

**March 19, 2024, 7:00 p.m.**

City Hall, 333 Civic Center Plaza, Tracy

Web Site: [www.cityoftracy.org](http://www.cityoftracy.org)

Mayor Young called the meeting to order at 7:40 p.m.

There were no actions taken pursuant to AB 2449.

Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present. City Council had no declarations of conflict.

Bishop Bill Young, Church of Jesus Christ of the Latter-Day Saints offered the invocation.

Mayor Young requested a Moment of Silence for Sam Matthews who passed away and was recognized as historian of our City, worked at the Tracy Press since 1957 becoming editor and publisher for many years carrying on the family business and passion for community journalism.

Mayor Young presented Certificates of Congratulations to the San Joaquin Mock Trial First Place Winners.

1. CONSENT CALENDAR – Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.
  - 1.A. Adoption of March 5, 2024 Special Meeting and Regular Meeting Minutes.– **Minutes were adopted.**
  - 1.B. City Council adopt a Resolution approving the 2024 Professional Services Agreement with Guidepost Solutions, LLC for the Security System Implementation for the City’s Water Facilities Project, CIP 75169, for the remaining scope of work for the Project, in a not-to-exceed amount of \$35,706.88, with a term commencing January 1, 2024, and ending December 31, 2024. – **Resolution 2024-033** approved the agreement with Guidepost Solutions, LLC.
  - 1.C. Adopt a Resolution amending the City’s Conflict of Interest Code to add and remove designated City Officers and employee classifications, as required by the California Political Reform Act.– **Resolution 2024-034** amended the City’s Conflict of Interest Code.
  - 1.D. City Council adopt a resolution 1) accepting a \$443,429 grant from the State Water Resources Control Board for the California Extended Water and Wastewater Arrearage Payment Program; and 2) appropriating the full grant funds to the Water and Wastewater funds to be applied as credits against residential and commercial water and wastewater arrearages.– **Resolution**

**2024-035** accepted the grant from the State Water Resources control Board and Wastewater Arrearage Payment Program and appropriated funds.

- 1.E. City Council adopt a resolution (1) accepting the construction for the Slurry Seal Project, FY21-22, CIP 73184, (Project) completed by American Asphalt Repair & Resurfacing Co., Inc., of Hayward, California, (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, (3) authorizing the City Engineer to release the bonds and retention payment in accordance with State law; and (4) authorizing the Finance Department to close the Project. – **Resolution 2024-036** accepted construction for the Slurry Seal Project, FY 21-22, CIP 73184 completed by American Asphalt Repair & Resurfacing Co., Inc., authorized the Clerk to file the Notice of Completion, authorized the release of bonds and retention payment, and authorized the Finance Department to close the project.
- 1.F. City Council adopt a resolution approving the Professional Service Agreement with Harris & Associates, Inc., for a not-to-exceed amount of \$332,848 to provide professional engineering services in furtherance of Capital Improvement Project 73186.– **Resolution 2024-037** approved the agreement with Harris & Associates, Inc.
- 1.G. City Council adopt a resolution (1) accepting the public improvements for Orchard Park within Ellis Town and Country, Tract 4007, constructed by LS-Tracy, LLC, and accepting future maintenance and repair, (2) authorizing the City Clerk to file the Notice of Completion for Orchard Park with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the Orchard Park improvement security in accordance with the terms of the Subdivision Improvement Agreement, as amended. – **Resolution 2024-038** accepted the public improvements for Orchard Park within Ellis Town and Country, Tract 4007 constructed by LS-Tracy, LLC, authorized the Clerk to file the Notice of Completion, and authorized the City Engineer to release the Orchard Park improvement security.
- 1.H. The Planning Commission recommends that the City Council receive the 2023 Annual Progress Report for the General Plan and Housing Element as required by the State Office of Planning and Research and Housing and Community Development Department regarding the implementation progress of the Tracy General Plan and the Housing Element. – **Report received.**
- 1.I. City Council: Adopt Resolutions finding, for each of the below, that strict compliance with the contracting procedure for "general services" under Tracy Municipal Code Section 2.20.180(b)(4) is not in the best interest of the City and
  - i) A) Rescinding Resolution #2023-230 approving a General Services Agreement with Jim Brisco Enterprises, Inc. for Wastewater Treatment Biosolids Loading, Hauling and Disposal for a term of one (1) year beginning on September 1, 2023, and a not-to-exceed amount of \$176,700 annually and  
B) Approving Jim Brisco Enterprises, Inc. for Wastewater Treatment Plant Biosolids Loading, Hauling and Disposal for a term of one (1) year

