

## REGULAR MEETING

December 14, 2010

At a regular meeting held this evening at 7:00 p.m., there were present: Mayor Kai Degner; City Manager Kurt Hodgen; Assistant City Manager Anne C. Lewis; City Attorney Earl Q. Thumma, Jr.; Vice-Mayor Richard A. Baugh; Council Members David Wiens, Carolyn W. Frank and Ted Byrd; City Clerk Yvonne “Bonnie” Ryan, MMC; and Chief of Police Donald Harper.

Council Member Byrd gave the invocation, and Troop 42 led everyone in the Pledge of Allegiance.

Mayor Degner read a resolution and expressed his gratitude to Council Member Frank as she departs as a member of City Council.

Mayor Degner read a resolution and expressed his gratitude to City Clerk, Yvonne “Bonnie” Ryan as she retires at the end of this year. He thanked her for her 17 years of service and dedication to the City of Harrisonburg.

James “Bucky” Berry came to thank the City Council, City employees, and the City of Harrisonburg community for their support of the “Brent Berry Food Drive”.

Council Member Byrd offered a motion to approve the consent agenda, including approval of the minutes and the second reading to consider supplemental appropriation to the Public Works Department in the amount of \$9,411,229.00, amending and re-enacting Section 7-2-19 of the Harrisonburg City Code, and to pay one-time bonuses. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Planning and Community Development Director Turner presented a request from Mountain View Apartments, LLC, with representative Harrisonburg Redevelopment and Housing Authority to rezone 3.1 +/- acres from R-3C, Medium Density Residential District to B-2C, General Business District Conditional. The property is located along Port Republic Road and can be found on tax map 88-G-7. The Comprehensive Plan designates this area as Low-Density Mixed Residential. Mrs. Turner stated that the large undeveloped areas located at the edge of the city are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces.

Mrs. Turner stated that the applicant is aware that if they wanted to build only the Harrisonburg Community Health Center, they could do it by right with the existing proffers, but they would be limited to only one story. The proffers that are being presented would strictly control the type of B-2 uses that would be permitted. Essentially, every B-2 use was removed except pharmacy related retail uses, and governmental, business, and professional offices. The language used in the first proffers limits the functions and types of pharmacy uses thus eliminating CVS, Rite-Aid, or Walgreen-type stores from operating on this site. The submitted proffers slightly broaden the uses to allow the limited pharmacy use and governmental and business offices while also allowing educational functions that are related to the uses. Mrs. Turner disclosed that with allowing the limited pharmacy use, this would allow Williamson Hughes' Pharmacy to move into the building with the Community Health Center.

Mrs. Turner explained that the property owner is also requesting a special use permit per Section 10-3-91 (8) for reduced parking areas in the B-2 zoning district. Mrs. Turner stated that the City's parking regulations would require the planned uses to provide a combined total of 78 parking spaces; however, the applicant believes their uses would not necessitate such a large quantity. The applicant would like to lessen the impact on the surrounding residential area while also conserving open, green space on their site. Mrs. Turner stated that for these reasons, the applicant would like to provide 66 spaces; a reduction of 12 parking spaces. The special use requires that open, green space be provided equal to the amount that would have been used for parking in case that area is needed for parking in the future. If approved, the property owner shall note in the deed to the property that this open space shall remain in place and that it shall not be used to meet any conflicting requirements of the Zoning Ordinance.

Mrs. Turner affirmed that staff has worked closely with the applicants during the review process; they were open to each suggestion that staff recommended they consider to help lessen the impact that such a development could have on this section of Port Republic Road and within the Ashby Meadows Subdivision and the surrounding residential neighborhoods. She also stated that staff believes the submitted proffers contain the characteristics that, if approved, will offer the City a positive result and be consistent with the kind of development the City desires along this section of Port Republic Road. Mrs. Turner reported that City Planning Commission voted in favor of the motion to recommend approval of the rezoning request and the special use request with the parking condition.

