

CITY OF SHORELINE

**SHORELINE CITY COUNCIL
SUMMARY MINUTES OF SPECIAL MEETING**

Monday, December 15, 2003
6:30 p.m.

Shoreline Conference Center
Mt. Rainier Room

PRESENT: Deputy Mayor Grossman, Councilmembers Gustafson and Hansen

ABSENT: Mayor Jepsen, Councilmembers Chang and Ransom

1. CALL TO ORDER

The meeting was called to order at 6:34 p.m. by Deputy Mayor Grossman, who presided.

2. FLAG SALUTE/ROLL CALL

Deputy Mayor Grossman led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present with the exceptions of Mayor Jepsen and Councilmembers Chang and Ransom.

Deputy Mayor Grossman pointed out that without a quorum, the only action that can be taken is to adjourn to a later date.

Upon motion by Councilmember Hansen, seconded by Councilmember Gustafson and unanimously carried, the meeting was adjourned until 1:00 p.m. on Friday, December 19, 2003.

Mr. Burkett noted that the December 19 meeting will be held at the Shoreline Center, with the specific location to be announced.

3. ADJOURNMENT

At 6:36 p.m., Deputy Mayor Grossman declared the meeting adjourned.

Sharon Mattioli, City Clerk

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CITY OF SHORELINE

SHORELINE CITY COUNCIL SUMMARY MINUTES OF SPECIAL MEETING (Continued from December 15, 2003)

Friday, December 19, 2003
1:00 p.m.

Shoreline Conference Center
Board Room

PRESENT: Mayor Jepsen, Deputy Mayor Grossman, Councilmembers Chang (for a portion of the meeting), Gustafson, Hansen, and Ransom

ABSENT: none

1. CALL TO ORDER

The meeting was called to order at 1:00 p.m. by Mayor Jepsen, who presided.

2. FLAG SALUTE/ROLL CALL

Mayor Jepsen led the flag salute. Upon roll call by the City Clerk, all Councilmembers were present.

Mayor Jepsen explained that the Council meeting scheduled for the past Monday evening had been continued to today because of lack of a quorum. He said Council will proceed with Monday night's agenda.

3. PUBLIC COMMENT

Mayor Jepsen said the comment time limit will be 30 minutes, and since this meeting has only one topic, Council will suspend its rules to allow everyone to speak on the same topic.

(a) LaNita Wacker, Shoreline, reminded Councilmember Hansen that he had stated early in the Council appointment process that if there were a lot of applicants, the time frame could be changed, and that Councilmember Gustafson had also said he would be willing to allow for additional time. She believed that all candidates deserve an interview and suggested mini-interviews of fifteen minutes each. She proposed a schedule and suggested format for the interviews. She said this would provide the Council an opportunity to meet face-to-face with community leaders. It would be a wonderful learning experience for the Council to "pick the brains of the community."

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(b) Anthony Poland, Shoreline, commented on the Aegis project, the Aurora Project, and the denial of beach access for the homeowners on Appletree Lane. He felt these decisions are wrong, unethical and illegal. He also said that Councilmember Montgomery's resignation was unethical. Her departure endangered the majority position on the Council and that the current process is an attempt by the majority to retain its power.

(c) Jerry Cronk, Shoreline, expressed concern about the level of rancor at City Council meetings. He felt it only makes sense to allow a person who will be working with the new Councilmember to be part of the selection process. He felt that allowing Maggie Fimia to have a voice in the selection process might end this hurtful debate and help mend the community.

(d) Maggie Fimia, Shoreline, expressed concern about the effect of the expedited appointment process on the working relationship of Councilmembers and between the City and the community. She said the process is a source of serious contention and may be a violation of the Americans with Disabilities Act. The process is confirming the public's conclusion that "this is a done deal." The reason for this view is the locked-in schedule (despite the number of applicants), the lack of television coverage, and the lack of respect shown to Councilmember Chang despite the numerous attempts to explain why he needs additional time.