- beginning on December 5, 2023 and a not-to-exceed amount of \$176,700 annually;
- ii) Approving a General Services Agreement with Alpha Analytical Laboratories, Inc. for Laboratory Testing Services for a term of fifteen (15) months, with an administrative option to extend for up to five years, in any combination of length and not-to-exceed annual amount of \$60,180 per fiscal year; and
  - iii) Approving a General Services Agreement with Eurofins Eaton Analytical, LLC for Laboratory Testing Services for a term of fifteen (15) months, with an administrative option to extend for up to five years, in any combination of length, and a not-to-exceed annual amount of \$23,451 per fiscal year.

**Resolution 2024-039** – 1) Finding, pursuant to Tracy Municipal Code Section 2.20.180(b)(4) that strict compliance with City contract procedures is not in the best interest of the City for a General Services Agreement with Alpha Analytical Laboratories, Inc.; and 2) Approved a General Services Agreement with Alpha Analytical Laboratories, Inc. for a initial fifteen month term, with an administrative option to extend up to an additional five years, in any combination of length, for an annual not-to exceed amount of \$60,180 per fiscal year to conduct laboratory analysis and testing services for the Utilities Division Laboratory.

**Resolution 2024-040** – 1) Finding, pursuant to Tracy Municipal Code Section 2.20.180(b)(4) that strict compliance with City contract procedures is not in the best interest of the City for a General Services Agreement with Eurofins Eaton Analytical, LLC., and 2) Approved a General Services Agreement with Eurofins Eaton Analytical, LLC. for an initial fifteen-month term, with an administrative option to extend up to an additional five years, in any combination of length, for an annual not-to exceed amount of \$23,451 per fiscal year to conduct laboratory analysis and testing services for the Utilities Division Laboratory.

**Resolution 2024-041** – 1) Rescinded Resolution #2023-230 approving a General Services Agreement with Jim Brisco Enterprises, Inc.; 2) Finding, pursuant to Tracy Municipal Code Section 2.20.180(b)(4) that strict compliance with City contract procedures is not in the best interest of the City for a General Services Agreement with Jim Brisco Enterprises, Inc.; and 3) Approved a General Services Agreement with Jim Brisco Enterprises, Inc., for the loading, hauling, and disposal of wastewater treatment biosolids for a one-year term beginning on December 5, 2023, with a total not to exceed amount of \$176,700.

2. ITEMS FROM THE AUDIENCE – Robert Tanner spoke about entering Parkside from Corral Hollow, and when turning left down Parkside going south the center divide yellow striping does not go through to the end of the street and confuses people. The lanes are dedicated to bicycles and green paint lanes, not supposed to drive on it but goes through houses that do drive on that area. Why are there lanes dedicated to bicycles, missing yellow striping. People asking for striping to go down the middle of the road.

Matthew Henderson, Attorney with Miller Starr Regalia representing Surland Companies, stated Surland is confused as to why the City is on the current course it is on with respect to the Aquatic Center and litigation that the City filed against his client last

month. Mr. Henderson stated they will serve a cost complaint on the City tomorrow. Surland urges the City to change course and approach to the dispute to work cooperatively and collaboratively to get the Aquatics Center done.

Harris McGee shared his concerns regarding the condition of William Adams Park and stated he has called Code Enforcement who responded they are understaffed, close the ticket out and put it in another system. Mr. McGee stated he has to call the City back to find out the status of his ticket. His daughter stumbled on a pothole in the park and for two years he has been asking the City to fix it.

Melvin Jackson stated three members of Council do not represent the voice of the people and are controlled by the City Attorney who seems to have them dangling from strings like puppets holding up building projects costing the City millions. Mr. Jackson continued to share concerns regarding the City Attorney and Council Members Bedolla, Evans and Mayor Pro Tem Davis and stated an investigation needs to occur.

