rejected for inclusion on the list by council majorities at earlier meetings this week, was back on the agenda, this time with a team of outside consultants invited by the mayor to present the business and feasibility plans. The Ward 3 councillor was incensed to learn Essex MP Jeff Watson, also at the meeting, and federal bureaucrats in Ottawa, received copies six weeks ago of a feasibility report that city council is still waiting to see.

"Your arrogance knows no bounds," Halberstadt shouted at Francis, his fist repeatedly slamming the table. "This is no way to run a city -- I'm tired of this crap," he added. He accused the mayor of waiting until the last possible hour to introduce the marina-canal proposition before the deadline to apply for two-thirds funding by Ottawa and the province.

In the end, despite what several councillors later said was Watson practically guaranteeing Ottawa's approval should Windsor submit a marina-canal application, nobody stepped forward to have the matter reconsidered.

There was no presentation, and no submission was being sent to Ottawa before the deadline.

"I think it's a mistake. What are they gonna do downtown, for God's sake?" former MPP Dave Cooke, who led the privately funded feasibility study, told The Star after the meeting. He'd driven down from Toronto Friday and one of the consultants flew in that same day to make a presentation, but they were

forced to remain silent.

Francis said feasibility and planning reports and the business plan were to be presented to council next week during its regular 2009 capital budget deliberations, but that Cooke and consultants were available Friday to provide details of the \$48-million plan and answer questions to allow council to include it on the list.

Cooke expressed disappointment that the "transformational" development for the city, which had already received kudos from Ottawa bureaucrats, will no longer be eligible for two-thirds -- or \$32 million -- of senior government stimulus funding.

"I've never been so completely, completely perplexed. In the last minute, council left \$30 million on the table," said Coun. Ken Lewenza Jr. The reconsideration motion had to come from one of the majority of six councillors who had last voted on Wednesday to reject the project's inclusion.

Councillors Ron Jones and Caroline Postma, whose Ward 2 would host the marina-canal, have said they won't vote on the proposal until they and their constituents have had an opportunity to see it.

"It's never been vetted by the public, it's never been vetted by council. This is almost contemptuous," Ward 1 Coun. Drew Dilkens said of Friday's last-ditch attempt to get the marina-canal proposal in ahead of Ottawa's May 1 deadline.

Watson, who is handling Windsor's file for Ottawa as the closest sitting Conservative MP, told the meeting that anything given the green light for stimulus funding can still be debated on its merits by city council and approved or rejected.

He said his reason for wanting to meet with the local politicians Friday was to point out that more than half of a preliminary list of Windsor projects submitted Wednesday -- \$96 million of a \$182 million total -- were "questionable" in terms of meeting Ottawa's funding approval criteria. Those criteria, in addition to having to be completed by March 2011, include having to have a focus on job creation, helping reposition the local economy coming out of the recession and being projects not normally contemplated. Almost \$80 million of Windsor's original submission covered numerous road, sewer and water projects culled from the city's five-year capital spending plan that council was told were unlikely to find favour with the Ottawa stimulus plan bureaucrats.

"We don't want to see you leave any dollars behind," Watson said, adding Windsor could expect to receive approval for at least \$150 million in stimulus project approval, with only one-third of that borne by the city.

Tops on Windsor's wish list submitted Friday was \$30 million to service "employment lands" annexed from Tecumseh, \$7 million to complete the Wyandotte Street East extension, \$8 million to upgrade Tecumseh Road East between Jefferson and Lauzon and \$22 million for Windsor Airport upgrades.

While ignoring the canal project, council approved adding a \$60-million item for a waterfront underground retention treatment basin to end sewage overflows into the Detroit River, an item for which the city was already in the process of seeking senior government funding.

"Other cities are putting forward massive projects with vision. Today, here, instead of such vision, we have a receptor sewer project ... how does that diversify our economy," Francis said after the meeting. "All we've done is remove the opportunity for federal government funding," he said, adding he's still hopes to get the canal project approved in the coming weeks and then seek new avenues of federal and provincial funding.

Despite his anger at the way he says the canal file has been handled so far, Dilkens is one member of council who could be persuaded to support it.

"I think, conceptually, this could be great, but I also have a responsibility to our citizens to properly (review it) -- don't expect me to vote on \$15 million of Windsor taxpayers' money with a gun to my head," he said.

Francis said Friday that Watson and others have only received the business plan and feasibility reports on the marina-canal proposal and that a planning report is still being completed so that a full package is ready for council's consideration. He said adding the canal proposal only became an option within the past week after Ottawa changed its criteria for submissions to allow cities to apply for more than three projects.

Francis questions why the same councillors who were so determined to see every detail in advance of the marina-canal project before submitting an application for stimulus funding had no such problems in approving \$22 million in airport upgrades and \$60 million for an underground stormwater basin without similar information.

"Some councillors have decided to make this personal ... it wasn't rejected on merits," said the mayor.

dschmidt@thestar.canwest.com

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Coun. Alan Halberstadt became enraged Friday after learning the downtown canal and marina development was placed back on the agenda by Mayor Eddie Francis after council had twice rejected it for inclusion on the list of capital projects for senior government funding.

