

**MINUTES**  
**JOINT SAND CITY COUNCIL AND REDEVELOPMENT AGENCY**

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REGULAR MEETING - September 18, 2007  
CITY COUNCIL CHAMBERS  
7:00 P.M.

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Mayor Pendergrass opened the meeting at 7:01 p.m.

Invocation was led by Reverend Pena

The Pledge of Allegiance was led by Chief Klein

Present: Council Member Blackwelder  
Council Member Carbone  
Council Member Hubler  
Council Member Morris  
Mayor Pendergrass

Staff: Kelly Morgan, City Administrator  
Jim Heisinger, City Attorney  
Steve Matarazzo, Community Development Director  
Richard Simonitch, City Engineer  
Michael Klein, Police Chief  
Linda Scholink, City Clerk  
Connie Horca, Deputy City Clerk

**AGENDA ITEM 4, COMMUNICATIONS**

Written communication distributed to the Council was a letter from California American Water, dated September 14, 2007 (Agenda Item 7A.5), a revised staff report/resolution (Agenda Item 7A.6), awarding the Design/Build Contract for Desalination Plant Facilities in Sand City, California to CDM Constructors, Inc.

Mayor Pendergrass welcomed the public and acknowledged Cal-Am President, Mr. Kent Turner.

7:05 P.M. Floor Opened for Public Comment

There was no comment from the Public

7:06 P.M. Floor Closed to Public Comment

## AGENDA ITEM 5, CONSENT CALENDAR

The Consent Agenda consists of routine items for which City Council approval can be taken with a single motion and vote. A Council member may request that any item be placed on the Regular Agenda for separate consideration.

A. Conditional Use Permits (CUP) and Coastal Development Permits (CDP) are subject to annual review by the City Council and City staff. Upon review of each of the following Use Permits, staff is recommending continued operation of the Use Permits to the City Council based on the finding that these uses are in compliance with their permits.

There was no discussion of the following permits:

- 1) CUP #310, Sal Balboa/Bay Door & Supply Company (Retail), 755 Redwood Avenue
  - 2) CUP #371, McDonald's Refrigeration (Refrigeration Service), 605 California Avenue
  - 3) CUP #385, Sally's Beauty Supply (Retail), 828 Playa Avenue
  - 4) CDP #95-07, Giustiniani Masonry (Warehouse), 698 Ortiz Avenue
- B. There was no discussion of the August 21, 2007 Sand City Council Meeting Minutes
- C. There was no discussion of the Police Department Report, August 2007
- D. There was no discussion of the Public Works Department Report, August 2007
- E. There was no discussion of the City/Redevelopment Financial Report for June 2007
- F. There was no discussion of the City **RESOLUTION** declaring October 1-5, 2007 as Ridesharing Week in the Monterey Bay Region
- G. There was no discussion of the City **RESOLUTION** recognizing October 5, 2007 as California Arts Day
- H. There was no discussion of the City **RESOLUTION** celebrating the Monterey County Film Commission's 20<sup>th</sup> Anniversary Year, 1987-2007
- I. There was no discussion of the City **RESOLUTION** approving a 90-Day time extension of Conditional Use Permit 473 for Web Commerce LLC to continue their wholesale/retail operation as an interim use within an existing building at 865 Fir Avenue
- J. There was no discussion of the receipt of the 2007 League of California Cities Annual Conference Resolution Voting Report
- K. There was no discussion of the City Donations/Contributions
- 1) Request by Domestic Violence Coordinating Council for \$500

Motion to approve the Consent Calendar was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried unanimously.

## **AGENDA ITEM 6, CONSIDERATION OF ITEMS PULLED FROM CONSENT CALENDAR**

There were no items pulled for discussion.

