

MINUTES - REGULAR MEETING OF CITY COUNCIL - JUNE 10, 2003

REGULAR MEETING

JUNE 10, 2003

At a regular meeting of Council held this evening at 7:30 p.m., there were present: Mayor Joseph Gus Fitzgerald; City Manager Roger Baker; Assistant City Manager Kurt Hodgen; City Attorney Thomas H. Miller, Jr., Vice-Mayor Larry M. Rogers; Carolyn W. Frank; Council Member Hugh J. Lantz; City Clerk Yvonne Bonnie Ryan, CMC/MMCA, and Chief of Police Donald Harper. Absent: Council Member Dorn W. Peterson.

Council Member Frank gave the invocation and Mayor Fitzgerald led everyone in the Pledge of Allegiance.

Council Member Frank offered a motion to approve the consent agenda, including approval of the minutes and the second reading approval of a Supplemental Appropriation for the School Fund, Fire Department and referring closing a portion of a street to the Planning Commission. The motion also included amending and re-enacting Sections 7-4-1, 15-3-2, 4-2-77, 4-2-87 of the Harrisonburg City Code; however, Section 7-2-4 was removed from the consent agenda and will be considered at the next meeting. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

Planning and Community Development Director Turner introduced a request by June Garber to rezone approximately 3,729 square feet located at 1592 South Main Street from M-1, General Industrial District to B-2, General Business District. The Comprehensive Plan's Land Use Guide designates this property as commercial. She explained that the parcel is a small lot located in the middle of a larger lot containing a portion of the building. In July of last year, the larger building which, housed the old Mick or Mack grocery

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store, was rezoned to B-2 Conditional. She reviewed the surrounding uses in the area and said that Planning Commission recommended approval of the request.

At 7:35 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, May 27, and Monday, June 2, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, June 10, 2003, at 7:30 p.m., in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following.

REZONING GARBER PROPERTY

Public Hearing to consider a request by June Garber to rezone tax map parcel 10-C-9 (3,729 square feet) from M-1, General Industrial District to B-2, General Business District. The property is located at 1592 South Main Street.

The Comprehensive Plan designates this area as Commercial. This designation states that these areas include uses for retail, wholesale, or service functions. These areas are found along major travel corridors and in the Central Business District of the City.

The Zoning Ordinance states that the B-2, General Business District is intended to provide sufficient space in appropriate locations for a wide variety of retail shopping, commercial, automotive, miscellaneous recreational, and service activities. The M-1, General Industrial District is intended primarily for manufacturing, processing, storage, and distribution activities, which are not properly associated with, nor compatible with, residential and institutional development. No minimum lot size restrictions exist in the B-2 or M-1 Districts.

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Maps and other information are available for review in the Community Development Department, 409 South Main Street, Monday through Friday, 8:00 a.m. to 5:00 p.m. All persons interested will have an opportunity to express their views at these public hearings.

Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

CITY OF HARRISONBURG

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against the rezoning request. There being no one desiring to be heard, the public hearing was declared closed at 7:36 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this rezoning request for a first reading, and that: The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented for Council's consideration the sale of City property on Garbers Church Road. He explained that the City had purchased a tract of land, which was divided into three parcels. One lot was used to move a house and the other two lots adjacent to the golf course property are not needed by the City. He said proposals were received from real estate companies and an offer has been received which was between the high and low proposals.

At 7:37 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record on Monday, June 2, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, June 10, 2003, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:

SALE OF PROPERTY LOCATED ON GARBERS CHURCH ROAD

Public Hearing to consider the sale of city-owned property located on Garbers Church Road and identified as Walsh Subdivision Lots 4 and 5, Tax Map # 117 F 1b and 117 F 1a, respectively.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

City of Harrisonburg

Roger D. Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against selling City property on Garbers Church Road. There being no one desiring to be heard, the public hearing was declared closed at 7:38 p.m., and the regular session reconvened. Council Member Lantz offered a motion to accept the proposal and sale the City property. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

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Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented for Council's consideration purchasing property located at 698 North Liberty Street. He explained that this property is located at the intersection of North Liberty Street and Washington Street. The City will pay \$43,650 for the property and the building would be torn down to improve the safety of the intersection.

At 7:39 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening's third public hearing to order. The following notice appeared in the Daily News-Record on Tuesday, June 3, 2003.

NOTICE OF PUBLIC HEARING

The Harrisonburg City Council will hold a public hearing on Tuesday, June 10, 2003, at 7:30 p.m. in the Municipal Building, City Council Chambers, 345 South Main Street, to consider the following:

PURCHASE OF PROPERTY LOCATED

ON 698 NORTH LIBERTY STREET

Public Hearing to consider the purchase of property located at 698 North Liberty Street and identified as Tax Map #40 W 13.