Council Member Evans stated he disagreed with every single characterization that was stated by Mr. Jackson.

Mayor Pro Tem Davis also disagreed with the characterization of the speaker but does agree there needs to be an investigation of everyone on Council and City of Tracy and would push for an investigation. Council Member Evans supported an investigation.

A resident spoke on behalf of the people from the shelter and shared his concerns regarding the Salvation Army since it has taken over the shelter. Salvation Army are controlling and have imposed rules on people that are impossible to follow. Have moved people from Stockton coming to the shelter to have them stay on the side they are not allowed to go on. Supposed to be given choice of new or old part and choice was taken away when told to move to the new part and now behind 8-foot fencing and are not allowed to walk on old part. Shared concerns regarding fairness and people being put back on the street.

Sandy Taylor referred to a presentation to Council given in February 2022 regarding Measure V revenue saying \$65 million budget for Aquatic Center and Council committed \$31 million for the Multi Gen Center. The community design plans for the Aquatic Center which have been worked on for years have been rejected. The Aquatic Center is in the middle of litigation instigated by the City. It needs to stop. Measure V passed to provide recreational amenities for the community and all amenity projects need to get done and treated equally.

Roy Hawkins stated bringing the Aquatic Center to Tracy remains a top amenity the residents most desire. Their group has collected thousands of petitions in support of building the center designed by the community. The community does not deserve a watered-down version of the park which we can assume the City is pursuing. Why does the City keep wasting time and money. The City's unwillingness to resolve issues with Surland and our group in good faith is unfortunate. Let's get it all built at once.

Dotty Nygard, President of Tracy Earth Project stated their group consists of volunteers from the community and are passionate about bringing information to the community. Signature event is Tracy Earth Day and will be presenting the event downtown at Ninth and Central. Their theme is electrify Tracy and are bringing in great agencies to show

the public what is available from incentives and grants. Ms. Nygard shared concerns about this years permit fees being 300% higher than in the past. Strongly recommends it comes back at a later time to make sure it is incorporating nonprofits.

Robert Bartlow shared concerns regarding the City Attorney and three Council Members not representing the people. At a Council meeting 27 people spoke about keeping the supermajority vote and the Council accepted the 6 over the 27. The three chose to overrule the District Attorney's ruling mainly so they could fire the City Manager with three votes and shared his concerns regarding that item. Mr. Bartlow implied the City Attorney is the puppeteer dangling the three Council Members and spoke about the Mayor being censured because she is uncovering corruption.

Mayor Pro Tem Davis disagreed with the characterization by the speaker and asked to be put in the record that the Mayor did not do her duties stating to the speaker that he is not to speak directly the names of individual Council Members and not to direct us as puppets and the Mayor did not do anything.

Burnell Shull stated the current Council Members are the best we have ever had. Ms. Shull asked who approves and sets up systems to patch our roads and why are we doing it with an outside contractor and shared concerns regarding the contractor not fixing the holes and holes getting bigger and bigger. There are many sidewalks that are unwalkable.

### 3. REGULAR AGENDA

#### 3.A. Deliberate Proposed Amendments to the Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies (Appointment Policy) and, upon Conclusion of such Deliberations, adopt one of the following Resolutions:

- 1) Resolution amending the Appointment Policy to allow the full City Council to interview candidates and make final recommendations of specific candidates for the Mayor to consider as proposed appointees, subject to final approval of the City Council; OR
- 2) Resolution amending the Appointment Policy to allow the full City Council to interview candidates and create an appointment list from which the Mayor may select proposed appointees, subject to final approval of the City Council

Mayor Young called for a recess at 8:58 p.m. to allow for staff to make corrected copies of a handout.

Mayor Young reconvened at 9:16 p.m.

Mayor Young shared her concerns regarding the agenda item and the Mayor's role in the appointment process.

Kimberly Murdaugh, Interim Assistant City Manager provided the staff report and presentation and responded to Council questions.

Council comments and questions followed.

Midori Lichtwardt, City Manager, Bijal Patel, City Attorney and Karin Schnaider, Assistant City Manager responded to Council questions during the item.