## **AGENDA ITEM 7, OLD BUSINESS**

### **A. Consideration of Key Components of the Sand City Water Project**

- 1) City Administrator Kelly Morgan reported that several items are scheduled for Council consideration. Two weeks ago at a meeting with the Monterey Peninsula Water Management District, all items with regard to Sand City's water project needed to be submitted by month end in order for MPWMD to process the applications for consideration at their October 15, 2007 Board Meeting. Presently, the City has no written agreement with Cal-Am, but a letter has been submitted by Cal-Am with intention to do business. Mr. Kent Turner is present to give a brief report and update.
- 2) Community Development Director Steve Matarazzo presented the review of Sand City and California American Water (CAW) Applications to the Monterey Peninsula Water Management District (MPWMD). The Environmental Impact Report and major attachments in the agenda packet were approved unanimously by the Coastal Commission. Staff suggests that prior to taking action and approving the Design/Build contract for the desalination plant, the Council should review the addendum to the EIR; that includes a resolution which recommends adoption of the attached EIR addendum. If the Council adopts this addendum, staff will file a Notice of Determination with the County Clerk providing public notification of the minor changes to the desalination project.
- 3) City Attorney Jim Heisinger reported on the review of the Monterey Peninsula Water Management District (MPWMD) Proposed Ordinance on Sand City's Water Project. This proposed ordinance was submitted to the Water Management District for review. There has presently been no comment received from the water management district. It is possible that this ordinance will not be presented for first reading at their October 15 Board Meeting. The basic intent of this ordinance assumes that Sand City desalination project plant will provide 300 AF of new water, giving Sand City the right to take 206 AF for expanding the current water connections (approximately 94 AF at present) within the City over time. No council action is necessary at this time.

Mayor Pendergrass pointed out that on page 86, Section Three D which reads:

*Nothing in this ordinance shall excuse the owner of a Sand City Site from compliance with the water conservation rules set forth in MPWMD Regulation XIV and the water rationing rules set forth in MPWMD Regulation XV., seems to contradict page 87, Section Four C which reads: MPWMD shall not take any action to Revoke (as defined in MPWMD Rule 11), terminate, reduce, diminish, ration or curtail any Sand City Water Use Permit or use of the Sand City Water Entitlement subject of a Sand City Water Use Permit by reason of any water emergency, water moratorium or other circumstance affecting the CAW system.*

Mr. Heisinger added that the rationing rules were left out and put into this draft ordinance at the insistence of the Monterey Peninsula Water Management District's General Manager and General Counsel. Under the existing rules of the District, the rationing would not affect the ability of property owners to obtain water permits for hookups. Depending on the different stages of rationing, water users within the City can be limited to their total amount of water use.

Mayor Pendergrass commented that Section D is inconsistent with Section C. Sand City should have the ability to draw water from its own supply. Conservation is very important; however, it defeats the drought proof nature of Sand City's water supply project if the City is subject to rationing.

Mr. Matarazzo added that the language contained in the ordinance is the way the Water District's staff will present this ordinance to the Water Board, and agreed that the Water Board should object to the rationing, since desalination provides a drought proof water supply.

Mr. Heisinger further commented that one of the objections presented by the manager of the Water Management District was that Cal-Am would have to account for water used by Sand City consumers differently than other cities in the area, if Sand City was not subject to rationing as the other cities in the Peninsula.

7:21 P.M. Mayor Pendergrass opened the floor for public comment to address this agenda item

There was no comment from the public

7:22 P.M. Floor closed to public comment

- 4) Community Development Director Steve Matarazzo presented the consideration of a City **RESOLUTION** adopting an addendum to the Final Certified Environmental Impact Report for the Sand City Water Project (SCWSP) as required by the California Environmental Quality Act (CEQA) Guidelines Section 15164. In May, 2006, the California Coastal Commission approved the environmental documentation and the project's coastal development permit, which was re-approved for a one year extension through May 2008. Since the EIR's initial adoption, an operational change was approved by the State Water Resources Control Board (SWCRB), which now allows the water project to be

connected to the existing California-American Water Company's (Cal-Am) water system. The SWRCB ruling was not pursued until after the EIR was certified, the EIR characterized the water plant as a "stand alone" facility. The operational change to the project description is considered to be minor, resulting in no new environmental impacts that would need further analysis. The original consulting firm, David J. Powers and Associates, prepared an addendum for the Council's consideration. The addendum to the EIR should be considered prior to taking action on the attached operation agreement with Cal-Am. Staff recommends that the City Council adopt the resolution approving the addendum to the Sand City Water Supply Project Final EIR.