All persons interested will have an opportunity to express their views at this public hearing. Any individual requiring auxiliary aids, including signers, in connection with the public hearing shall notify the City Manager at least five (5) days prior to the date of the meeting.

City of Harrisonburg

Roger D. Baker

City Manager

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Mayor Fitzgerald called on anyone desiring to speak for or against purchasing this property. There being no one desiring to be heard, the public hearing was declared closed at 7:40 p.m., and the regular session reconvened. Council Member Lantz offered a motion to purchase the property. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

Mayor Fitzgerald presented the following resolution for Council's consideration of approval:

AN ORDINANCE EXEMPTING OUR COMMUNITY PLACE

FROM REAL AND PERSONAL PROPERTY TAXES

WHEREAS, Our Community Place, a Virginia non-profit corporation (hereinafter referred to as Corporation) has requested the City Council of the City of Harrisonburg to designate the property of the Corporation located at 17 East Johnson Street exempt from real and personal property taxes; and

WHEREAS, the property in question is used for charitable and benevolent purposes; and

WHEREAS, pursuant to Section 58.1-3651 of the Code of Virginia, the City Council of the City of Harrisonburg has considered all questions as set forth in said section and held a public hearing concerning the request;

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1. That the Corporation be exempted from real and personal property taxes for the property located at 17 East Johnson Street (Tax Map 34-F-2).
2. That the continuation of the exemption is contingent upon the continued use of the property in accordance with the purpose for which the Corporation has stated it is being used.

Approved this 24th day of June, 2003.

Mayor

Attest:

Clerk of the Council

At 7:45 p.m., Mayor Fitzgerald closed the regular session temporarily and called the evening's fourth public hearing to order. The following notice appeared in the Daily News-Record on Monday, June 2, 2003.

CITY OF HARRISONBURG

NOTICE OF PUBLIC HEARING

Please take notice that on June 10, 2003 at 7:30 p.m. in the City Council Chamber, 345 South Main Street, Harrisonburg, Virginia, the Harrisonburg City Council will conduct a public hearing, pursuant to Section 58.1-3651 of the Code of Virginia, 1950, as amended, concerning a request by Our Community Place, a non-profit corporation, for exemption from local taxation. The assessed value of all property owned by Our Community Place in the City of Harrisonburg for the year 2003 was \$81,600 and the taxes paid the City for the year 2002 was \$505.92. Public comments on the proposed exemption are invited and all citizens shall have an opportunity to be heard. Further information is available from the City Manager's Office at 345 South Main Street, Harrisonburg, Virginia between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

Roger Baker

City Manager

Mayor Fitzgerald called on anyone desiring to speak for or against Our Community Place tax-exemption request.

Jonathen Stragg, a resident of 295 A Hill Street, representing Our Community Place requested that the corporation be exempt from local taxation. He said that Our Community Place paid \$505.92 in real and personal property taxes for 2002. Our Community Place has provided a soup kitchen every Monday for approximately ten years, conducted free holiday craft classes, and holds community potluck meals every month. The building was purchased through donations. Volunteer labors installed a new roof and replaced windows in the building. There being no others desiring to be heard, the public hearing was declared closed at 7:46 p.m., and the regular session reconvened. Council Member Frank offered a motion to approve this request for a first reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request from Kenneth Kyger to close a portion of an alley on Patterson Street. He said that a public hearing was held October 8, 2002 and the request was approved for a first reading. Mr. Kyger has paid for the property. Council Member Frank offered a motion to approve this request for a second reading. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

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Absent Council Member Peterson

The next item of business was a recommendation for District Courthouse Renovations. City Manager Baker said that for the several years the District Court Judges and Juvenile and Domestic Relations Judges have been requesting more courtroom space. He said that plans have now been finalized on finishing the second floor of the District Courthouse to meet the space needs of the judges. The City's share of the renovations is 50%. The architects have estimated that the project will cost between \$1.6 and \$1.9 million or \$800,000 to \$950,000. Mr. Baker said that funds are available in the Public Safety Building Capital Projects Funds to cover the City's share. Council Member Lantz offered a motion to approve the recommendations for the District courthouse Renovations. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to temporarily close the 400 block of East Rock Street for a neighborhood block party on Saturday, June 21st from 4:00 p.m. until 9:00 p.m. City staff has reviewed the request and noted the usual concerns including not interfering with movement of emergency vehicles.