At 7:23 p.m., Mayor Degner closed the regular session temporarily and called the evening's first public hearing to order. The following notice appeared in the Daily News-Record Monday, November 29, 2010 and Monday, December 6, 2010.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold several public hearings on Tuesday, December 14, 2010 at 7:00 p.m., in the City Council Chambers, 409 South Main Street to consider the following:**

***Rezoning – Harrisonburg Community Health Center R-3C to B-2C***

**Public hearing to consider a request from Mountain View Apartments, LLC, with representative Harrisonburg Redevelopment and Housing Authority to rezone 3.1 +/- acres from R-3C, Medium Density Residential District Conditional to B-2C, General Business District Conditional. The property is located along Port Republic Road and can be found on tax map 88-G-7. The Comprehensive Plan designates this area as Low-Density Mixed Residential. These large undeveloped areas located at the edge of the city are planned for residential development containing a mix of large and small-lot single family detached dwellings and attractive green spaces. The Zoning Ordinance states that the R-3, Medium Density Residential District is intended for medium density residential development and other uses intended to respect the residential character, which are aesthetically compatible within the district by means of architectural expression, landscaping, and restrained traffic flow. The residential density ranges for R-3 are single-family, 6,000 sq. ft. minimum; two-family, 4,000 sq. ft./unit; townhouses, 2,000 sq. ft. minimum per unit; other uses, 6,000 sq. ft. minimum and by special use permit multi-family, 3,000 sq. ft. minimum per unit. 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. No minimum lot size restrictions exist in the B-2, General Business District.**

***Special Use Permit – Harrisonburg Community Health Center (10-3-91 (8))***

**Public hearing to consider a request from Mountain View Apartments, LLC, with representative Harrisonburg Redevelopment and Housing Authority for a special use permit per Section 10-3-91 (8) of the Zoning Ordinance to allow the reduction of required parking areas in the B-2, General Business District. The property is located along Port Republic Road and can be found on tax map 88-G-7.**

**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 (5) five days prior to the date of the meeting.**

**CITY OF HARRISONBURG  
Kurt D. Hodgen  
City Manager**

Mayor Degner called on anyone desiring to speak for or against the request from Mountain View Apartments.

Jane Perouse, Member of Board of Directors for the Community Health Center, spoke on behalf of the Board encourages Council to endorse this proposal for construction of the new facility at the location on Port Republic Road. Mrs. Perouse reminded Council that the Community Health Center is a non-profit 501-C federally qualified health center and it is a community based organization committed to providing comprehensive primary care to the residence of Harrisonburg to Rockingham County and the surrounding areas, with that regard to their ability

to pay. The Community Health Center increasingly important primary health care services to a growing volume of patients. Mrs. Perouse remarked that adequate and accessible health care services are critically important to the citizens and businesses in our community. The vision of the Community Health Center includes both clinical health care services for all residents, plus additional health care services that are needed in the broader community. Mrs. Perouse also stated the primary focus is to provide clinical health care services for the vulnerable populations. Mrs. Perouse thanked and asked Council to consider this location for the Community Health Center.

Council Member Wiens asked Mrs. Perouse why the Community Health Center picked this location. Mrs. Perouse responded stating they had checked out multiple locations and they felt that this location best fit their needs and the communities' needs. She stated that the Community Health Center is located on Neff Avenue currently and this location is not too far from that location and the Community Health Center depends on the Harrisonburg Transit which they will be accessible at this location as well.

Michael Wong, Executive Director of the Harrisonburg Redevelopment and Housing Development, stated that the Community Health Center presented the Board of Commissioners and they authorized the Harrisonburg Redevelopment and Housing Development to work with them to help them find a new location and facility. Mr. Wong stated they looked at several locations. He said they did try to engage in a contract but was unsuccessful. Mr. Wong informed Council if they had any other concerns or questions the owner of the property and the design team is present to answer them. He informed Council that the Harrisonburg Redevelopment and Housing Authority will purchase and be the owners of the property and will lease it to the Community Health Center and once the lease is completed, they will have an opportunity to purchase the property.

Mayor Degner declared the public hearing closed at 7:35 p.m., and the regular session reconvened.

Council Member Byrd asked if a bus stop is one of the proffers. Mrs. Turner stated that it isn't, but the Public Works and the Department of Transportation had a bus stop there in their plans. Reggie Smith, Transportation Director stated that there is a bus stop across the street, and putting a bus stop in their wouldn't be a problem, because it is on a regular route and they were hoping to have more interest out on Port Republic Road. Mr. Smith did state however, that he would like the applicant to add a platform for a bus stop in their plan.

After short discussion, Vice-Mayor Baugh offered a motion to approve both the rezoning request and special use permit as presented. The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Mrs. Turner, Planning and Community Development Director, presented Council with the 2011-2012 through 2015-2016 Capital Improvement Plan. This is a budgeting tool for all departments to use for their capital projects that are valued at \$30,000.00 or greater that are needed in the City. She stated that some projects that are of a reoccurring nature even though above the \$30,000.00 are not a part of this plan. Mrs. Turner also noted that this plan is not a part of the actual budget, but this budgeting tool will affect the upcoming budget. Mrs. Turner reported that City Planning Commission voted in favor of the Capital Improvement Plan.

At 7:43 p.m., Mayor Degner closed the regular session temporarily and called the evening's second public hearing to order. The following notice appeared in the Daily News-Record Saturday, December 4, 2010 and Saturday, December 11, 2010.

### **NOTICE OF PUBLIC HEARING**

**The Harrisonburg City Council will hold a Public Hearing on Tuesday, December 14, 2010, at 7:00 p.m. in the City Council Chamber located at 409 South Main Street, to consider the following:**

**The proposed Capital Improvement Program, for fiscal years 2011-2012 through 2015-2016. The Capital Improvement Program is a multi-year projection and scheduling of capital projects of \$30,000 or greater. This plan is prepared annually in an effort to facilitate planning and setting priorities among capital improvement needs over a subsequent five-year period. Copies of the Capital Improvement Program are available for review in the Department of Planning and Community Development, the City Manager's office and the Rockingham Public Library.**

**For any additional information, contact the City Manager's office, 345 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 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  
Kurt D. Hodgen  
City Manager**

Mayor Degner called on anyone desiring to speak for or against the Capital Improvement Plan. There being no one desiring to be heard, the public hearing was declared closed at 7:44 p.m., and the regular session reconvened.

With a short discussion, Vice-Mayor Baugh offered a motion to approve the 2011-2012 through 2015-2016 Capital Improvement Plan. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Megan Argenbright, auditor from Brown, Edwards, & Company, LLP, stated that the Comprehensive Annual Financial Report (CAFR) is prepared by the City's Finance Department annually and she would like to report to Council that the City received an unclaimed opinion, which is the best opinion you can receive. Ms. Argenbright announced that the City of Harrisonburg once again received the Government Finance Officers Association (GFOA) Award for the sixteenth consecutive year.

Edwin "Eddie" Bumbaugh, Downtown Renaissance Director, presented progress and accomplishments of Downtown Renaissance. Mr. Bumbaugh provided an update to Council about the Virginia Main Street Grant and programs like Fam Tours that were used with the money. Mr. Bumbaugh remarked another great program is the Façade Enhancement Grant, which five different businesses downtown were awarded with funds to help renovate their facility. He also gave a report on all the new businesses that have moved around or into the Downtown area and the services provided from those businesses. Mr. Bumbaugh presented to Council the Business Recruitment Guide which is geared toward new businesses and the advantages to move Downtown. He also informed Council that a landscape committee of businesses owners and volunteers decided on a plan for the beautification of the planters that are located around Court Square. Mr. Bumbaugh voiced his excitement of the progress of Streetscape and is looking forward to many more changes.

Mr. Bumbaugh expressed his disappointment of First Night Board of Directors making the decision of cancelling First Night. He mentioned that First Night is a national organization that sets standards, and with the lack of volunteers and funding this year that the celebration could not happen. Mr. Bumbaugh stated that he is hopeful in the upcoming months that he and others will start communicating with First Night and other organizations to see the desire of the community next year. He stated that Downtown Renaissance is supporting local businesses to have celebrations on site. Mr. Bumbaugh thanked both Bonnie and Council Member Frank for their support of Downtown Renaissance over the years.

Trisha Blosser, Program Manager, presented to Council events that the Organization Committee hosted over the past few months Downtown.

Ande Banks, Director of Special Projects and Grants, reported that December 10, 2010 at 9:00 a.m. concluded the 30 day Public Comment Period for the FY 2010-2011 Community

Development Blocks Grant (CDBG). Mr. Banks stated there were no comments received and staff recommends approval of the 2010-2011 CDBG Amendments. He reviewed the proposal of \$120,000 that was allocated to the Public Works Pleasant Hill Road shoulder construction and reconstruction project be moved to the new 2010-2011 Public Works West Washington Street, and \$27,000 that was allocated to the Public Works West Bruce Street Sidewalk Project be moved to the new 2010-2011 Public Works West Washington Street. Council Member Frank offered a motion to approve the 2010-2011 CDBG Amendments as presented. The motion was seconded by Council Member Byrd and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Mr. Banks presented to Council information about becoming a part of the Appalachian Trail Community. He stated that an Advisory Committee composed of city officials, small business leaders, non-profit organizations and private citizens formed to help become and continue guide the community to meet the standards to become an Appalachian Trail Community. Mr. Banks stated as part of the designation our community will include an annual event, hosted by Harrisonburg Downtown Renaissance, to which hikers will be included. He also stated that an educational program will be coordinated through Harrisonburg City Schools. Becoming a part of the Appalachian Trail Community will raise awareness to the City of Harrisonburg as a destination to the thousands of Appalachian Trail hikers that currently pass through our area each year. Mr. Banks presented the following resolution for Council's consideration of approval:

**Appalachian Trail Community Designation  
December 2010**

**Whereas, the Appalachian Trail (A.T.) traces its roots to the 1920's and was designated America's first national scenic trail in 1968; and**

**Whereas, today through the efforts of volunteers, clubs and agency partners, the Appalachian Trail extends more than 2,175 miles from Maine to Georgia within a protected 250,000 acre greenway; and**

**Whereas, towns, counties, and communities along the Trail's corridor are considered an asset by A.T. hikers and many of these towns act as good friends and neighbors to the Trail; and**

**Whereas, designation as an Appalachian Trail Community™ and participation in the program is designed to act as a catalyst for enhancing economic development, engaging**

**community citizens as Trail visitors and stewards and helping local community members to see the Trail as an educational and environmental resource and asset; and**

**Whereas, the City’s application to seek this designation has support from Harrisonburg Downtown Renaissance, Harrisonburg Tourism and Visitor Services, the Sole Source shoe store, Shenandoah Bicycle Company, the Shenandoah Group of the Sierra Club, the Harrisonburg-Rockingham Chamber of Commerce, the Virginia Wilderness Committee, Downtown Dining Alliance and private citizens; and**

**Now Therefore, the City Council of Harrisonburg, does hereby resolve to support the efforts to be designated an Appalachian Trail Community and participate in this program for no less than five (5) years by serving as a member of the Advisory Committee formed to guide the community’s activities in conjunction with the Appalachian Trail Conservancy.**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Kai Degner, Mayor**

Attest:

\_\_\_\_\_  
**Yvonne H. Ryan, MMC, City Clerk**

Council Member Wiens offered a motion to approve the Appalachian Trail Community Designation Resolution as presented to Council. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Brian Shull, Economic Development Director, presented to Council’s consideration of refunding PPEA Proposal Fees for the Public Safety Parking Deck and One Court Square. Mr. Shull stated that three development team submitted PPEA proposals on City property adjacent to the Public Safety Building and situated between Elizabeth and Wolfe Street. City staff analyzed the proposals and investigated numerous potential revenue sources. He also stated that given changing conditions and priorities, staff recommends that the City not move forward with any of the three proposals at this time. The three development teams agreed in advance to share the cost of the geotechnical report, with the funding to be taken from the submitted fees, but each team submitted \$20,000.00 fee in accordance with PPEA procedures. The City did not charge any additional fees; therefore City staff recommends that Donley’s, Nielsen Construction, and Lantz Construction each receive of the submitted fees in the amount of \$17,450.00.

Mr. Shull also stated that the City received two proposals regarding the One Court Square building. He stated that recognizing that these proposals do not fully address the City's goals for the disposition and/or redevelopment of this property, staff recommends a full refund of \$5,000 to Moreland Property Group, Inc. and Brian Wishneff & Associates that was submitted with their proposal. Council Member Byrd offered a motion to approve the refunding the PPEA Proposal Fees. The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

City Manager Hodgen stated that the City endorsed a “Ten-Year Plan to End Homelessness in Harrisonburg and Rockingham County”, and as part of that endorsement Council also agreed to appoint two representatives to the Steering Committee that is charged with implementing the plan. City Manager Hodgen spoke on behalf of both Mayor Degner and Director of Special Projects and Grant Management Ande Banks their willingness to serve on the committee. Vice-Mayor Baugh offered a motion to approve appointing both Mayor Degner and Ande Banks to the Steering Committee. The motion was seconded by Council Member Wiens and approved with a unanimous voice vote.

