

**ROLLA CITY COUNCIL MEETING MINUTES  
MONDAY, OCTOBER 15, 2007  
ROLLA CITY HALL COUNCIL CHAMBERS  
901 NORTH ELM STREET  
6:30 P.M.**

**Presiding:** Mayor William S. Jenks, III

**Council Members in Attendance:** Terry Ruck, Monty Jordan, Stan Spadoni, Susan Eudaly, Gary W. Hicks, Judy Jepsen, Lou Magdits, Jim Williams, Richard Morris, Richard Sibley, and Mark Walburg

**Council Members Absent:** Donald Barklage

**Department Directors in Attendance:** Public Works Director Steve Hargis, Recreation Center Director Scott Caron, Finance Director Steffanie Rogers, Fire Chief Robert Williams, and Community Development Director John Petersen

**Other City Officials in Attendance:** City Administrator John Butz, City Counselor John Beger, Lieutenant Doug James, Communications Coordinator Scott Grahl, and City Clerk Carol Daniels

Mayor Jenks called the meeting to order at approximately 6:30 p.m. and asked Councilmember Richard Sibley to lead in the Pledge of Allegiance.

**I. PUBLIC HEARINGS**

**(A) Request for Ordinance to Rezone Lot 77 and Lot 78 of Block 11 of James Addition from C-1 to R-3 (Jasensky):** Community Development Director John Petersen informed the Council that the applicant purchased the subject property with the intention of renovating it, but decided later it was not financially feasible and demolished it. Ultimately, the property owner contacted the City about rezoning the property from C-1 (Neighborhood Business District) zoning to a residential classification. No objections to the proposed rezoning have been received. Mr. Petersen reported the Planning and Zoning Commission recommend approval of the R-3 (Multi-Family District) zoning. Mr. Petersen added the applicants have requested the first and final reading of the proposed ordinance at this meeting.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request.

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**I. PUBLIC HEARINGS (continued)**

**(A) Request for Ordinance to Rezone Lot 77 and Lot 78 of Block 11 of James Addition from C-1 to R-3 (Jasensky) (continued):** Petitioner, Mr. Michael Jasensky, 305 Brady Drive, addressed the Council and noted that he plans to construct either a tri-plex or four-plex on the subject property. He asked the Council to consider the first and final readings of the ordinance at this meeting because he would like to begin construction before the weather changes.

No one else present addressed the Council concerning the subject-rezoning request. Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3831: AN ORDINANCE AMENDING THE BASIC ZONING ORDINANCE NO. 3414, CHAPTER 42 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AFFECTING THE REAL ESTATE KNOWN AS LOT 77 AND LOT 78, BLOCK 11 OF JAMES ADDITION (JASENSKY). A motion was made by Hicks and seconded by Jepsen to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed ten (10) ayes, one (1) nay, and one (1) absent. Motion carried. City Counselor John Beger then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Hicks to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Morris, Walburg, Spadoni, Williams, Ruck, Sibley, Magdits, Eudaly, Jepsen, Hicks, and Jordan. Nays; None. Absent; Barklage. Motion carried. The ordinance passed.

**(B) Request for Ordinance to Rezone Lot 6, Rolla Park Addition from R-1 to C-1 Zoning (Doss):** Community Development Director John Petersen told the Council the subject property contains about .29 acres and is under joint ownership with the front property which is zoned C-1 (Neighborhood Business District). The front property is the current location of an insurance office, which is a permitted use in a C-1 (Neighborhood Business District). Mr. Petersen reported the Planning and Zoning Commission does not recommend approval of the C-1 (Neighborhood Business District) zoning. They recommend the property be rezoned to C-O (Office District). Mr. Petersen said the Planning and Zoning Commission's recommendation was primarily based on the statement that was made that there were plans to construct an office.

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**I. PUBLIC HEARINGS (continued)**

**(B) Request for Ordinance to Rezone Lot 6, Rolla Park Addition from R-1 to C-1 Zoning (Doss) (continued):** Some Council members expressed their preference to rezone the subject-property to C-1 (Neighborhood Business District).

Following a brief Council discussion, Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request.

Petitioner, Mr. Greg Doss, 508 Oak Knoll Road, stated the reason he requested C-1 (Neighborhood Business District) zoning is because his current property is zoned C-1 (Neighborhood Business District). He said he plans to add on to the office within the next year and he wanted consistency with the front lot.

No one else present addressed the Council concerning the subject-rezoning request. Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE AMENDING THE BASIC ZONING ORDINANCE NO. 3414, CHAPTER 42 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AFFECTING THE REAL ESTATE KNOWN AS LOT 6, ROLLA PARK ADDITION (#2 STEPHENDALE COURT) (DOSS).