Photograph by: Nick Brancaccio, The Windsor Star, The Windsor Star



Council meets in formal session this day at 7:40 o'clock p.m., in the Walkerville Meeting Room, City Hall, 350 City Hall Square West, Windsor, Ontario.

Members Present:

Mayor Francis
Councillor Brister
Councillor Dilkens
Councillor Gignac
Councillor Halberstadt
Councillor Hatfield
Councillor Jones
Councillor Lewenza
Councillor Marra
Councillor Postma
Councillor Valentinis

Disclosures of Pecuniary Interest and the General Nature Thereof

None

Committee of the Whole

Moved by Councillor Postma, seconded by Councillor Jones, that Council do now rise and move into Committee of the Whole with the Mayor presiding for the purpose of dealing with:

- a) Infrastructure Funding issues.

Carried.

Motion to Waive the Procedural By-law

Moved by Councillor Dilkens, seconded by Councillor Brister, that Rule 3.3 (c) of the *Procedure By-law, 420-2001 as amended*, be waived to allow the Mayor to call a Special Meeting of Council without giving twenty-four hours notice.

Carried.

Discussion on item(s) of business.

**Moved by Councillor Brister
Seconded by Councillor Marra**

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for **Sandwich South Employment Land Servicing (Sandwich South (formerly Tecumseh) Sanitary Sewers) Project**.

Motion Carried. Councillor Halberstadt voting nay.

Moved by Councillor Brister
Seconded by Councillor Valentinis

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for **Walker Road Upgrade (Walker Road Improvements - 7th Concession to Highway 401) Project.**

Motion Carried.

Moved by Councillor Brister
Seconded by Councillor Marra

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Tecumseh Road East Upgrade (Tecumseh Road East Improvements – Jefferson to Lauzon Parkway) Project.**

Motion Carried.

Moved by Councillor Halberstadt
Seconded by Councillor Brister

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Wyandotte Street East Extension (Wyandotte Street East from Florence to Bellagio) Project.**

Motion Carried.

Moved by Councillor Brister
Seconded by Councillor Halberstadt

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the:

- a) **Major Intersection Improvements – Walker/Wyandotte Intersection Improvements Project; and**
- b) **Major Intersection Improvements – Provincial/Division Corridor Improvements Project.**

Motion Carried

Moved by Councillor Gignac
Seconded by Councillor Dilkens

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Windsor International Airport Rehabilitation Project.**

Motion Carried.

Moved by Councillor Gignac
Seconded by Councillor Dilkens

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Riverfront Beautification – Central Riverfront (Hiram Walker to Ambassador Bridge) Project.**

Motion Carried.

Moved by Councillor Hatfield
Seconded by Councillor Valentinis

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Flooded Basement Relief – City-wide Sewer Rehabilitation Program Project.**

Motion Carried. Councillor Halberstadt voting nay.

Moved by Councillor Hatfield
Seconded by Councillor Dilkens

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the following **Treatment Plants/Pumping Stations Rehabilitation & Improvements Projects:**

- a) **Lou Romano Water Reclamation Plant Grit System Improvements;**
- b) **Lou Romano Water Reclamation Plant;**
- c) **Little River Pollution Control Plant; and**
- d) **Pumping Stations.**

Motion Carried.

Moved by Councillor Hatfield
Seconded by Councillor Brister

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Road & Bridge Rehabilitation – City Wide Road Rehabilitation Project.**

Motion Carried. Councillors Postma, Valentinis and Dilkens voting nay.

Moved by Councillor Hatfield
Seconded by Councillor Brister

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the following **Traffic System Improvements Projects:**

- a) **Traffic Signal System Upgrade;**
- b) **Traffic Signals Improvements;**
- c) **Traffic Signs Upgrade.**

Motion Carried.

**Moved by Councillor Halberstadt
Seconded by Councillor Postma**

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **City Centre Streetscape Improvements – Maiden Lane and Pelissier Project**.

Motion Carried. Councillors Gignac, Hatfield, Dilkens and Brister voting nay.

**Moved by Councillor Dilkens
Seconded by Councillor Brister**

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the **Parks & Sportsfields Improvements - Jackson Park Master Plan & Implementation Project**.

Motion Carried. Councillor Gignac voting nay.

**Moved by Councillor Halberstadt
Seconded by Councillor Valentinis**

THAT Administration BE DIRECTED to prepare and submit an application for federal/provincial infrastructure funding for the following projects:

- a) **Major Intersection Improvements & Bikeways – Bikeways Development; and**
- b) **Parks & Sportsfields Improvements – Recreationway Rehabilitation.**

Motion Carried. Councillor Gignac voting nay.

Moved by Councillor Jones, seconded by Councillor Lewenza, that the Special Meeting of Council held April 29, 2009, BE ADJOURNED.

Accordingly, the meeting is adjourned at 9:30 o'clock p.m.

MAYOR

CITY CLERK

THIS IS A DRAFT COPY

CITY CLERK