City Manager Hodgen presented a request for a supplemental appropriation for the Public Utilities Department's budget in the amount of \$500.00. City Manager Hodgen stated that these funds were utilized to offset expenses associated with attendance at the 2010 AWWA Water Conference. Public Utilities Department was awarded the 2010 Utility Travel Grant as offered by the Virginia chapter of the AWWA to cover the expenses. Council Member Byrd made a motion to approve this request for the first reading, and that:

\$500.00 chge. to: 2011-31901 Recoveries and Rebates

\$500.00 approp. to: 2011-312061-4553 Training and Travel

The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Larry Shifflett, Fire Chief, presented a request for supplemental appropriations for the Fire Department in the amount of \$265,038.39. He stated that this request is to bring forward funds from Assistance to Firefighters Grants from last year into this year's budget, and funds will be utilized for grant-eligible purposes. Council Member Byrd made a motion to approve this request for the first reading, and that:

\$96,850.74 chge. to: 1000-31010 Unappropriated Fund Balance  
\$168,187.65 chge. to: 1000-33536 Assistance to Firefighters

\$68,092.29 approp. to: 1000-320232-48203 Fire Programs Fund  
\$28,758.45 approp. to: 1000-350532-46155 Four for Life  
\$31,091.32 approp. to: 1000-350532-48113 DOHS 16 Equipment  
\$3,566.08 approp. to: 1000-350532-48113 DOHS 17 Equipment  
\$13,292.59 approp. to: 1000-350532-48113 DOHS 18 Equipment  
\$98,571.00 approp. to: 1000-350532-48113 DOHS 20 Equipment  
\$21,666.66 approp. to: 1000-350532-48113 DOHS 21 Equipment

The motion was seconded by Council Member Wiens and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

City Manager Hodgen presented a request to transfer funds for the Public Works Department in the amount of \$175,331.00. These funds will cover planning and engineering cost for corridor study and preliminary engineering plans for improvements to Chicago Avenue and Mount Clinton Pike. Council Member Wiens made a motion to approve this transfer, and that:

\$175,331.00 chge. to: 1310-910141-48611 West Elizabeth Bridge

\$175,331.00 approp. to: 1310-910141-48726 Chicago Ave./Mt. Clinton Pike  
Improvement

The motion was seconded by Council Member Frank and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

City Manager Hodgen presented a request to transfer funds for the Public Works Department in the amount of \$75,000.00. These funds are to cover emergency repairs to the Elizabeth Parking Deck beam and resealing joints in the Water Street Parking Deck. Council Member Byrd made a motion to approve this transfer, and that:

\$75,000.00 chge. to: 1310-910141-48611 West Elizabeth Bridge

\$75,000.00 approp. to: 1310-910141-48653 Rehab. Parking Deck

The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens  
Vice-Mayor Baugh  
Mayor Degner

Absent – None

Council Member Byrd offered a motion to recommend Earl A. Budd to the Circuit Court for appointment to the Board of Equalization to expire on December 31, 2011. The motion was seconded by Council Member Frank and approved with a unanimous voice vote.

Vice-Mayor Baugh offered a motion that Marsha Garst and Elsie Ziegenfus be reappointed to the Rockingham/Harrisonburg ASAP Commission to expire on December 31, 2015. The motion was seconded by Council Member Byrd, and approved with a unanimous voice vote.

At 8:34 p.m., Council Member Byrd offered a motion that Council enter into a closed session for discussion and/or consider the disposition of real estate used for public purposes, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, as amended. Discussion concerning a prospective business where no previous announcement has been made the business' interest in expanding its facilities within the City, exempt from public meeting requirements pursuant to Section 2.2-3711(A)(5) of the Code of Virginia and discussion concerning appointment of specific public officers, appointees or employees of the public body, exempt from public meeting requirement pursuant to Section 2.2-3711(A)(1) of the Code of Virginia. The motion was seconded by Vice-Mayor Baugh and approved with a recorded roll call vote taken as follows:

Vote: Yes - Council Member Frank  
Council Member Byrd  
Council Member Wiens

Vice-Mayor Baugh  
Mayor Degner

Absent – None

At 10:00 p.m., the closed session ended and the regular session reconvened. City Attorney Thumma read the following statement, which was agreed to with a unanimous recorded vote of Council: I hereby certify to the best of my knowledge and belief that (1) only public matters lawfully exempt from open meeting requirement pursuant to Chapter 21 of Title 2.1 of the Code of Virginia, 1950, as amended, and (2) only such public business matters as were identified in the motion by which the closed session was convened, were heard, discussed, or considered in the closed session by the City Council.

Council Member Frank offered a motion that Judith Dilts, 346 Franklin Street, be appointed to the City Planning Commission to expire December 31, 2014. The motion was seconded by Council Member Wiens, and approved with a unanimous voice vote.

At 10:02 p.m., there being no further business and on motion adopted, the meeting was adjourned.

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CITY CLERK

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MAYOR