**(C) Request for Ordinance to Rezone Property at 1603 and 1605 Martin Springs Drive along with a Fractional Part of Lot 111 of Railroad Addition from C-2 to C-3 Zoning (Dietzmann):** Community Development Director John Petersen noted the subject property contains 2.42 acres. He pointed out the motel at this location has been mostly demolished. Mr. Petersen told the Council that the C-3 (Highway Commercial District) zoning is a condition of the purchase from Mr. Jack Dietzmann to St. John's Medical Building. The Planning and Zoning Commission recommend approval of this rezoning request. Mr. Petersen added that Mr. Dietzmann has requested the first and final readings of the proposed ordinance.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. No one present addressed the Council. Mayor Jenks then closed the public hearing.

**I. PUBLIC HEARINGS (continued)**

**(C) Request for Ordinance to Rezone Property at 1603 and 1605 Martin Springs Drive along with a Fractional Part of Lot 111 of Railroad Addition from C-2 to C-3 Zoning (Dietzmann) (continued):** City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3832: AN ORDINANCE AMENDING THE BASIC ZONING ORDINANCE NO. 3414, CHAPTER 42 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AFFECTING THE REAL ESTATE KNOWN AS 1603 AND 1605 MARTIN SPRINGS DRIVE ALONG WITH A FRACTIONAL PART OF LOT 111 OF RAILROAD ADDITION (DIETZMANN). A motion was made by Jordan and seconded by Hicks to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion showed unanimous approval. Motion carried. City Counselor John Beger then read the proposed ordinance for its final reading, by title. A motion was made by Williams and seconded by Jordan to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Hicks, Sibley, Ruck, Jordan, Spadoni, Walburg, Williams, Magdits, Eudaly, Jepsen, and Morris. Nays; None. Absent; Barklage. Motion carried. The ordinance passed.

**(D) Request for Ordinance to Rezone Buehler Park from C-2 to G-I Zoning (City of Rolla):** Community Development Director John Petersen mentioned that this is one of those rare instances where the City Council initiated the rezoning. He noted that Buehler Park was rezoned to C-2 (General Retail District) in 1997 to accommodate the potential sale of the park for commercial use. Since that does not appear to be a likely proposition at this time, the Council requested the property be rezoned to G-I (Government/Institutional District). The Planning and Zoning Commission recommend approval of the rezoning request.

Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject-rezoning request. Since no one else present addressed the Council, Mayor Jenks closed the public hearing.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE NO. 3833: AN ORDINANCE AMENDING THE BASIC ZONING ORDINANCE NO. 3414, CHAPTER 42 OF THE CODE OF THE CITY OF ROLLA, MISSOURI, AFFECTING THE REAL ESTATE KNOWN BUEHLER PARK, A CITY PARK LOCATED AT KINGSHIGHWAY AND FAIRGROUNDS ROAD (CITY OF ROLLA). A motion was made by Magdits and seconded by Spadoni to suspend the rules and that the ordinance be read for its final reading, by title. A voice vote on the motion

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**I. PUBLIC HEARINGS (continued)**

**(D) Request for Ordinance to Rezone Buehler Park from C-2 to G-I Zoning (City of Rolla) (continued):** showed ten (10) ayes, one (1) nay, and one (1) absent. Motion carried. City Counselor John Beger then read the proposed ordinance for its final reading, by title. A motion was made by Jordan and seconded by Spadoni to approve the proposed ordinance. A roll call vote on the motion showed the following: Ayes; Jepsen, Spadoni, Ruck, Sibley, Magdits, Jordan, Walburg, Hicks, and Eudaly. Nays; Morris and Williams. Absent; Barklage. Motion carried. The ordinance passed.

**(E) Nuisance Abatement at 406 West Highway 72:** Community Development Director John Petersen stated that this is a project the City has been working on for some time and Codes Administrator Brian Epstein will address the Council concerning this issue.

Mr. Epstein reported that on July 17, 2007, his office received a complaint about a nuisance at 406 W. Highway 72, owned by Mr. Don Ratzlaff of Salina, Kansas. The property was posted and a notice was sent by certified mail to Mr. Ratzlaff. To date, no response to the notice from Mr. Ratzlaff has been received. Additionally, Mr. Ratzlaff was advised of the public hearing and, again, no response was received. Mr. Epstein then showed the Council photos of the subject property and reported Mr. Ratzlaff was given the option to either repair/restore the structure to habitable condition or demolish the structure. Mr. Epstein recommended the Council authorize staff to abate the nuisance.

After some discussion, Mayor Jenks opened the public hearing to anyone wishing to address the Council concerning the subject nuisance. No one else present responded. Mayor Jenks then closed the public hearing.

A motion was made by Hicks and seconded by Magdits that the Council concurs that a nuisance exists at 406 West Highway 72 and orders the Codes Administrator to demolish the structure with the cost of the abatement plus a \$200 fine and \$50 administrative fee assessed and certified to the City Clerk who shall cause a Special Tax Bill against the property to be prepared and collected by the City Collector. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

**II. CITIZEN COMMUNICATION**

**(A) Open Citizen Communication:** Mayor Jenks opened the floor to anyone wishing to address the Council on any issue.

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**II. CITIZEN COMMUNICATION (continued)**

**(1) Renewable Energy:** Mr. Rodney Bourne, Rolla Municipal Utilities Operations and Public Relations Coordinator, addressed the Council and read the attached prepared statement to the Council regarding MoPEP (Missouri Public Energy Pool) and renewable energy. He entertained comments and questions from the Council following his presentation.

**(2) MSPE Qualification-Based Selection Award:** Mr. Gary Strack with the Missouri Society of Professional Engineers and Chair of the Professional Engineers in Private Practice Committee announced that the City of Rolla was nominated for their consistent use of qualifications-based selection on engineering firms. Based on that nomination, Mr. Strack presented Public Works Director Steve Hargis with a plaque and a check for \$500 to use for an improvement to the City such as a park bench or tree of the City's choice.

**III. NEW BUSINESS**

**(A) Request for Ordinance to Vacate all Utility Easements in Arwood Hills Subdivision and Retain the Easements as Storm Water Easements (Chapman):**

Community Development Director John Petersen noted that the owner of Arwood Hills Subdivision has requested that the utility easements in Arwood Hills Subdivision be vacated and the easement be retained only for use as storm water easements. The Planning and Zoning Commission recommend approval of this request.

After discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE VACATING THE UTILITY EASEMENTS IN ARWOOD HILLS SUBDIVISION, A SUBDIVISION IN THE CITY OF ROLLA, MISSOURI AND RETAINING THE UTILITY EASEMENTS AS STORM WATER EASEMENTS (CHAPMAN).

**(B) Request for Ordinance to Vacate the Alley in Block 21 of Schuman's Addition (Meramec Oil Company, Inc., and Fisher Properties, Inc.):**

Community Development Director John Petersen explained the applicant would like to vacate the alley in order to use the area for parking.

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**III. NEW BUSINESS (continued)**

**(B) Request for Ordinance to Vacate the Alley in Block 21 of Schuman's Addition (Meramec Oil Company, Inc., and Fisher Properties, Inc.) (continued):**

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE VACATING THE ALLEY IN BLOCK 21 OF SCHUMAN'S ADDITION, A SUBDIVISION IN THE CITY OF ROLLA, MISSOURI AND RETAINING THE ALLEY AS A UTILITY EASEMENT (MERAMEC OIL COMPANY, INC., AND FISHER PROPERTIES, INC.).

**(C) Request for Ordinance to Adopt the Major Thoroughfare Plan as an Amendment to the City of Rolla 2020 Comprehensive Plan Update:**

Community Development Director John Petersen told the Council the Major Thoroughfare Plan is part of the Comprehensive Plan Update, which was adopted in 2005. In 2005, staff did not have a good idea of how the north part of Rolla might develop, even beyond the City limits. By adopting the revised Major Thoroughfare Plan, the City Council will confirm a framework for the future development of Rolla and the adjoining unincorporated territory. Mr. Petersen explained the proposed amendment to the Major Thoroughfare Plan would expand the current major thoroughfare system by adding a collector street between State Highway E and U.S. Highway 63 across the north of Rolla. The Planning and Zoning Commission recommend approval of this amendment.

Councilmember Hicks suggested adding the extension of the north outer road from Highway V to the dead end at Northweye to this update.

Following discussion, a motion was made by Hicks and seconded by Sibley to set aside consideration of this issue in order for the Planning and Zoning Commission to consider adding to the update the extension of the north outer road from Highway V to the dead end at Northweye. A voice vote on the motion showed eleven (11) ayes, one (1) nay, and one (1) absent. Motion carried.