7:24 P.M. Floor Opened for Public Comment

There was no comment from the Public

7:25 P.M. Floor Closed to Public Comment

Motion to approve **City Resolution adopting an addendum to the Final Certified Environmental Impact Report for the Sand City Water Project (SCWSP) as required by the California Environmental Quality Act (CEQA) Guidelines Section 15164** was made by Council Member Carbone, seconded by Council Member Morris. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried unanimously.

- 5) California American Water President Kent Turner, reported on the status of Cal-Am's intentions and actions with regard to the proposed Sand City Desalination Facility. As outlined in the September 18, 2007 letter, it is Cal-Am's desire to take all of the potable water produced under the permit, or 300 AF from the facility and allot this water for existing and new hook-ups within Sand City. Excess water in the Cal-Am System would serve to provide a cushion for protection against overdraft. Under corporate accounting rules, Cal-Am's primary concern is how to provide this service and not be considered the de facto owner of the desalination facility. After consulting with several attorney's, Cal-Am retained the services of Fulbright and Jaworski in Los Angeles to draft a lease, and to insure that the appropriate accounting rules are complied with. The lease term would be for a period of 15 years with provisions for renewal. Lease payments are annual, with the first payment due on the effective date of the lease. Cal-Am will be responsible for the day to day operations of the facility and all costs of operation and maintenance. This is the basic outline of the lease terms, and a draft of the lease should be available by September 20, 2007 for review. Over the next few weeks, Cal-Am will be working with City Staff to formulate a draft wheeling agreement.

Council Member Hubler commented that his primary concern was that the water will not be encumbered for future use in some way thereby preventing use within Sand City.

Mr. Turner replied that Cal-Am can determine if 300 AF of water is actually being expended to Sand City via the output meters. Cal-Am's primary objective is to have the facility remain as an operating lease, and not a capital lease.

Mayor Pendergrass suggested that a Special Council Meeting be held to take action on the proposed lease agreement so the City Council and Staff will have adequate time to review the draft lease agreement upon receipt.

Consideration of City **RESOLUTION** approving a lease agreement and a wheeling agreement with California American Water (CAW) on the Sand City Water Supply Project was moved to a Special City/Redevelopment Agency Council Meeting scheduled for Thursday, September 27, 2007 at 6:00 p.m. by Council consensus.

- 6) City Engineer Richard Simonitch presented the consideration of a City **RESOLUTION** authorizing execution of the Design Build Contract with Camp Dresser McKee (CDM) for the Sand City Water Supply Project. The attached document serves as the agreement between Sand City and CDM on how the desalination facility will be designed and constructed. The general conditions provide information and definitions regarding the contractual agreement, including responsibilities of the City and contractor, change orders, payment, and legal responsibilities, etc. The special provisions provide more technical information regarding the actual plant construction, including material and performance specifications, product submittals and substitutions, and contract closeout requirements. Several unfinished items that will be considered by Staff and Council prior to the execution of the contract are: the lease agreement with Cal-Am to operate the plant and purchase the water has not been finalized, the MPWMD water system permit application is still in process along with an EIR addendum and other supporting documentation, and the Bid process for the pipeline and wells is scheduled for September 26, 2007. Staff recommends that the City Council should award the Design/Build Contract for the desalination plant facilities with CDM Constructors, Inc. in the amount of \$4,543,547.00, and authorize its execution by the City Administrator when some of the above issues have been clarified. Staff also recommends to authorize issuance of the Notice to Proceed after the Design/Build contract is signed by the City Administrator and contractor, with the required bonds, insurance forms, and all legal documents submitted. The contract allows for a 25% contingency amount of \$1,135,886.00 of the bid for any necessary construction change orders and the increase in the plant's redundancy.

Council Member Morris commented that it would not seem prudent at this time to award the CDM contract if the lease agreement with Cal-Am has not been reviewed and other supporting documentation is still in the approval process. This item should be moved to a special meeting for consideration once the Council has had adequate time to review the draft lease agreement.

Chad Brown from CDM Constructors, Inc. was invited by the Council to respond to the Council's comment. Mr. Brown responded that due to the cost of materials and the fluctuating commodity market, the proposed bid may only be extended no more than two weeks, anything longer than that time period may

increase the cost of construction.

Mayor Pendergrass suggested this item be considered at a Special Council Meeting.