Jeff Heie, a resident of 416 East Rock Street explained that the residents would like to close the 400 block of East Rock Street for a neighborhood block party. He said that residents had inquired about obtaining liability insurance, but it would be too expensive for a three-hour party. Mr. Heie said that the residents were withdrawing the request. Vice-Mayor Rogers suggested that if the group obtained the necessary liability insurance, they could present their request again at a future Council meeting.

City Manager Baker presented the following resolutions for Council's consideration of approval:

PROJECT PROGRAMMING RESOLUTION

RAIL/HIGHWAY GRADE CROSSING PROJECTS

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WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program an urban highway project in the City of Harrisonburg; now

THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish the following rail/highway crossing improvement projects:

Project Name Number	Location Project Description	DOT ID	DOT ID
South Avenue Main Street	199 FT. west of crossing	859979T	install rubberized

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share, 10.0% of the total costs for preliminary engineering, right-of-way and construction of this project, and that if the City subsequently elects to cancel this project, the City hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 10th day of June, 2003.

Joseph Gus Fitzgerald, Mayor

Attest:

Clerk of the Council

PROJECT PROGRAMMING RESOLUTION

RAIL/HIGHWAY GRADE CROSSING PROJECTS

WHEREAS, in accordance with Virginia Department of Transportation construction allocation procedures, it is necessary that a request by Council resolution be made in order that the Department program an urban highway project in the City of Harrisonburg; now

THEREFORE BE IT RESOLVED, that the City of Harrisonburg, Virginia requests the Virginia Department of Transportation to establish the following rail/highway crossing improvement projects:

Project Name Number	Location Project Description	DOT ID	DOT ID
Kratzer Road	.06 Mile east of	859968F	install flashing lights
	Liberty Street		and arm gates

BE IT FURTHER RESOLVED, that the City of Harrisonburg hereby agrees to pay its share, 10.0% of the total costs for preliminary engineering, right-of-way and construction of this project, and that if the City subsequently elects to cancel this project, the City hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

Adopted this 10th day of June, 2003.

Joseph Gus Fitzgerald, Mayor

Attest:

Clerk of the Council

Mr. Baker explained that the City is applying for the installation of a rubberized railroad crossing on South Avenue and installing flashing lights and gate arms at the railroad crossing on Kratzer Road. The City cost-share is 10%. Council Member Frank offered a motion to approve these resolutions. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

The next item of business was a recommendation on City/County Radio System Upgrade. Mayor Fitzgerald questioned if the discussion should take place without Council Member Peterson since he had expressed some of the strongest concerns about the recommendation.

Council Member Frank questioned if delaying action on the recommendation would change applying for the grant. City Manager Baker said no.

Assistant City Manager Hodgen pointed out that in the past the City has submitted the grant application jointly with the County. The chances of being funded are much greater if they are submitted on a regional basis.

Following further discussion and comments, Council agreed to delay this discussion until June 24th.

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City Treasurer Neal presented a request to charge off 1997 personal property taxes and 1982 real estate taxes. She said that her office has tried to collect these severely delinquent taxes. The 1982 real estate tax being written off is \$154.08. The 1997 personal property taxes amount \$91,076.60. Council Member Frank offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Treasurer Neal presented a request to authorize the advertising of delinquent real estate taxes for 1999/2000 and 2000/2001. Council Member Lantz offered a motion to approve this request. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Treasurer Neal presented a request to amend Section 13-1-65 of the Harrisonburg City Code. She explained that this section needed to be revised to coincide with the operating procedure currently observed concerning the issuance of residential parking permits. Many years ago it became apparent that students/renters for property within the restricted parking areas of the City frequently did not appear on the actual lease. Residents were providing mail to obtain a residential parking permit. Office policy was modified so that anyone requesting a residential parking permit and/or guest card had to show a valid lease on which his or her name appeared as a renter and was signed by the landlord/property owner/management company. Council Member Lantz offered a motion to amend this section of the City Code for a first reading. The recorded roll call vote was taken as follows:

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Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to transfer funds into capital projects to assist with repairing a damaged beam in a City parking deck. Council Member Lantz offered a motion to approve this request.

\$20,000 chge. to: 1000-410241-43372 Maintenance & Repairs Bridges

20,000 chge. to: 1325-34210 Transfer from General Fund

\$20,000 approp. to: 1000-990111-49290 Transfer to Parking Authority Fund

20,000 approp. to: 1325-910641048653 Rehab Parking Deck

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

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City School Business and Finance Director Triplett presented a request for a supplemental appropriation for the School Board. He explained that at the conclusion of some school years, it is necessary to make funds available where they are needed. These funds will be used in transportation and food services. No additional local dollars are required from the City. Vice-Mayor Rogers offered a motion to transfer these funds.

