

**March 16, 2021, 7:00 p.m.**

City Hall, 333 Civic Center Plaza, Tracy

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, phone and WebEx during the meeting.

Mayor Young called the meeting to order at 7:00 p.m.

Mayor Young led the Pledge of Allegiance.

Pastor Kal Waetzig, St. Paul's Lutheran Church offered the invocation.

Roll call found Council Members Arriola, Bedolla, Davis, Mayor Pro Tem Vargas, and Mayor Young present.

Mayor Young announced the following: 2020 Firefighter of the Year – Captain Scott Byers, 2020 Police Officer of the Year – Corporal Erik Speaks, and 2020 Employee of the Year – Laura Smith, and proclamations for Essential Workers Appreciation Week – March 14 through March 21, World Autism Awareness Day – April 2, 2021.

1. CONSENT CALENDAR – Following the removal of consent items 1.B by Jenny Haruyama, City Manager, 1.E by Council Member Bedolla, 1.F by Council Member Davis and Alice English, and 1.G by Alice English, motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - 1.A APPROVAL OF MARCH 2, 2021, CLOSED SESSION AND REGULAR MEETING MINUTES AND MARCH 9, 2021, CLOSED SESSION MINUTES – **Minutes were adopted**
  - 1.B RECEIVE AND AUTHORIZE STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT FOR 2020 AND ANNUAL ELEMENT PROGRESS REPORT FOR 2020 TO THE OFFICE OF PLANNING AND RESEARCH, AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND THE HOUSING ELEMENT – **Jenny Haruyama, City Manager removed the item to return on April 6, 2021.**
  - 1.C APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH CSG CONSULTANTS, INC., OF PLEASANTON, CALIFORNIA FOR A NOT-TO-EXCEED AMOUNT OF \$206,615 TO PROVIDE PROFESSIONAL ENGINEERING DESIGN SERVICES, THAT INCLUDES THE PREPARATION OF CONSTRUCTION DOCUMENTS SUCH AS PLANS, SPECIFICATIONS AND COST ESTIMATES FOR THE PAVEMENT REHABILITATION PROJECT

FY 20-21, CIP 73178 – Resolution 2021-025 approved the agreement with CSG Consultants, Inc.

- 1.D DECLARE CERTAIN VEHICLES, EQUIPMENT AND COMMODITIES AS SURPLUS AND APPROVE THEIR SALE – Resolution 2021-026 declared certain vehicles, equipment and commodities as surplus and approved their sale.
- 1.H APPROVE THE PARK IMPROVEMENT AND REFUND AGREEMENT FOR ELLIS DOG PARK, AND AUTHORIZE THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER – Resolution 2021-027 approved the Park Improvement and Refund Agreement for Ellis Dog Park.
- 1.F APPROVE MASTER PROFESSIONAL SERVICES AGREEMENTS WITH KIMLEY HORN & ASSOCIATES, INC., MARK THOMAS & COMPANY, INC., AND ADVANCED MOBILITY GROUP, TO PROVIDE ON-CALL PROFESSIONAL ENGINEERING SERVICES FOR TRANSPORTATION PROJECTS, AND AUTHORIZE THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE NOTICES TO PROCEED RELATED TO THE AGREEMENTS, FOR A NOT-TO-EXCEED AMOUNT OF \$600,000 FOR EACH CONSULTANT PER CALENDAR YEAR

Council Member Davis and Alice English pulled the item for discussion.

Andrew Malik, Assistant City Manager provided the staff report.

Alice English requested clarification that the costs would not come out of General Fund.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt **Resolution 2021-028** approving Master Professional Services Agreements with Kimley-Horn & Associates, Inc., Mark Thomas & Company Inc., and Advanced Mobility Group, Inc., to provide on-call professional engineering services for transportation projects and authorizing the Development Services Director to execute notices to proceed related to the agreements, for a not-to-exceed amount of \$600,000 for each consultant per year. Roll call found all in favor; passed and so ordered.

- 1.E ADOPT A RESOLUTION UPDATING THE MASTER SALARY SCHEDULE AND AMENDING THE CITY'S POSITION CONTROL ROSTER

Council Member Bedolla pulled the item for clarification of whether the item was related to the February resolution that came out of Council.

Karin Schnaider, Finance Director provided the staff report.

Kimberly Murdaugh, Human Resources Director responded to Council Member Bedolla's question.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Davis to adopt **Resolution 2021-029** amending the City of Tracy Master Salary

Schedule and Position Control Roster. Roll call found all in favor; passed and so ordered.

- 1.G APPROVE (1) A RESOLUTION TO SUMMARILY VACATE A SEGMENT OF PARADISE ROAD FROM ITS INTERSECTION WITH SKYLARK WAY EASTWARD FOR APPROXIMATELY 2,200 FEET; AND (2) A RESOLUTION TO TERMINATE A TEMPORARY ACCESS EASEMENT AND TWO UTILITY EASEMENTS AND APPROVE A FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT FOR NORTHEAST INDUSTRIAL AREA (NEI), PHASE 2, PARCEL 28, PROLOGIS PARK OLIVERA (PROLOGIS – II), PROLOGIS PROPERTY

Alice English pulled agenda item 1.G for discussion to make sure that the public had the opportunity to comment.

Robert Armijo, City Engineer provided the staff report.

City Council questions followed.

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt **Resolution 2021-030** approving the First Amendment to the Deferred Improvement Agreement, Northeast Industrial Area, Phase 2, Parcel 28, Prologis Park Olivera (Prologis II) – Prologis Property and approving the termination of a Temporary Access Easement and two (2) Temporary Storm Drain Easements. Roll call found all in favor; passed and so ordered.

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt **Resolution 2021-031** summarily vacating Paradise Road from its intersection with Skylark Way eastward for approximately 2,200 feet. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Alice English shared her concerns regarding Mayor Pro Tem Vargas bringing up Transit Oriented Development (TOD) and Valley Link at the GMO workshop, spearheading TOD during election, meeting with candidates to endorse Measure Y, stated there was no Council discussion at January 14 workshop about TOD being priority, and did not see where Council gave staff direction to bring back on an agenda to discuss the TOD with the public.

Mayor Pro Tem Vargas disagreed with the comments and accusations made by Ms. English and requested the City Manager address what direction was given and how things get on the agenda.

Jenny Haruyama, City Manager responded to Mayor Pro Tem Vargas's request.

Justin Mattos shared concerns about the TOD, trying to take land on east side of town from MacArthur to Chrisman and from overpass to Hidden Lakes, Mayor Pro Tem Vargas saying she talked to landowners, but was it just the two majority landowners/farmers/developers.

Mayor Pro Tem Vargas disagreed with comments made by Mr. Mattos.

Justin Mattos continued stating residents voted down Measure Y, spoke about Council Members changing their tone, and should not have been pushed through.

Cecilia Guillen thanked the Council for all the work they have accomplished and expressed support for Valley Link and the Transit Oriented Development.

John Villalovoz shared support for the current Council and the Transit Oriented Development.

Council Member Arriola motioned to move agenda item 3.F to follow directly after item 3.C. Mayor Pro Tem Vargas seconded the request.

### 3. REGULAR AGENDA

#### 3.A DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)

Jenny Haruyama, City Manager provided an update and presentation on the City's response to COVID-19.

City Council comments and questions followed.

Dan Evans asked when the public would be able to get into Council Chambers.

City Council accepted the report.

#### 3.B PUBLIC HEARING TO CONSIDER CITY'S RECOMMENDATION FOR AWARD OF LOCAL PRIORITY FUNDING ALLOCATIONS FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR FISCAL YEAR 2021-2022 AND AUTHORIZE THE ASSISTANT CITY MANAGER TO EXECUTE THE FUNDING AGREEMENTS FOR THE PROGRAM

Barbara Harb, Economic Development Management Analyst, provided the staff report.

Mayor Young opened the public hearing.

Alice English thanked staff for the report, and stated it is great that the public knows how much work goes behind this and our Parks Commissioners work really hard.

Kelly Wilson, CEO of Boys and Girls Club of Tracy thanked the Parks Commission, subcommittee, staff and Council for continuing to prioritize our youth in Tracy, and expressed appreciation for this continued program.

Mayor Young closed the public hearing.

City Council comments followed.

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola, to adopt **Resolution 2021-032** recommending the award of local priority funding allocations for Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) Funds for Fiscal Year 2021-2022. Roll call vote found all in favor; passed and so ordered.

3.C RECEIVE UPDATE ON HOMELESSNESS AND PROVIDE DIRECTION ON TEMPORARY EMERGENCY HOUSING FACILITY PROJECT, INCLUDING FUNDING STRATEGIES

Midori Lichtwardt, Assistant City Manager provided the staff report.

Tracy Lucca stated she has personally moved four people from the streets, asked about funding and information to relay to the homeless she works with.

Bubba Paris, Tracy Community Connections Center spoke about the eviction moratorium ending, and the number of homeless increasing drastically, and suggested Council take all of the recommendations staff has made.

Robert Tanner spoke about the Tracy homeless population increasing because of the leasing freeze going away in mid-August, suggested the City make the shelter bigger, using Measure V funding to clear out parks, and continue to go for grant funding.

Tim Silva shared his concerns regarding a deficit of \$1.5 million on operating budget on a temporary shelter, it is not what citizens of Tracy envisioned, and has talked to displaced residents and they are not going to go to the temporary shelter and will stay at El Pescadero Park.

Sharon Gardner-Losche shared support for the temporary homeless shelter and added she would like to believe we live in a city where community matters.

Peter Claffey shared concerns regarding the City not moving the unhoused and the shelter being built.

William Muetzenberg shared support for the Council's investment in the project and hoped we can ensure the unhoused population is treated with dignity.

City Council questions and comments followed.

Motion was made by Council Member Arriola to receive the update on homelessness efforts, including the status of the Arbor Road Project, and 1) proceed with the Temporary Emergency Housing Facility design and construction, 2) fund the shortfall using American Rescue Plan Act if eligible first and second general funds including Measure V funds and 3) direct staff to continue to pursue grant funding to offset project shortfall and future operating expenses. Mayor Pro Tem Vargas seconded the motion.

City Council comments followed.

Mayor Pro Tem Vargas made a friendly amendment to use grant money before Measure V money.

Council Member Arriola accepted the friendly amendment and clarified to first fund the entire project through grant funding to include the actual facility and operating expenses and then to use American Rescue Plan Act and finally to be General Funds including Measure V. Mayor Pro Tem Vargas seconded the amendment.

Jenny Haruyama, City Manager clarified this is for both the capital project and operating expenses.

**ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to: 1) proceed with the Temporary Emergency Housing Facility design and construction, 2) direct staff to continue to pursue grant funding to offset project shortfall and future operating expenses, and 3) to fund shortfall by using grant opportunities, American Rescue Plan Act funds if eligible, and General Funds including Measure V. Roll call found all in favor; passed and so ordered.

### **DEVIATION**

3.F FORM COUNCIL HOMELESSNESS ADVISORY COMMITTEE; APPOINT TWO COUNCIL MEMBERS TO SERVE ON THE COMMITTEE, AND PROVIDE DIRECTION TO STAFF

Midori Lichtwardt, Assistant City Manager, provided the staff report.

William Muetzenberg supported the formation of the advisory committee and stated people are experiencing hardships, and it is important to have services and treat the unhoused with dignity.

Peter Claffey shared concerns regarding the City of Tracy operating reactively instead of proactively regarding homelessness.

City Council questions and comments followed.

Motion was made by Council Member Arriola to form a City Council standing subcommittee, the Tracy Homelessness Advisory Committee and appoint Council Member Arriola and Council Member Davis to serve on the committee. Council Member Davis seconded the motion.

Council Member Bedolla expressed interest in being considered to serve on the committee. Mayor Pro Tem Vargas supported appointing Council Member Arriola and Council Member Bedolla to the committee.

Council Member Bedolla motioned to amend the motion on the floor for the two Council Members on the committee to be Council Member Arriola and Council Member Bedolla. Mayor Pro Tem Vargas seconded the motion.

City Council comments continued.

Council Member Bedolla withdrew his motion to amend the motion on the floor.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt **Resolution 2021-033** forming the Tracy Homelessness Advisory Committee and appointing Council Member Arriola and Council Member Davis to serve on the newly formed committee. Roll call vote found all in favor; passed and so ordered.

3.D APPROVE 2021-2023 MULTI-YEAR AND SHORT-TERM STRATEGIC PRIORITIES, AND WORKPLAN, AND PROVIDE DIRECTION TO STAFF, AND ACCEPT CITY COUNCIL WORKSHOP REPORT AS JANUARY 5, 12, AND 14, 2021 SPECIAL MEETING MINUTES.

Jenny Haruyama, City Manager provided the staff report.

Mary Mitracos stated she was impressed with the goals Council has set, liked affordable housing and density, update of general plan, appreciate upcoming discussion on residential growth management and support of downtown and liked the continued discussion and supporting of the TOD and Valley Link.

Ubbo Coty spoke about Council pursuing the TOD in a very disingenuous way acting like this is something different. Citizens voted against Measure Y and the TOD, and requested Council stop pursuing the TOD.

Tim Silva shared his concerns regarding the TOD and asked if the bowtie area land has been secured from the railroad, gentrification of downtown area – has it been designated as a historical district, Council should start representing their constituent's needs, and suggested moving forward on a new TOD.

Alice English shared her concerns regarding the TOD going around Measure A, Valley Link having nothing to do with it, two business interests behind it, sneaking TOD on the agenda at the last minute, and Council having total disregard for voters.

Council Member Arriola objected to attacks on City staff.

Neil Prescott asked why Council is moving forward with TOD, requested removing the TOD from the work plan, Tracy voted against it, and why request input if you do not listen to the public.

Council Member Arriola objected to characterization of his statements by Mr. Prescott.

William Muetzenberg advocated his support for efforts to address Tracy's affordability to move towards building a walkable, bikeable city. TOD provides opportunity to assess the future of Tracy and become a success story.

Dan Evans stated Measure Y was voted against and Council should be honoring that. Council is pushing strategic priorities work plan through with TOD in it, and can only determine there is something else behind it.

Council Member Arriola objected to the characterization by statements by Mr. Evans.

Mayor Pro Tem Vargas responded she agreed with Council Member Arriola and seconded the sentiment.

Mark Connolly stated he wrote Measure A, and helped pose two initiatives prior to Measure Y. There is no inconsistency between Measure A and TOD. Downtown development can proceed. Measure Y and other initiatives that attempt to set aside the limits of the growth management ordinance for any reason are in conflict with Measure A. Mr. Connolly provided a history on what has occurred and responded to questions from Mayor Pro Tem Vargas.

City Council questions and comments followed.

Motion was made by Council Member Arriola to approve the 2021-2023 Multi-Year and Short-Term Strategic Priorities and Work Plan, and accept City Council Workshop Reports as January 5, 12, and 14, 2021 Special Meeting Minutes. Council Member Bedolla seconded the motion.

Council comments continued.

Council Member Arriola stated at the workshop on January 14, 2021, one thing Council had consensus was to prioritize COVID 19 recovery, important to prioritize COVID recovery related to economic development and public safety because that is the crisis we are faced with. Mayor Pro Tem Vargas supported the request.

Council Member Arriola asked Council Member Bedolla if he would second his friendly amendment to move COVID recovery to the top of economic development and public safety. Council Member Bedolla agreed.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Bedolla to adopt **Resolution 2021-034** approving 2021-2023 Multi-Year and Short-Term Strategic Priorities and Workplan, and accept City Council Workshop Reports as January 5, 12, and 14, 2021 Special Meeting Minutes. Roll call found Council Members Arriola, Bedolla, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Member Davis opposed.

Mayor Young called for a recess at 10:53 p.m.

Mayor Young reconvened the meeting at 10:58 p.m.

- 3.E AUTHORIZE STAFF TO NEGOTIATE AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF TRACY AND SURLAND COMMUNITIES, LLC FOR THE 321 ACRE ELLIS SPECIFIC PLAN PROPERTY LOCATED AT THE NORTHWEST CORNER OF CORRAL

HOLLOW ROAD AND LINNE ROAD, AND PROVIDE NEGOTIATING PARAMETERS

Andrew Malik, Assistant City Manager and Leticia Ramirez, City Attorney provided the staff report.

Mary Mitracos spoke about Council being individually liable to be held in contempt of court, believed the legal arguments are correct and the Development Agreement (DA) has been set aside, which means the City should be proceeding under the 2013 DA. Ms. Mitracos shared her concerns regarding the 2013 and 2018 DA's, and asked about the filing of the Irrevocable Offer of Dedication.

Alice English asked if the Development Agreement (DA) was revisited would it include the pool, does Council have the opportunity to make it better, get input from community, and asked if it affects the Avenues, and the process.

Mark Connolly, Attorney who litigated Development Agreement (DA) twice disagreed with the City Attorney, if anyone takes any action to implement the DA it violates the prohibitory injunction, which is still in effect even though there has been an appeal filed, it would be in contempt of court. The City should stop negotiating, and should ask Surland to live up to its obligation in the 2013 DA.

Steve Herum, representing Surland Companies stated they did not ask for negotiations, but will meet in good faith with the City. Mr. Herum shared his concerns regarding Mr. Connolly attempting to file a new lawsuit and set aside the aquatics center in its entirety, and asked Council to listen to the City Attorney, and not Mr. Connolly.

Adrienne Richardson, City Clerk announced there was correspondence received by Mark Connolly and Les Serpa which exceeded the word limit, but was provided to City Council by email and on the dais.

City Council questions and comments followed.

Mr. Herum responded to Council Member Davis's questions.

Council Member Davis suggested looking at developer benefits from the existing Development Agreement of 2018, making those benefits more mutually beneficial for both parties. Revisiting control over the design, questions about naming rights, equity and community access, pricing issues and costs, sponsorship, priority access, restrictions on how the swim center could be used and more than anything the overall price tag.