Consideration to approve **City Resolution authorizing execution of the Design Build Contract with Camp Dresser McKee (CDM) for the Sand City Water Supply Project** was moved to a Special City/Redevelopment Agency Council Meeting scheduled for Thursday, September 27, 2007 at 6:00 p.m. by Council consensus.

- B. Community Development Director Steve Matarazzo reported that Don Orosco is gearing up for the South of Tioga Project, and has requested the Redevelopment Agency to hire an appraiser for one of the properties within the South of Tioga Project Area. An appraisal Contract will be brought for council consideration at the October 2, 2007 Council meeting.

City Engineer Richard Simonitch reported that the Storm Water Management report will be filed with the State Water Resources Control Board. At the next Council meeting, a set of guidelines will be introduced for adoption by the Council, to serve as a reference for developers and contractors as part of Sand City's Best Management Practices. The bid opening for the pipeline and wells for the desalination project is scheduled for September 26, 2007.

Vice Mayor Mary Ann Carbone thanked Chief Klein and Staff for their efforts and support with the Beach Cleanup held on Saturday, September 15. The Beach Clean up was very successful with over 115 volunteers in attendance.

## **AGENDA ITEM 8, NEW BUSINESS**

- A. Consideration of Refunding the Sand City Redevelopment Agency Tax Allocation Bonds
- 1) Brian Quint, Bond Counsel, presented the process and benefits of the proposed bond refunding for providing new money to the Sand City Redevelopment Agency for selected infrastructure projects. The attached email memorandum outlines a basic timeline with regard to the tax allocation bond approval process. Mr. Quint recommends adopting SB 211 amendment provisions for the Redevelopment Plan to eliminate the incurrence deadline, which had already passed on July 20, 2007. This amendment requires the adoption of an ordinance following a noticed public hearing and written notice to all affected taxing entities. The amendment will impose statutory pass-through agreements with taxing entities that do not currently have contractual pass-through agreements with the Agency. This statutory pass through will be based on increment as of today. Sand City can also obtain subordinations in connection

with the other existing pass-through agreements, increasing the amount of new money to be generated. Based on the amendment and the Tax Allocation Refunding Bond report submitted by Wedbush Morgan Securities, the City should be able to generate approximately \$5.3 million of new money for the Agency (subject to the market at time of issuance). On or prior to September 30, 2007, a notice of public hearing will be published with regard to the ordinance. The following timeline and schedule is proposed. Hold a public hearing on the proposed SB 211 amendment and introduce the ordinance on October 9, 2007 at a special meeting of the City Council. On October 16, at the regularly scheduled Council meeting, approve the adoption of the ordinance and resolution after the second reading. Once adoption of the ordinance and resolution are completed, a subordination notice will be sent out to Monterey County. Then the Bond Team will finalize and mail the Preliminary Official Statement, market and sell the bonds, execute a bond purchase agreement and close the bond issue on or about November 20, 2007.

- 2) Elena Zaretsky, of Wedbush Morgan Securities, delivered a presentation on Sand City's projected tax increment revenues and possible deductions for the bond refunding. A handout for Ms. Zaretsky's presentation was distributed to the Council. There are two primary goals outlined which are 1) to refund Sand City Redevelopment Agency 1996 Bonds and 2) to issue new money to fund projects with the Sand City Redevelopment Project Area. The primary benefit of this transaction would be to take advantage of the current interest rates which are lower than the 1996 interest rate. The final maturity of these bonds would fall on November 1, 2026, with an expected yield at maturity of 6.1394%. Sand City's current Debt Service payment is approximately \$336,000 per year. In order to secure 2007 new money, the Redevelopment Agency must issue continuing Debt to be eligible to collect Tax Increment. This would provide \$5.3 million to fund Capital Improvement projects now. The infusion of funds into project areas would generate more Tax Increment by encouraging new development and eliminating blight. With this proposed refunding of \$3.9 million, the annual Debt Service Payment would be \$850,000 that includes the \$336,000 Debt Service Payment from the 1996 Bonds plus the \$514,000 Debt Service on New Money. Potential projects to be financed from the 2007 Bonds could be \$2.0 million land purchase for public parking, \$1.0 million to create an urban design connection, \$1.3 million for capital improvement projects and \$1.3 million for an urban design street pilot project. Ms. Zaretsky concluded her presentation with an explanation of the transaction analysis of the tax increment projections with a fiscal year breakdown of the amount of the remaining balance of the Tax Increment, minus County Administrative fees, Housing Set-Aside of 20%, less, Pass-Through payments, and less 2007 Debt Service. A new transactions analysis, with amounts forecasted through the life of the debt, can be projected once the fiscal consultant submits a report.
- 3) City Administrator Kelly Morgan commented that before action is taken on the refunding of the Tax Increment Bonds, a financial report from HdL, will show the growth of Sand City's Tax Increment for the full 30 years, it will also show the increase of the pass-through payments. Once the Design Center is added