**(D) Request for Ordinance to Vacate a Portion of the Northeast Corner of Bishop Avenue and Elm Street (Thompson Thrift Development, Inc.):**

Community Development Director John Petersen recalled the Council approved the rezoning of the property at 1737 N. Bishop Avenue to R-3 (Multi-Family District) zoning to permit the construction of a three-store commercial facility. The applicants are now asking for the vacation of City-owned right-of-way. The Planning and Zoning Commission recommend approval of the vacation request.

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**III. NEW BUSINESS (continued)**

**(D) Request for Ordinance to Vacate a Portion of the Northeast Corner of Bishop Avenue and Elm Street (Thompson Thrift Development, Inc.) (continued):** City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE VACATING A PORTION OF THE NORTHEAST CORNER OF BISHOP AVENUE AND ELM STREET (THOMPSON THRIFT DEVELOPMENT, INC.).

**(E) Request for Ordinance to Approve a Settlement Agreement with Verizon Wireless:** City Administrator John Butz explained that this is the issue on the Verizon settlement with the group of 23 Missouri cities that had enjoined a suit over all cell phone providers claiming they are telecommunication companies under their ordinances and are therefore subject to tax. He noted that this suit has been ongoing for seven to nine years and amounts to hundreds of millions of dollars for the 23 cities involved. On behalf of all Missouri cities with some form of a business license tax, Mr. Butz told the Council there was a settlement with Verizon that removed them from the larger law suit and allowed for the settlement that was going to accept that any city that has some form of a taxation based on telecommunication would be able to either accept or reject the settlement. Rolla has been notified that it has been identified as one of the cities in the class action suit for past tax liability in the amount \$89,008.90, which is equivalent to two years worth of the 5% rate Rolla currently imposes on its franchise companies. Mr. Butz added the passage of this ordinance does not necessarily mean the City will receive the back taxes or future taxes on Verizon cellular service. This would ultimately go to Verizon attorneys and the court for a final ruling by December 20. Mr. Butz continued by outlining four options available to the City. He pointed out that the Missouri Municipal League (MML) acted as the lead agency in coordinating this suit and, more importantly, the settlement with Verizon. In the write-up, that has had preliminary approval from the judge, cities are allowed to dedicate up to 5% of the settlement to MML. Mr. Butz said this is entirely up to the Council and there is no obligation or expectation by MML. He told the Council he is suggesting 2%, which amounts to \$1,780.18 of the \$89,008.90 the City would receive if the settlement were ultimately approved by the judge.

After discussion, City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE APPROVING A SETTLEMENT AGREEMENT WITH VERIZON WIRELESS AND ASSIGNING A PERCENTAGE OF THE SETTLEMENT PROCEEDS TO THE MISSOURI MUNICIPAL LEAGUE.

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**III. NEW BUSINESS (continued)**

**(F) Request for Ordinance to Consider Termination of the Highway 63 & 72 TIF**

**Area:** City Administrator John Butz recalled the Council requested consideration of the termination of the Highways 63/72 Tax Increment Financing (TIF) area. The City's legal counsel in this matter, Attorney Mark Grimm, has drafted the subject ordinance. Mr. Butz said he thinks it is worth keeping the TIF designation in the area because it says the community is receptive to doing redevelopment. However, reversing this action does not necessarily mean the Council will not consider it in the future. Although Mr. Butz said his recommendation is not to remove the TIF designation, staff is submitting the subject ordinance at the request of the Council. Discussion followed.

City Counselor John Beger read the following proposed ordinance for its first reading, by title. ORDINANCE: AN ORDINANCE TERMINATING THE DESIGNATION OF A PORTION OF THE CITY OF ROLLA, MISSOURI, AS A REDEVELOPMENT AREA AND AUTHORIZING CERTAIN ACTIONS RELATING THERETO.

**IV. CLAIMS and/or FISCAL TRANSACTIONS**

**(A) Motion to Sell Surplus Radio Tower – RPD:** City Administrator John Butz recalled the City replaced the large 185-foot tower at the Police Department a couple of years ago in partnership with the Phelps County Commission under a joint use agreement. Since the City did not want to spend any money to have the tower removed, Mr. Butz informed the Council the tower was placed on e-bay and received a bid of \$1,025 from a man in Michigan who performs tower erection and demolition. He will be responsible for providing the necessary insurances and removing the tower. A motion was made by Williams and seconded by Jepsen to authorize the sale of the surplus tower for \$1,025. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

Mr. Butz added that the City has tried to sell the old radar tower at the Rolla National Airport. He asked the Council if they are opposed to trying to sell this tower on e-bay. No objections were noted.

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**(B) Motion to Award the Bid for the Purchase of Used Police Vehicles:** Police Lieutenant Doug James reported that bids were opened on October 3 for the purchase of two used, 2005 patrol vehicles. One bid was received from the Missouri State Highway

**IV. CLAIMS and/or FISCAL TRANSACTIONS (continued)**

**(B) Motion to Award the Bid for the Purchase of Used Police Vehicles (continued):** Patrol (MSHP) for \$13,250 each. The MSHP also submitted a bid for a 2004 vehicle for \$12,250 with the same equipment and mileage. Lieutenant James recommended that the bid be awarded to the MSHP for two, 2004 used patrol vehicles at \$12,250. A motion was made by Eudaly and seconded by Hicks to award the bid for two, 2004 used patrol vehicles to the Missouri State Highway Patrol for \$12,250 each. A voice vote on the motion showed eleven (11) ayes, zero (0) nays, and one (1) absent. Motion carried.

**V. MAYOR/CITY COUNCIL COMMENTS**

**(A) Communications Problem:** Councilmember Williams said there has been some question as to who should pay for the communications problem we are having with the repeaters. He said citizens are already paying for this through the E-911 tax that is placed on their monthly telephone bills. Mr. Williams said there has been some disagreement as to how well this project was done. He again emphasized the money should come from the E-911 fund. Some discussion followed.

**(B) Smoking Ordinance Update:** Councilmember Spadoni asked if the Council could receive an update pertaining to the smoking ordinance.

Recreation Center Director Scott Caron reported the case group conducted an open house meeting in August. The person who was in charge of the case group locally at the University of Missouri-Rolla has left the area. Consequently, there is no community liaison available to use the funds that are available for the grant. Mr. Caron said the University is looking for someone to fill that role.

Councilmember Spadoni said there is a lot of interest in this matter and there is data to confirm it. He said the Council needs to either give some direction and pursue the matter or drop it.

Recreation Center Director Scott Caron said the committee decided to do some community awareness and education pertaining to secondhand smoke, because this is the committee's primary focus.

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**V. MAYOR/CITY COUNCIL COMMENTS (continued)**

**(B) Smoking Ordinance Update (continued):** Councilmember Morris asked the Rolla Daily News to consider conducting a poll on this issue to see what the citizens of Rolla think.

Following discussion, City Administrator John Butz suggested adding this question to the City's biennial survey in January or February.

**(C) Intercounty Electric:** Mayor Jenks alluded to the Council receiving a copy of an e-mail from Intercounty Electric's General Manager Mr. Dwayne Cartwright where he said he did not want to have a meeting with City officials at this time. Mayor Jenks said if the City became Intercounty Electric's customers now, about 25% (1600 households) of the City's existing customers would experience a rate increase. By April 2008, Intercounty Electric will be experiencing a rate increase that would require more of Rolla's residents to encounter a rate increase. Mayor Jenks said he could personally see no purpose in having any further meetings with Intercounty Officials, other than discussing mutual issues such as safety and energy conservations.

City Administrator John Butz noted that Rolla Municipal Utilities (RMU) would conduct its next board meeting on October 22 at 4 p.m. in the City Council Chambers. The reason it will be held in the Council Chambers is that part of the meeting will include a presentation by a consultant who will discuss the future of power delivery. The presentation will begin at 5:30 p.m. If possible, Mayor Jenks encouraged Councilmembers to attend.

**VI. COMMENTS FOR THE GOOD OF THE ORDER**

None.

**VII. EXECUTIVE SESSION**

A motion was made by Ruck and seconded by Jepsen to adjourn into Executive Session pursuant to RSMo. 610.021 to discuss real estate/litigation. A roll call vote on the motion showed the following: Ayes; Ruck, Eudaly, Sibley, Williams, Jordan, Spadoni,

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Hicks, Magdits, Morris, Jepsen, and Walburg. Nays; None. Absent; Barklage. Motion carried.

The Council adjourned into Executive Session at approximately 8:34 p.m.

**VIII. EXECUTIVE SESSION ACTION**

The Council reconvened into open session at approximately 9:23 p.m.

City Counselor John Beger reported that during Executive Session the Council discussed a matter of possible litigation as well as resolutions to the dispute. No formal vote was taken, but Administration was given guidance on how to continue the negotiations.

The Council was also made aware of a looming issue of real estate acquisition and development. No formal vote was taken.

**IX. ADJOURNMENT**

Having no further business, the meeting adjourned at approximately 9:24 p.m.

Minutes respectfully submitted by City Clerk Carol Daniels.

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CITY CLERK

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MAYOR

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