Robert Tanner stated some people do not want to be interviewed in a public session. The system has worked for years. Because the Mayor has got her feelings hurt, we have to change it. Previous Mayors have worked with the other system. The policy needs to stay the same, it is not broken.

Alice English stated it is not about the Mayor's decision, it is the Council's. This decision is based on the whole Council. It should never be personal. Make the best decision for the whole City for Councils going forward.

Mayor Young expressed her opposition to Ms. English's comment.

Mayor Pro Tem Davis asked for the Clerk to put on the record that Ms. English has not violated anything.

Mayor Young called a recess at 10:18 p.m.

Mayor Young reconvened the meeting at 10:37 p.m.

Public comment continued.

Jim Freeman reminded Council they are elected to serve the City and stated he had supported this Mayor but agrees with the comments made by Mr. Tanner and Ms. English. Previous Mayor's have let things go on in natural progression. Progression is obviously in opposition to certain people on the dais. After all these arguments this will go back in forth and end up with a vote. Move on.

Andrew Christensen stated it is a public position and the public interviewed by City Council seems reasonable. Seeing our elected leaders arguing back and forth makes everyone look bad and for that reason the public interviews add to the aspect of public trust and building confidence of their leaders. Cooler heads prevail, there is no point getting heated.

Council comments continued.

**ACTION:** Council Member Bedolla made the following motion including the Council's recommended changes to Option A as clarified by the City Attorney:

Adopt a Resolution amending the Appointment Policy to allow the full City Council to interview candidates and make informal recommendations of specific candidates for the Mayor to consider as proposed appointees, subject to final approval of the City Council.

Ms. Patel clarified Council's recommended changes to Option A:  
Under Section D-1 – change word final to *informal* recommendations  
Under Section D-2 – the Mayor *may* endeavor to propose appointees as opposed to shall endeavor to propose appointees  
Section D-2 - Strike last sentence of Section 2 - The alternates shall be chosen from the eligibility list if it has been created.

Mayor Pro Tem Davis seconded the motion.

Council Member Arriola requested a friendly amendment to the motion.

Section D-3 – Change: the Mayor *shall* propose an alternate appointee..... to the Mayor *may* propose an alternate appointee...

Council Member Bedolla agreed.

Ms. Patel reminded Council it is an obligatory responsibility of the Mayor. She shall propose an alternate appointee.

Council questions and discussion continued.

Council Member Arriola suggested the following friendly amendment:  
Section D.3 – adding *may require a reopening of the application period* to the end of the last sentence in Section D.3.

Council Member Bedolla accepted the friendly amendment and Mayor Pro Tem Davis seconded the friendly amendment.

Council questions continued.

**ACTION:** Council Member Bedolla restated his motion with the amendment and Mayor Pro Tem Davis seconded the motion to adopt **Resolution 2024-042** amending the Appointment Policy as amended to allow the full City Council to interview candidates and make informal recommendations of specific candidates for the Mayor to consider as proposed appointees, subject to approval of the City Council; with amendments to reflect in Subsection D-1 that it be stated *informal* recommendations, Subsection D-2: the Mayor *may* endeavor to propose appointees. Strike the final sentence of Subsection D-2, Subsection D-3: add to final sentence the Mayor may elect to reopen the application process. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young opposed.

4. ITEMS FROM THE AUDIENCE – None

5. STAFF ITEMS – None

Council Member Bedolla left the meeting at 11:58 p.m.

6. COUNCIL ITEMS – Council Member Evans requested bringing back the policy surrounding the issuance of certificates, proclamations, keys to the City, and other recognitions and ceremonial items to discuss and decide as a Council body if Council should have some say so in who, when and where they are issued. Additionally, he noticed there is a 15-minute time limit for presentations that is not being implemented, is not feeling 15 minutes is enough time but need to bring before Council and determine a time limit or some kind of methodology that we can support and implement in Council. As seen today that we cannot just let comments go from the beginning of an agenda

item. There must be some time limit to be respectful of Council, staff and members of the community. Mayor Pro Tem Davis supported the request.