to the Tax roll, there should be a substantial increase in the projected Tax Increment. This amount looks reasonable to raise. The City does not necessarily have to raise this much if the Council decided they wanted to keep the tax increment in the last column, but the \$5.3 million would give the City a good amount to complete redevelopment projects.

Mr. Morgan introduced Jim Dudick, Financial Consultant to Sand City.

Financial Consultant, Jim Dudick commented that due to favorable interest rates, now is a good time to refund the bonds. Bond Counsel Brian Quint was recommended to the Agency, and the arrangement has worked out well. It is expected that at maturity, the interest rate can be negotiated, and we should expect a good return and a fair price.

Council Member Morris asked why the proposed improvement projects could not be done with the City's current cash flow? Does the City really need to do these bonds?

Mr. Morgan replied that the City is in the process of taking on major redevelopment projects, such as the desalination project and street improvements; consequently, the City could be tapping into its reserves since the funding for these projects would require a large portion of available funds. This refunding will give the City some additional funds to purchase land for parking facilities, before the cost of the land appreciates to the point that it would be difficult to purchase Sand City land at reasonable price. It would also help the City to continue with capital improvements. The City's Redevelopment Plan is getting old, and the City is at a point where money can be acquired and paid back with increasing tax increment.

Brian Quint added that the money is being leveraged, and in order to collect the tax increment, the Redevelopment Agency would have to incur debt.

The Council/Redevelopment Agency was in concurrence to move forward.

- 4) There was Council consensus to schedule a Special Council/Redevelopment Agency Meeting for October 9, 2007 to introduce an Ordinance (Per SB 211) for extending Sand City Redevelopment Agency's time to incur debt at 6:00 P.M.

Mayor Pendergrass extended his thanks to Brian Quint and Elena Zarestsky for attending the Council meeting and for their informative presentations.

- B. Community Development Director Steve Matarazzo presented to the Council the consideration of accepting a Regional Housing Numbers Allocation (RHNA) of 200 dwelling units for the next Sand City Housing Element Update 2009-2014. Legislation is pending to extend the effective date of all regional Housing Elements to June, 2009. AMBAG has recommended a 200 housing unit production from 2009 to 2014 for Sand City. Staff believes this is a reasonable number based on the City's existing general plan capacity of 211 dwelling units within the East Dunes and 214 additional units within the

Mixed Use zoning district of the West End neighborhood. Sand City's current certified Housing Element recommends housing production for the years 2002-2009 to be 267 units. The 200 unit recommended allocation for the 5 years between 2009 and 2014 seems reasonable. Staff recommends acceptance of the 200 housing unit allocation for Sand City for the next effective term of housing element updates within the AMBAG region.

There was Council consensus to move forward with the Regional Housing Numbers Allocation of 200 dwelling units for the next Sand City Housing Element Update.

- C. City Engineer Richard Simonitch presented the City **RESOLUTION** authorizing award of the Redwood Street/Playa/Tioga Avenue Pavement Project to Granite Construction Company. After receipt of five bids on September 26, 2007, the lowest bidder was Granite Construction Company in the amount of \$143,543.00. A pre-construction meeting will be scheduled with the contractor to review the scope of work and schedule for said work. A contingency amount of \$14,354 (10%) of the bid construction change orders, will be prepared by the City Engineer, and subject to approval of the City Administrator. Staff recommends approval of the attached resolution awarding the Redwood Avenue/Tioga/Playa Pavement project to Granite Construction Company in the amount of \$143,543.00 and to authorize execution by the City Administrator. Issuance of the Notice to Proceed will take effect after receipt of all legal documents and said change orders if necessary, will be prepared by the City Engineer and subject to the approval of the City Administrator.