She pointed out that State law allows the Council 90 days to make an appointment. The City has a legal obligation to make a reasonable accommodation to a fellow Councilmember with a disability who needs to review the information before making a decision. The question is whether or not reasonable accommodation has been provided. She said asking Councilmember Chang to review 200 pages of material while he was attending a conference seems unreasonable. Yet he was willing to try and brought his computer in an effort to read the applications. This was unsuccessful, and asking him to schedule time in the late evening to have 46 applications read to him after spending all day in conference sessions is unreasonable, given there is no compelling reason to rush the appointment.

She noted that Councilmember Chang's request for more time is supported by Councilmember Ransom, who has professional qualifications and expertise in this area and knows Councilmember Chang's specific requirements. Ms. Fimia said she has observed Councilmember Chang's use of his equipment. He has a sharp mind and an amazing memory for details but the obstacles are formidable. She pointed out that this is the only time in two years he has asked for additional time to review materials. She concluded that the least the Council can do, since this is not an emergency, is to respect Councilmember Chang's request.

(e) Dennis Lee, Shoreline, said he is bothered that Council plans to carry through with the process as outlined. He felt this represents a "power grab" that allows the voting coalition to "get what it wants." He suggested looking at the applicants and considering individuals who have spoken against the majority from time-to-time but who

are fair. He said choosing a “yes” person will result in the majority’s loss of power over time. He said the Council believes that it has voter mandate, but this is untrue. Voters are becoming apathetic and not turning out to be part of the process.

(f) Mark Deutsch, Shoreline, supported the process. He said the currently constituted Council is most appropriate to select a successor for Linda Montgomery, since they most relate to the time she was elected. He encouraged the Council to have a retreat to do Council team-building. He said the election made it clear there is some division in the City, but he feels this Council should make the selection and honor Councilmember Montgomery’s request in terms of her support for the Aurora Corridor, as this was part of her campaign. He suggested town hall meetings so Council can hear individuals express their views about City issues.

(g) Elaine Phelps, Shoreline, asked that the process be delayed until the new Councilmember can participate. She said that Linda Montgomery did not behave honorably and ethically, and that it is a presumption that she should have an influence on the outcome. Ms. Phelps said that furthermore, state law says that the person resigning should have no influence on the selection of the replacement. She appreciated the time and effort Councilmembers give to their work and acknowledged what a hard job it is. However, there is an obligation not only to be honest and ethical, but also to appear to be so. This gives citizens a strong feeling that Councilmembers are their representatives. She urged Council to “do the right thing for Shoreline.”

(h) George Daher, Shoreline, said people are in attendance today because the process is rushed. He said this is “lame duck” session between the election and the installment of the newly-elected representative. He said it would be wise to wait until after January 1 for the appointment.

(i) Bill Meyer, Shoreline, said people are asking Council to take the time to do the job right. He pointed out that today’s agenda has an executive session for “evaluation of the qualifications of candidates and identification of interview questions.” The agenda says this is allowed by RCW 42.30.110(H). He said the law does not allow Council to develop interview questions in executive session. He cited *Miller vs. City of Tacoma*, a 1999 Supreme Court decision that says the rules of the Open Meeting Act with regard to hiring must be narrowly interpreted. He felt all candidates should be interviewed based on this interpretation of the law.

(j) Pat Murray, Shoreline, suggested that the public comment allocation be extended by a minute. He objected to holding interviews on weekends. He said that Saturday is a religious holiday and applicants should not be forced to come in on such a day. He felt the mayor should be elected by the voters. He also stated that the office of police chief should be eliminated because Shoreline contracts with King County for public safety, and King County does a good job. Finally, he objected to not televising the meeting. He noted the Council agenda allows the public to comment “on any subject.”

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(k) Pat Crawford, Shoreline, objected to Deputy Mayor Grossman being able to influence the selection process when he was caught in ex parte communication with the Aegis Corporation. She provided background on the status of the Aegis development, objecting to Council's lack of participation in the Aegis dispute. She noted that an excavator is stuck between the vault and the pond at the site within the buffer. She said there has been no valid Mitigated Determination of Nonsignificance, so the project should not be allowed. She objected to the clearing limits being within the buffer. She objected to Council's ignoring the problems at the Aegis site. She reviewed litigation history and disputed information provided to Council from the Planning Director and City Attorney. She said Council has the authority to be the State Environmental Protection Act body under State law and has the responsibility to take care of the City's environmental resources.

Seeing that thirty minutes had elapsed, **Councilmember Ransom moved to provide the remaining individuals who wished to speak an opportunity to do so.**

Councilmember Chang seconded the motion, which carried 5 – 1, with Councilmember Hansen dissenting.

(l) Rick Stephens, property owner in Shoreline, quoted the Open Public Meetings Act, noting the intent of the chapter to be sure governing bodies "conduct the people's business" openly. He quoted that people "insist on remaining informed so that they may retain control over the instruments that they have created." He said the majority of the public have come to the meeting to ask that Council change its process. People oppose Council going into executive session because this is part of the people's business. He asked who made the decision not to televise these meetings.

(m) Larry Owens, Shoreline, wished everyone happy holidays and thanked Councilmembers for their service to the community. He noted this process coincides with the winter solstice, which is the darkest day of the year. He said historically recognition of the solstice goes back 30,000 years and no decisions were made during this time. He said that instead there were celebrations and religious festivals at this time of the year. He said that by not televising the meeting the Council is keeping the citizens of Shoreline in the dark.

(n) Janet Way, Shoreline, also objected to the meeting not being televised. She felt that she should be considered fairly for the appointment, since she had the closest race in the last election. She said she's an independent voice and the Council needs someone like her to think in a different way. She applauded her former opponent, Bob Ransom, who made a courageous stand in support of Councilmember John Chang. She read a letter to him stating she supported John Chang and Bob Ransom for their support of democracy in Shoreline. She said Bob is making an important statement by standing up for the Americans with Disabilities Act and standing up "for all of us in our uniqueness." She said the City needs more people who are willing to speak out and be dedicated to the public interest.

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(o) Tim Crawford, Shoreline, reminded Council that he and his wife had complained about the treatment afforded Councilmember Chang on several occasions. He noted that Mayor Jepsen and Deputy Mayor Grossman were found to have carried on ex parte communications with Aegis. He said Councilmember Hansen lost his professional license one year for unethical conduct. Mr. Crawford said the appointment process insults the citizens of Shoreline. Only Councilmember Chang has the true interests of the citizens in mind.

(p) Richard Johnsen, Shoreline, said Councilmember Montgomery acted dishonorably and tarnished her reputation. He said it was wonderful there were 46 applicants for her position. He opposed considering Connie King. He also opposed considering Planning Commissioners because this would create a vacancy on the Planning Commission at a time it is in the middle of important planning activities. He wished those applicants who seemed to be “new” best wishes.

(q) Pat Peckol, Shoreline, commented that in either an election or appointment process, Maggie Fimia would not have had an opportunity to choose who she would work with. She suggested postponing the interviews and appointing three to five citizens representing the community at large, with Deputy Mayor Grossman serving as advisor, to review the applications and select three to five people as finalists. Then the new Council would make the decision. She said everyone will probably oppose this solution, but perhaps this makes it a good alternative.

Mayor Jepsen commented on the accusations that the process has not been modified as a result of people’s comments. He noted that the application period was kept open longer than was originally suggested. There has been a great deal of interest in this position, which shows that the process is working. He said people should watch the process unfold rather than say that the Council has its mind made up. He said that the discussion among the Council will take place in open session because of staff’s recommendation to discuss the topics on the agenda in open session.

Councilmember Ransom put forward Councilmember Chang’s request to be given a full seven days since the conference to review the applications. **Councilmember Ransom moved that this meeting be postponed until Tuesday, December 23 at 1:00 p.m. with interviews to be held on Saturday, December 27. Councilmember Chang seconded the motion.**

Councilmember Chang explained why he has requested more time. He said that when he left for the National League of Cities Conference on the morning of December 8, there were only six applicants. He took his laptop computer with him to review the applications. He was surprised when he received a booklet of applications on Wednesday night, December 10, that came to about 240 pages.

Councilmember Chang said it was not possible to use his laptop when the applications were sent to him in PDF format, even though he spent five hours on Thursday working

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with Joyce Nichols, Community and Intergovernmental Relations Director. He noted that the City Clerk's Office "did a gallant job to accommodate my needs."

Continuing, Councilmember Chang said he has been working with the State of Washington Services for the Blind for the past two years to get the appropriate technology and learn to use it. He is in his third month of training. When it became clear that the scanned files would not work, Ms. Nichols offered to read the applications to him at twelve midnight, which he felt was very unreasonable since his purpose in attending the conference was to participate in the seminars. He asked Council "to just provide some help in doing his job."

Councilmember Chang expressed the view that all 46 applicants are equally qualified and deserve an interview. He explained why he had not had time to complete his review of the applications. He returned on Sunday night, December 14, at about ten o'clock, and he went to work at three o'clock the next morning. He returned home about two and started looking at the packet, but it was overwhelming. At that time he called the City Clerk's Office to dictate a memo to the Council asking for seven more days to review the applications. He chose seven days as reasonable because he receives his weekly Council agenda packet seven days in advance of the meeting. Councilmember Chang concluded that he appreciated the support from Councilmember Ransom. He felt his request would allow everyone the opportunity to look over the applications one more time.

Clarifying for Mayor Jepsen, Councilmember Chang said he would like to do as Federal Way has done and interview all the applicants. He suggested that Council split into two groups and each group interview 23 applicants and then bring to the full Council those chosen for in-depth interviews.

Responding again to Mayor Jepsen, Councilmember Chang clarified that Ms. Nichols agreed to read the applicants at any time, but because of her flight schedule and his other commitments, the only time he had available was at midnight. She agreed to read them at that time if he wished. He reiterated that both Ms. Nichols and City Manager Steve Burkett "did make a very gallant effort." However, nothing worked given the conference schedule.

Responding a third time to Mayor Jepsen, Councilmember Chang said he had glanced at all the applications but he has not receive direction about how many to pick for interviews or what criteria should be applied to them.

Mayor Jepsen said Councilmember Chang should use his own criteria.

Councilmember Chang agreed but said this is a group decision, not an individual decision. Everyone should be working together to pick the best qualified candidate.

Councilmember Gustafson responded to Councilmember Chang's comments, expressing his sympathy for his disability. However, he believed that City staff made, and tried to

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make, every possible accommodation to Councilmember Chang. The applications were provided in 18 point font; audio tapes were offered to be made; Ms. Nichols offered to read the applications at any time. Councilmember Gustafson expressed the view that reasonable effort and time were made to accommodate Councilmember Chang's disability. And in light of the fact that Monday's meeting was continued, Councilmember Chang has certainly had the opportunity to review all the applications. Councilmember Gustafson wished to proceed with the selection process, noting he spent a lot of time going through each application, applying his own criteria and ranking scale. He said he spent hours at the conference in the evening and during lunchtime. He concluded that Councilmember Chang had the responsibility to either listen to tapes or go to Ms. Nichols and have her read the applications to him.

Councilmember Chang explained that he is now 46 years old and his vision started to deteriorate at the age of 10. Now his vision is 20/800. He has no central vision whatsoever, so the packet in 18 point font was not usable.

Councilmember Gustafson recalled that this is what was recommended by the people dealing with his disability. He quoted that Jodi Lyons had said "that the materials delivered to you needs to be in 18 point print."

Councilmember Chang responded that he and other Councilmembers were at the conference at Shoreline taxpayers' expense to attend seminars, to engage with Councilmembers from other cities throughout the country to learn about their challenges and their solutions. He said that most nights he did not return to his room before eleven or twelve o'clock. He pointed out that he would love to be able to review materials on airplanes or at meals, but his disability prevents that. He said he did not think the audio tape option was reasonable because of the expense involved. He reiterated that Council was in Nashville at the taxpayer's expense (of \$2,000 per person) to attend the conference. This is why he did not feel any of the options were feasible.

Councilmember Ransom explained the type of machine Councilmember Chang uses. It enlarges normal type (12 point Arial). Councilmember Chang has to use from eight to thirteen times enlargement for typed materials; and, if the material is handwritten, sometimes Councilmember Chang has to go to the maximum of his machine, which is 32 times enlargement.

Councilmember Ransom said he has watched Councilmember Chang use his machine and he has also worked as a rehabilitation counselor with other disabled people. There is a complicated process involved in how to use this machinery and this is one of the reasons that the federal government's standard is that the program has to be laid out by a certified rehabilitation counselor who works with the disabled and with the blind. Such a person is required to have a master's degree, three years experience, and specific experience in setting up the process. The only person the City has talked to is Jodi, who is an equipment technician or specialist. Councilmember Ransom said he has talked to her himself and has talked to the counselor. But the City has never contacted the counselor.

Councilmember Gustafson noted information that the City had contacted Vicki Lyons several times. Councilmember Ransom disputed this and said Ms. Lyons has denied being contacted by the City.

Councilmember Ransom concluded that Councilmember Chang's difficulties are far greater than what most people realize. He said he acts as a personal aide at conferences to ensure that Councilmember Chang can find his room and the locations of workshops and other events. Councilmember Ransom emphasized that Councilmember Chang really does need help. He felt Council should take Councilmember Chang's word that he needs a certain amount of additional time. He said he believes Councilmember Chang because he knows how disabled he is and because he works with him on a regular basis. He said granting the extra time would still allow the process to be completed by December 31.

Mayor Jepsen commented that his trip to the NCL conference did not cost \$2,000 and if Councilmember Chang spent that much, the cost of the tape recorder to listen to audio tapes was certainly small in comparison. He added that everyone knew the schedule in advance and should have been able to plan the time accordingly. His concern with the motion is that the 46 applicants have been told that the interviews are to take place tomorrow. If the date is changed, perhaps applicants will not be able to attend. He supported moving forward on the current schedule.

Councilmember Hansen concurred, noting the process has been delayed once by accommodation and a second time because of lack of a quorum. These delays provided extra time to review the applications. He said he was ready on Wednesday a week ago to discuss the applications. He also referred to a list in a letter from staff that outlines at least four efforts at accommodation made in Nashville.

Responding to Councilmember Chang, Councilmember Hansen said the first extension of time was that originally the filing deadline was going to be December 1. This was extended to December 8. Then on December 15 Councilmembers were supposed to be ready to discuss their selections. That meeting was postponed until today.

Councilmember Hansen quoted from the City's letter outlining the accommodation efforts and the fact that each was declined by Councilmember Chang. "Joyce was able to schedule delivery to the hotel of equipment that would magnify the material to a size you could read. Delivery was scheduled for approximately 3:30 p.m. Central Standard Time. You declined this option. Joyce informed you that the state library located in downtown Nashville had equipment available that would magnify print and project it onto the wall. She informed you of the hours the library was open and its address. You declined this option. Joyce informed you that the staff in the City Clerk's Office would provide audio tapes of the information on the applications, Federal Express it to you in Nashville, and provide equipment, i.e., a walkman, for your use in listening to the tapes. You declined this option. Joyce offered to read aloud the information on the applications, or to hire a

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reader for this purpose. You declined this option.” Councilmember Hansen concluded that this represents as much accommodation as the City could do.

Councilmember Chang said that the equipment at the library was useless and that he had already explained he refused the tapes because of the expense. Furthermore, he had no time to have the applications read to him.

Councilmember Gustafson agreed with Councilmember Hansen and said it is the responsibility of Councilmembers to have things done and read on time. The City must take reasonable action to accommodate for Councilmember Chang’s disability, and the City did that.

Deputy Mayor Grossman concurred.

A vote was taken on the motion, which failed 2 – 4, with Councilmembers Chang and Ransom voting in the affirmative.

Councilmember Chang concluded the discussion by saying that he ran for the Council position because he wanted to help make the City a compassionate and caring community. He wished to represent those people who are elderly, poor, disabled, and people without a voice. He said that today he is drawing the line and doing what he has been asked to do by his constituents, which is not participate in the rest of the process and “to seek relief.”

After wishing everyone a Merry Christmas, **Councilmember Chang left the Council table at 2:25 p.m.**

Deputy Mayor Grossman commented that Councilmember Chang has been able to absorb much more difficult and complex material over the past two years. He also expressed his disappointment that Councilmember Chang has chosen not to participate in this process.

4 and 5. EXECUTIVE SESSION AND ACTION ITEM

- (a) Evaluation of Qualifications of Candidates and Identification of Interview Questions

Selection of Candidates to Interview and Determination of the Order of the Interviews

Mayor Jepsen said that Council had hoped to have Councilmember Chang participate but that at least he had expressed his opinion that all applicants deserve an interview. Mayor Jepsen said the goal of today’s meeting is to have each Councilmember list eight to ten individuals to interview and determine commonalities on the list.

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Councilmember Ransom listed the following: Stan Bear, Lawrence Blake, John Chou, Brian Doennebrink, Paul Grace, Kristina Hestenes-Stimson, Robin McClelland, Frank "Bill" Meyer, Michael Pollowitz, and Joseph Ripley.

Councilmember Hansen listed the following: Domador Amor, Lawrence Blake, Marlin Gabbert, Paul Grace, Connie King, Michael Pollowitz, and Bonnie Mackey.

Mayor Jepsen listed the following: Dom Amor, Larry Blake, Virginia Botham, Paul Grace, Connie King, Robin McClelland, Bill MacCully, Bonnie Mackey, and Michael Pollowitz.

Deputy Mayor Grossman listed the following: Dom Amor, Lawrence Blake, Brian Doennebrink, Marlin Gabbert, Paul Grace, Connie King, Bill MacCully, Bonnie Mackey and Michael Pollowitz.

Councilmember Gustafson listed the following: Dom Amor, Larry Blake, Brian Doennebrink, Marlin Gabbert, Paul Grace, Connie King, Bonnie Mackey and Frank "Bill" Meyer.

A tally was conducted to determine how often each name appeared.

Councilmember Gustafson moved that those individuals named on four or five of the lists be interviewed. Councilmember Hansen seconded the motion.

Councilmember Hansen suggested as a friendly amendment that in addition to these individuals, any Councilmember be allowed to add one name to the list if he so desires. This would give every Councilmember a pre-emptive right to name one person to be interviewed.

Councilmember Gustafson said he was impressed with many of the candidates and it was difficult to winnow the list to eight or ten. He said individuals named four or more times would have received majority support by a Council of seven members. Therefore, he felt his motion should stand as made.

Councilmember Ransom added that in human services work, the rule of thumb is to interview ten times the number of vacancies. One vacancy would equate to ten candidates. He said the list could be expanded to those named on three lists. This would still be a majority of the five members present.

A vote was taken on the motion, which carried 5 - 0, and the following individuals were identified for interviews: Larry Blake and Paul Grace (5 votes); Michael Pollowitz, Dom Amor, Connie King and Bonnie Mackey (4 votes).

City Attorney Ian Sievers drew these names to determine the order of the interviews to be held on Saturday. The order was: Michael Pollowitz, Bonnie Mackey, Larry Blake, Paul Grace, Connie King and Dom Amor.

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Mayor Jepsen reviewed the proposed interview process and the timeframes for the various sections of the interview.

Councilmember Ransom suggested that the interviews be an hour long, but Mayor Jepsen and other Councilmembers supported the shorter interview time as set out in the draft agenda.

Councilmember Gustafson said there is a need for consistency. Councilmember Ransom suggested that each Councilmember ask two questions. The consensus was that from one interview to the next, each Councilmember would ask the same two questions, but the starting order would alternate from one applicant to the next.

Councilmember Ransom expressed a concern about discussing the questions today when some of the candidates were in the audience. There was consensus that each Councilmember would bring about five questions tomorrow and ask two of them, with follow-up questions as time allowed.

Councilmember Ransom asked why this meeting was not be televised. Mayor Jepsen said he talked with the City Manager and that Monday night's meeting would have been televised but that was not taken advantage of.

Councilmember Ransom felt the interviews should be televised. He could not think of anything the public would want to watch more.

Mr. Burkett stated that the camera crew was not available today. Mayor Jepsen added that he told Mr. Burkett he thought neither meeting should be televised. Councilmembers Gustafson and Hansen supported the Mayor in this decision.

6. ADJOURNMENT

At 3:00 p.m., Mayor Jepsen declared the meeting adjourned.

Sharon Mattioli, City Clerk

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