Mayor Pro Tem Vargas agreed with the points mentioned by Council Member Davis and was open to discussing and renegotiating the 2013 DA.

Council Member Arriola stated he was opposed to negotiations, but would be interested in what the rest of the Council's proclivity would be as to what could be included without discussing whether we will be actually doing it. Mayor Pro Tem Vargas supported that discussion.

City Council discussion continued.

Mayor Young stated because the DA is between both sides, if we are going to look at developer benefits she would like to look at every public benefit.

Mayor Pro Tem Vargas and Council Member Davis supported looking at every benefit.

Mayor Young stated as long as we are talking about public benefits, she would like to add that in the discussions with Surland to consider adding a gymnasium to the land area there.

Mayor Pro Tem Vargas supported the request but would like more latitude and have that conversation between Council, the language to be more open so it does not constrict us to an Aquatic Park and gymnasium. Like to see use for whatever needs the city has for recreation facilities or something like that.

Ms. Haruyama clarified the following: There is interest in exploring the developer benefits and balancing that with the public benefits, and specifically interest in naming rights, equity access, sponsorship, priority access, how the center is used, price tag, amenities and also heard adding consideration for a potential educational/recreational/cultural arts amenity that is kind of broad in nature to give us some flexibility.

Council discussion continued.

Motion was made by Council Member Bedolla to adopt a resolution authorizing staff to negotiate an amendment to the Development Agreement in its entirety between the City of Tracy and Surland Communities, LLC for the 321-Acre Ellis Specific Plan property located at the Northwest Corner of Corral Hollow Road and Linne Road. Council Member Davis seconded the motion.

Council Member Arriola asked if Council Member Bedolla would accept a friendly amendment to include the language stating *in accordance with holdings*.

Council Member Bedolla asked the City Attorney for clarity on the request and intent from the requestor. Ms. Ramirez suggested using the language *in accordance of state law*. Council Member Arriola responded his intent was to protect the city.

Council Member Bedolla felt confident in the motion and rejected the friendly amendment. Council Member Bedolla clarified his intention was to include in the motion all the items discussed during the item.

Council Member Arriola asked if in its entirety included amendments to the Development Agreement including the 2018 amendment, which has the injunction in place.

Ms. Ramirez responded she would provide more information to Council in a confidential memo about the issues discussed today in particular Mr. Connolly's argument and its impact on the Aquatic Center. Ms. Ramirez stated the

agreement Council is asking about amending, we can discuss that and can provide more info to Council in a confidential memo and have an open session item at a future date, but what is more important is the parameters.

Mayor Young stated her request as a friendly amendment is for a time parameter so staff can touch base with Surland to see if they are even willing to open up negotiations.

Ms. Ramirez responded staff meets with Surland every week on Wednesdays. Staff will endeavor, but cannot commit on their behalf. They also need time.

Mayor Young asked is there a way to have a check in as a part of the Measure V.

Ms. Ramirez responded staff can update Council via email.

**ACTION:** Motion was made by Council Member Bedolla and seconded by Council Member Davis to adopt **Resolution 2021-035** authorizing staff to negotiate an amendment to the Development Agreement in its entirety (to include all items discussed) between the City of Tracy and Surland Communities, LLC for the 321-Acre Ellis Specific Plan property located at the Northwest Corner of Corral Hollow Road and Linne Road. Roll call found Council Members Bedolla, Davis, and Mayor Pro Tem Vargas in favor; passed and so ordered. Council Member Arriola and Mayor Young opposed.

4. ITEMS FROM THE AUDIENCE – None
5. STAFF ITEMS – Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency.
  - Approved the Improvement and Inspection Agreement (IIA) with LS-Tracy, LLC for the Ellis Phase 3 – Town & Country Tract 4007
  - Accepted the Construction of the Sullivan Park and Lester Huck Park Renovation Project – CIP 78149
  - Approved Amendment No. 1 to Professional Services Agreement with Municipal Resource Group, LLC for the Consultant to Perform an Impartial Analysis of the Fiscal Impacts of the Implementation of the South San Joaquin County Fire Authority personnel transition plan
6. COUNCIL ITEMS – Mayor Pro Tem Vargas wished everyone, and her husband a happy Saint Patrick's Day.

Mayor Young wished everyone a happy Saint Patrick's Day, happy Good Friday and Resurrection Sunday.

ADJOURNMENT – Time: 12:31 am. Date: Wednesday, March 17, 2021

7. ADJOURNMENT – Time: 12:31 a.m. Date: Wednesday, March 17, 2021

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adjourn. Roll call vote found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on March 11, 2021. 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