\$50,000.00 chge. to: 1111-111114-40610 Instruction

50,000.00 chge. to: 1111-111114-40620 Administration, Attendance, & Health

\$50,000.00 approp. to: 1111-111114-40630 Transportation

80,000.00 approp. to: 1111-111114-40650 Food Service

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to transfer funds within the existing budget for court appointed attorneys. He explained that this money will be used to fund a projected year-end deficit in payments to court appointed attorneys. Council Member Lantz offered a motion to

transfer these funds.

\$23,000.00 chge. to: 1000-980142-49118 Fire truck/lease purchase

\$23,000.00 approp. to: 1000-330231-43151 Court appointed attorney

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The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request to transfer funds from the General Fund to the Golf Course Fund. He explained that these funds will be used to eliminate a projected year-end operating deficit. Sufficient funds have not been received from the golf course to cover expenses and the City had an \$180,000 debt payment June 1, 2003. He requested that the Finance Department be allowed to adjust this transfer to the amount actually needed at June 30, 2003.

The following discussion by Council Members relative to the transfer request included: Requested clarification of Reserve for Contingencies funds; what happened to the extra money that was borrowed; debt service; going into rainy day fund for something besides capital improvements; no longer talking about what will happen, but what has happened; bond payment must be paid; and concern whether the golf course is actually making operational costs. Council requested that this project be reviewed again in the fall. Council Member Lantz offered a motion to transfer these funds. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

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City Manager Baker presented a request for a supplemental appropriation for the Engineering Department. He explained that these funds were received from a FEMA Flood Plain Grant to re-map the City's flood plain. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$30,000.00 chge. to: 1000-33529 FEMA Flood Plain Grant

\$30,000.00 approp. to: 1000-410121-48191 Engineering/Mapping

The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

City Manager Baker presented a request for a supplemental appropriation for the Fire Department. He explained that these funds have been collected through the monthly E-911 fee and will be used to pay expenses in the E-911 budget. Council Member Lantz offered a motion to approve this request for a first reading, and that:

\$31,000 chge. to: 1000-31010 Amount from Fund Balance

\$31,000 approp. to: 1000-320532-41010 Salaries

6,000 approp. to: 1000-320532-45814 Language Line

The recorded roll call vote was taken as follows:

Project Name	Location	DOT IDNumber	Project Description	17
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Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

The next item of business was discussion on the cigarette tax. Discussion included whether to offer a discount for attaching stamps, percentage to include in ordinance, who will attach stamps wholesalers or retailers; whether to give the same consideration to wholesalers outside the City or retailers inside the City; and some jurisdictions give 5% of the cigarette tax to the wholesaler and some do not give any discount. Council Member Frank offered a motion directing staff to prepare the appropriate ordinance to include one penny of the 30-cent tax, as the discount. The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

The next item of business was discussion on adopting two resolutions requested by the Harrisonburg City School Board. The first resolution supports alternate testing for limited English proficiency that are linguistically appropriate. It essentially continues the English as a second language program while allowing students to take alternative testing in their native language. The second resolution supports two candidates for two open positions on the State Board of Education.

Council Members agreed not to take any action on these resolutions because they did not have enough time to review the proposed resolutions.

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Vice-Mayor Rogers said that Peach Grove Avenue residents are concerned about increased truck traffic on the road. Council agreed to ask the Public Works and Police Departments to review this matter.

At 9:05 p.m., Council Member Frank offered a motion that Council enter a closed session for the purpose of discussion or consideration of prospective candidates for appointment to the Social Services Advisory Board and the Harrisonburg Planning Commission. A closed session is permissible for this purpose pursuant to Section 2.2-3711.A.1 of the Code of Virginia (1950), as amended (the code). The recorded roll call vote was taken as follows:

Vote: Yes - Council Member Frank

Council Member Lantz

Vice-Mayor Rogers

Mayor Fitzgerald

Absent Council Member Peterson

At 9:20 p.m., the closed session ended and the regular session reconvened. City Clerk Ryan read the following statement which was agreed to with a unanimous recorded vote of Council: I certify to the best of my knowledge belief that (1) only public matters lawfully exempt from open meeting requirements pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such matters as were identified in the motion by which the closed session were convened, were heard, discussed in the closed session by the City Council.

Vice-Mayor Rogers offered a motion that Matthew Conner, 34 W. Grace Street, Apt. E, be appointed to a term on the Social Services Advisory Board to expire on July 1, 2007. The motion was approved with a unanimous vote of Council Members present.

At 9:22 p.m., there being no further business and on motion adopted the meeting was adjourned.

CITY CLERK

MAYOR

Project Name

Location

DOT IDNumber

Project Description

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