Motion to approve **City RESOLUTION authorizing award of the Redwood Street/Playa/Tioga Avenue Pavement Project to Granite Construction Company** was made by Council Member Blackwelder, seconded by Council Member Carbone. AYES: Council Members Blackwelder, Carbone, Hubler, Morris, Pendergrass. NOES: None. ABSENT: None. ABSTAIN: None. Motion carried unanimously.

- D. City Administrator Kelly Morgan presented the consideration of appointing a Steering Committee for a new organizational structure for the West End Event. The Arts Committee was established to promote the arts in Sand City and arrange art exhibits in City Hall. The West End Event has become a major leap from that original responsibility. A few suggestions about the future organizational structure for the West End Event included: 1) retaining a Public Events Coordinating Firm, 2) a working arrangement with a local hardworking person with background experience in the West End Event to work with a New West End Committee and City Staff, 3) retain a local firm with Event Coordinating expertise, 4) continue to use the Arts Committee and to create an "Arts" non-profit organization. Staff recommends that a Steering Committee be appointed to help the City evaluate these various options, and to review and select the best way to proceed with the Sand City West End event. It is suggested that the Steering Committee be

composed of two council members, one or two Art Committee members, Mr. Kruper, Mr. Vagnini, and one to two Citizen/Businesses representatives.

9:00 P.M. Floor Opened for Public Comment

Sand City Resident, Todd Kruper commented that the appointment of a Steering Committee was a good idea and the Council should consider the dates of August 22 and 23, 2008 for the next West End Event. It would give ample time for advertisement and to have the event noticed with other organizations on their community calendar of events.

9:02 P.M. Floor Closed to Public Comment

The Council discussed the appointment of the following individuals to comprise the membership of the Steering Committee: Council Members Morris and Hubler, Patricia Kramer, Todd Kruper, Steve Vagnini, Susan Collins, Dierdre Bascou and Andy Briant.

There was Council consensus to approve the above appointments to the Steering Committee for the West End Event.

- E. City Administrator Kelly Morgan presented the consideration of an October 3, 2007 Mixer Event in Sand City's West End Area, sponsored by the Monterey County Film Commission, Seaside/Sand City Chamber of Commerce, the City of Sand City, and Sand City Businesses/Artists. He passed out a map of the location for the mixer event. This joint event is proposed for Sand City, and would be a progressive dinner-social affair along Ortiz Avenue at several locations throughout Sand City, beginning at Hawthorne's Mixed-Use Building/Art Warehouse, continue to Morgan's Ol' Factory Café, and move to the Design Center for desserts, movies and auction of the Hollywood Cut outs. It is also planned to show a couple of classic movies along this street, however a special projector would be needed; Glastonbury, Inc. is researching the possibility of acquiring this equipment. Several artists and business owners have agreed to participate and support this event. This would be a prelude for the Film Commission's big 20<sup>th</sup> Anniversary Party on Saturday, November 3<sup>rd</sup>. It would also benefit other participating organizations by promoting public relations and attract visitors to Sand City's new urban life and to demonstrate Sand City's future. This is not intended to be a big event, and each organization will promote this event via email and invitations. Staff requests the support and participation of the City Council with a contribution of \$3,000 to help finance this joint venture.

Staff displayed the stand up figures which will be displayed at the event.

There was Council consensus in support of the contribution for the October 3, 2007 joint mixer.

- F. As mentioned by Mayor Pendergrass, a Special City/Redevelopment Agency

Council Meeting will be held on Thursday September 27, 2007 at 6:00 P.M. with regard to the Cal-Am Lease Agreement and the Award of the Design/Build Contract for the Desalination Plant. There were no RSVP's reported for upcoming events.

**AGENDA ITEM 9, ADJOURNMENT**

Motion to adjourn the meeting was made by Council Member Blackwelder, seconded by Council Member Morris to the next regularly scheduled meeting on October 2, 2007. There was unanimous consensus of the City Council to adjourn the meeting at 9:13 p.m.



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Connie Horca, Deputy City Clerk