Council Member Evans stated he was referring to review of Section 5.5 of the Council Protocols and Rules of Procedure.

Bijal Patel, City Attorney confirmed two of the items requested (presentation time limits and Council comments time limits overall) are in the meeting protocols but the ceremonial documents and keys to the City are in a separate Ceremonial Policy.

Mayor Young stated she has concerns with the entire thing being looked at because the last time we looked at it she had submitted 13 pages of conflicting information between the two and found out later that Ms. Patel made the determination that her submittal would not be included.

Ms. Patel clarified Mayor Young sent the document hours before the meeting and it was not possible to get it published as it was too late. Staff runs around all day long on a Council day and she did not see it in her email until right before the meeting and that is why it didn't make it.

Mayor Young stated it is kind of like the same thing as this item that affects this role and the ceremonial thing, it's a systematic attack on the Mayor's role.

Mayor Pro Tem Davis disagreed with that characterization.

Mayor Young said it is true – it is systematically against her. Staff has all of this information and give her things at the last minute which took her days to write the information for her to disregard.

Ms. Patel responded the Mayor bullies her at every meeting, it is tiresome and she is doing her job.

Mayor Young responded we can't have agenda items that affect the roles and responsibilities of the Mayor and the Mayor not have an opportunity to adequately address it.

Ms. Patel responded the agenda is published by a deadline and the Mayor's comments were sent hours before the meeting for staff to evaluate that information before the meeting starts. It is impossible for staff to do that with back-to-back meetings the entire day on a Council meeting day. Ms. Patel added the Mayor makes it sound as if she is intentionally ignoring her and her comments but she is not and is trying her best to address all of the Mayor's comments and emails to the extent that she can. This is a good example; the Mayor raised the issue, and she did an analysis and agreed with the Mayor and came back and here we are still discussing a policy change.

Mayor Young responded that Ms. Patel did but did not come back with enough time with real options and that is a problem when it affects this role and the same thing with the Policies and Procedures. It needs to be looked at it holistically. There are a lot of questions she has and a lot she has submitted that have been ignored but it affects this role. Don't understand what the problem is when it is systematically taking away the



powers. Mayor Young stated she takes it as another systematic role because it falls under Mayor as it does across the state and many other cities.

Mayor Pro Tem Davis stated these are disparaging comments against the Council and Code of Conduct and disagree and asked the Mayor to discontinue. This is not an agenda item and the Mayor is having a discussion.

Mayor Young requested to bring back the entire Protocols and Procedures to look at because there are other areas and different discrepancies.

Council Member Evans responded the Mayor is more than welcome to bring up whatever item and ask for whatever item to bring back to this Council, has have been doing this for almost 12 years as does not think he has to tell her to do that, go ahead.

Midori Lichtwardt, City Manager stated the process is that a Council Member has made a request that is seconded and staff will come back and have that discussion so Council can provide direction so we do not go off in 100 different directions. Ms. Lichtwardt stated she will bring back the whole policy for discussion and let Council decide which items they would like to zero in on, come back with proposals, do a survey, whatever Council directs us to do and then she will make a decision as City Manager on how much time this is going to take, how it is going to impact other items we are working on and give Council a realistic timeframe to come back with proposed amendments based on their discussion. The entire document at the Council's discretion is up for discussion.

Council Member Evans stated he wanted it to be as expeditious as possible, sooner than later. Don't know if it needs to be kept its own item or a broader conversation as a whole.

Ms. Lichtwardt responded it would be a two-step process, would bring back a discussion item. Possibly if it was brought back in June, would have the legislative break and come back in August with proposal. Ms. Lichtwardt confirmed it is the ceremonial document and the rest is in your protocols. Heard issuance of certificates, key to the City, time limits for presentations, Council time limits for each agenda item as a whole. Meeting protocols and ceremonial documents.

Council Member Arriola requested support by an email or memorandum related to the nonprofit fee schedule and more information about the recent changes in case we want to make changes.

Karin Schnaider, Assistant City Manager responded the fee schedule will be coming back to the Finance Committee for its annual review and then it will come to Council with the adoption of the budget. Staff will give the Finance Committee and the Council an opportunity to review the entire annual master fee schedule because they do a CPI annually. We can make sure that particular fee is highlighted.

Council Member Arriola stated obviously as a City we have initiated litigation against Surland, he stands by that decision and was curious if there was any interest of in addition to litigation, any interest in arbitration or mediation to possibly resolve it before a law suit litigation. Mayor Young supported the request.

Ms. Patel responded she would recommend if seeking some discussion on options on resolving the litigation it would have to be done in closed session so staff can give you some direction. The item can come back on April 16.

Council Member Arriola stated again no change in litigation, an alternate dispute resolution if possible.

Ms. Patel responded the City already has a pending lawsuit and would have to do it in closed session.

Council Member Arriola wished everyone a Happy Easter.

Mayor Pro Tem Davis thanked both Tracy Babe Ruth and Tracy Little League for inviting herself, staff and other members of the Council to their opening ceremonies on Saturday, and stated Tracy Babe Ruth is interested in bringing the little league world series event to Tracy. It is a huge event and asked for support to have a conversation about how we can help facilitate bringing that world series event to the community. It would be great for the leagues, recognizing Legacy Fields, CNN and other stations cover the series. Would be good for the City from a promotional standpoint to help Babe Ruth bring that here and come and present to Council. Would like to have it come as soon as possible, April or May as it takes a year to plan for. Mayor Young supported the request.

Mayor Pro Tem Davis stated she went to Legacy Fields and traffic was a parking lot on Tracy Blvd and wanted to talk about alternate access to get into Legacy Fields. Emergency vehicles have a different way to get into Legacy Fields. Took her 35 minutes and multiple light cycles to get from her home to Legacy Fields. It's a good problem to have because it means Legacy Fields is being utilized but need to look at alternate access. Council Member Arriola supported the request.

Ms. Schnaider responded that this has already come to the attention of our Directors and City Engineers and that study has already been requested internally, takes a lot of time so it will not be coming back right away. We do an internal study and will determine if there is an action item that needs to come back to Council or happen at the operations level. Will keep Council apprised. It may be able to be resolved with City resources.

Mayor Pro Tem Davis stated she has asked several times about an ordinance regarding vacant buildings and an update about what other cities are doing to ensure commercial buildings aren't just sitting vacant again and negatively impacting our economic development opportunity. Don't need support as this is about the sixth time she has asked for it.

Ms. Lichtwardt responded it is partially a staffing issue. We are trying to restaff our Economic Development Department. We know it is important and are trying to prioritize and will endeavor to provide an update as soon as we can.

Mayor Pro Tem Davis stated Trader Joes is the number one desired store in Tracy, have to go to Stockton and Livermore, am always optimistic and if they did come to Tracy it would be nice to have a plan for these vacant buildings that maybe they can go into. Would like to know the policy for doing that and what are we doing to attract more businesses who don't want to see huge vacant buildings.

Kimberly Murdaugh, Interim Assistant City Manager responded Economic Development staff is attending ICSC which is a retail conference next week and they are doing a ton of outreach and have talked significantly about Trader Joes and Whole Foods and Sprouts. They have got their marketing materials and are conducting a lot of outreach and will endeavor to return late spring early summer with an economic development update which will include talking about vacant buildings and how we are marketing those buildings to fill them as soon as possible.

Mayor Pro Tem Davis thanked Central School for inviting her and Council colleagues for Read Across America night. Got an opportunity to read a book in Spanish. Nice event. Thanked Hector John and his Para Siempre Boutique for having two Easter bunny events for kids for the last two Saturdays.

Mayor Pro Tem Davis gave a shout out to McHenry House for their Boots and BBQ event they had at Jeff and Janet Brown's hangar.

Mayor Young wished everyone a happy Easter and thanked Babe Ruth for the invitation to be a part of their opening ceremonies on the past Saturday and being able to throw out the first softball.

7. ADJOURNMENT – Time: 12:18 a.m. Wednesday, March 20, 2024.

**ACTION:** Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to adjourn. Roll call found Council Members Arriola, Evans, Mayor Pro Tem Davis and Mayor Young in favor; passed and so ordered. Council Member Bedolla absent.

The above agenda was posted at the Tracy City Hall on March 15, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk