

**: OFFICIAL PROCEEDINGS :****: OF THE CITY OF PEORIA, ILLINOIS :**

Council Chambers, Peoria, Illinois, July 29 2003, a Regular Meeting of the City Council was held this date at 6:16 P.M., at City Hall, Council Chambers, 419 Fulton Street, Mayor David P. Ransburg presiding.

**ROLL CALL**

Roll call showed the following Council Members present: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg – 8; Absent: Ardis, Morris, Spears - 3.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Mayor Ransburg requested a moment of silent prayer, then he led the Pledge of Allegiance.

**PROCLAMATIONS, COMMENDATIONS, ETC.**

PROCLAMATION: NATIONAL NIGHT OUT – August 5, 2003

PROCLAMATION: 21 STUDENTS FROM SISTER CITY FRIEDRICHSHAFEN, GERMANY

**MINUTES**

Council Member Nichting moved to approve the minutes of the Regular City Council and Executive Session Meetings held on July 22, 2003, as printed; seconded by Council Member Grayeb.

Approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**PETITIONS, REMONSTRANCES & COMMUNICATIONS – CITY OF PEORIA**

**CONSIDERATION OF CONSENT AGENDA ITEMS BY OMNIBUS VOTE, for the City of Peoria, with Recommendations as Outlined:**

- (03-433) **PAYMENT ESTIMATE FOR PUBLIC IMPROVEMENT PROJECT: PHASE I CONSTRUCTION FOR CHARTER OAK ROAD EXTENTION (Roadway embankment construction along Charter Oak Road and along Big Hollow Road – North, construction of a dual box culvert to carry the proposed Charter Oak Road roadway extension over a Big Hollow Creek tributary, staged construction of a two-span railroad bridge/ roadway underpass carrying the existing UPRR dual mainline trackage over the proposed Charter Oak Road roadway extension.) FREESEN, INC. – PAY ESTIMATE #11: \$573,252.11; TOTAL AUTHORIZATION APPROVED: \$573,252.11. (For Information Only)**
- (03-434) **PAYMENT ESTIMATE FOR PUBLIC IMPROVEMENT PROJECTS: KNOXVILLE AVENUE – MT. HAWLEY CONNECTOR ROAD (Construction of a new street between Knoxville Ave. and Mt. Hawley Rd. opposite the relocation of Country Meadows Lane and a church entrance. Included is the widening of the N.B. right turn lane at Northgate and construction of a directional median, the removal of a median north of Teton Dr., p.c.c. widening, bituminous base course, storm sewers, earthwork, traffic signals, bituminous resurfacing & other misc. work.) R.A. CULLINAN & SON, INC. – PAY ESTIMATE #5: \$252,402.89; TOTAL AUTHORIZATION APPROVED: \$252,402.89. (For Information Only)**

- (03-435) **PAYMENT ESTIMATE FOR PUBLIC IMPROVEMENT PROJECTS: US ROUTE 150 BRIDGE OVER ILLINOIS ROUTE 6 (Widening of existing structure, addition of drainage scuppers, embankment, formed concrete repairs, epoxy crack sealing and microsilica overlay.) OTTO BAUM COMPANY, INC. – PAY ESTIMATE #10 & FINAL: \$21,303.01; TOTAL AUTHORIZATION APPROVED: \$21,303.01. (For Information Only)**
- (03-436) **Communication from Director of Economic Development Requesting Approval of the 2003 CONTRACTUAL AGREEMENT Between the CITY OF PEORIA and ILLINOIS BUSINESS FINANCIAL SERVICES, in the Amount of \$24,250.00.**  
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- (03-437) **Communication from Director of Public Works Requesting Approval of ADDENDUM NO. 2 to the AGREEMENT with AmerenCILCO to PURCHASE REAL ESTATE for the KELLER BRANCH RAILROAD CONNECTION PROJECT, and Requesting Authorization for the Interim City Manager to Execute the Necessary Documents**
- (03-438) **Communication from Mayor David P. Ransburg Recommending Approval of a RESOLUTION NO. 03-438 Amending Resolution No. 98-032 Pertaining to the WORKFORCE DEVELOPMENT BOARD Changing the Terms of the Board from One Year to Three Years.**
- (03-439) **Communication from Interim Director of Planning and Growth Management Recommending Adoption of an ORDINANCE Approving an AMENDMENT to the FINAL PLAN of KNOXVILLE POINTE PHASE III, a Multi-Family Residential Development Located East of Northtrail Meadows Subdivision and West of Knoxville Avenue, Along the South Side of Hickory Grove Road. (Amends Ordinance No. 15,397)**  
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- (03-440) **Communication from Mayor David P. Ransburg Recommending Concurrence in the APPOINTMENT to the GIS TECHNICAL COMMITTEE:**

**Patricia S. Landes**

(03-441) **REPORTS:**

**A. CITY TREASURER'S REPORT – June, 2003.**

Council Member Nichting moved to approve the Consent Agenda items as outlined in the Council communications; seconded by Council Member Grayeb.

Council Member Nichting requested Item No. 03-439 be removed from the Consent Agenda for further discussion.

Council Member Gulley requested Item No. 03-436 be removed from the Consent Agenda for further discussion.

Item Nos. 03-433 through 03-441 (excluding Item No. 03-436 and 03-439 which were removed from the Consent Agenda for further discussion) were approved by roll call vote under the Omnibus Vote Designation.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-436)      Communication from Director of Economic Development Requesting Approval of  
\*              the 2003 CONTRACTUAL AGREEMENT Between the CITY OF PEORIA and  
                 ILLINOIS BUSINESS FINANCIAL SERVICES, in the Amount of \$24,250.00.**

Council Member Gulley moved to approve the 2003 Contractual Agreement between the City of Peoria and Illinois Business Financial Service, as amended, in the amount of \$34,250.00; seconded by Council Member Turner.

Council Member Sandberg questioned if a revenue source had been identified for the extra \$10,000.

Council Member Gulley indicated there was a variety of locations in the Budget he felt could be used, but he said he had not identified a specific area of the Budget for the \$10,000. He added that \$24,500 had already been approved in the Budget. He gave a brief history of the success of Illinois Business Financial Services and he said he felt the extra \$10,000 would be a good investment. He discussed their current out-reach efforts and the development of 350 jobs for the City of Peoria.

In further discussion with Council Member Sandberg, Interim City Manager Ewert indicated there had been no revenue source identified for the extra \$10,000.

Council Member Sandberg requested that the Council receive a copy of the quarterly reports for Illinois Business Financial Services for the last four quarters.

Motion to approve the 2003 Contractual Agreement between the City of Peoria and Illinois Business Financial Service, as amended, in the amount of \$34,250.00 was DEFEATED by roll call vote.

Yeas: Grayeb, Gulley, Thetford, Turner, Mayor Ransburg - 5;

Nays: Nichting, Sandberg, Teplitz - 3.

Clerk's Note: The motion needed six affirmative votes in order to successfully pass.

Motion to approve the 2003 Contractual Agreement between the City of Peoria and Illinois Business Financial Service, in the amount of \$24,250.00 was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-439)      Communication from Interim Director of Planning and Growth Management  
\*\*              Recommending Adoption of an ORDINANCE Approving an AMENDMENT to the  
                 FINAL PLAN of KNOXVILLE POINTE PHASE III, a Multi-Family Residential  
                 Development Located East of Northtrail Meadows Subdivision and West of Knoxville  
                 Avenue, Along the South Side of Hickory Grove Road. (Amends Ordinance No.  
                 15,397)**

Council Member Nichting moved to defer this item for two weeks until the August 12, 2003, Regular City Council Meeting; seconded by Council Member Turner.

Motion to defer this item until August 12, 2003, was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-442)      PRESENTATION by MR. TERRY KOHLBUSS of the TRI-COUNTY REGIONAL  
                 PLANNING COMMISSION Regarding ASPECTS of the PROPOSED WATER  
                 COMPANY ACQUISITION, with Recommendation to Receive and File.**

Hearing no objections, Mayor Ransburg granted Privilege of the Floor to Mr. Terry Kohlbuss.

Mr. Terry Kohlbus discussed the Water Company Purchase Investigation which included the terms of the PAAG Agreement, financing the purchase through revenue bonds and the financing team that was in place. He further discussed the Peoria Area Advancement Group (PAAG) and their role in the purchase. He explained why it was felt that if the City purchased the Water Company there would be a surplus. He said the City would decide whether or not to purchase the Water Company based on the purchase price, bond interest rate, operation and maintenance costs, system growth rate, rate increase, capital improvements, reserves, interest on reserves, and cost of living increases. He said a contract operator would operate the system who was a professional firm that operated water systems and there would be a process to determine the best operator for the system. He explained why it was felt that the Greater Peoria Sanitary District should have a role either in billing or other services. He ended by saying there were other decisions that needed to be made that regarded governance, relationships with surrounding communities, rate policy, water main extension policy and the length of the initial operations contract.

In discussion with Council Member Nichting, Corporation Counsel Randy Ray indicated that the PAAG Agreement called for a 26 year bond.

Council Member Sandberg moved to receive and file the presentation; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-443) Communication from Corporation Counsel Recommending Approval of AmerenCILCO ELECTRIC SERVICE AGREEMENT Pertaining to Lighting the MURRAY BAKER BRIDGE and Requesting Authorization for the Interim City Manager to Execute the Necessary Documents.**

Council Member Teplitz moved to approve the AmerenCILCO Electric Service Agreement pertaining to lighting the Murray Baker Bridge and authorize the Interim City Manager to execute the necessary documents; seconded by Council Member Turner.

Council Member Teplitz moved to grant Privilege of the Floor to those who wished to address this issue; seconded by Council Member Turner.

Ms. Joyce Blumenshine, 120 W. Arcadia, representing the Heart of Illinois Sierra Club Board, spoke in support of preserving the environment for families and the future. She urged the Council to vote against the agreement because she felt the lighting would add pollution to the night sky and would interfere with bird migration and would add more use of energy. She said it was felt that AmerenCILCO could use the funds for other needs such as planting trees or for doing other environmental good.

Mr. Tom Edwards, 1207 N. Peoria, distributed a copy of a letter to all members of the Council and he expressed concern that the number of lights on the bridge would be doubled and the cost would be paid by the taxpayers. He said he felt AmerenCILCO could use these funds to improve their service and lower their rates. He requested that AmerenCILCO provide the City with an annual report on its advances or regressions in stemming air pollution, and he further suggested that they help in energy conservation and to find ways to lighten its negative impact on City trees. He also suggested that the Council adopt a rule that such matters as this must be held in abeyance until the following meeting for final approval for more reflection and public input.

Council Member Thetford said these lights were a gift from AmerenCILCO and the agreement would be in effect for five years. She said thereafter, the agreement would be continued on a year-to-year basis, unless there was a written notice to terminate.

In discussion, it was pointed out that the City would be responsible for relamping.

Council Member Sandberg thanked AmerenCILCO for the offer of this gift, but he said he felt there might be a better use, such as for AmerenCILCO to supply energy costs for streetlights in neighborhoods for safety purposes. He said he felt this was unnecessary and it was a misuse of tax funds for installation and maintenance of the lights. He indicated he could not support the motion.

Motion to approve the AmerenCILCO Electric Service Agreement pertaining to lighting the Murray Baker Bridge and authorize the Interim City Manager to execute the necessary documents was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Teplitz, Thetford, Turner, Mayor Ransburg - 7;

Nays: Sandberg - 1.

**(03-444) Communication from Interim Director of Planning and Growth Management Recommending Approval of a RESOLUTION Approving the Preliminary Plan for WILLIAMSBURG OAKS TOWNHOUSES, a Multi-Family Residential Development Located NORTH of ILLINOIS ROUTE 150 (WAR MEMORIAL DRIVE) and EAST of GLOUCESTER COURT, with Conditions.**

Interim Director of Planning and Growth Management Pat Landes distributed a copy of a replacement communication and Resolution to all members of the City Council.

Council Member Nichting moved to approve the replacement Resolution approving the Preliminary Plan for Williamsburg Oaks Townhouses, a Multi-Family Residential Development Located North of Illinois Route 150 (War Memorial Drive) and East of Gloucester Court, with conditions; seconded by Council Member Turner.

RESOLUTION NO. 03-444 was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-445) Communication from Council Member Patrick Nichting Recommending Approval of a MORATORIUM ON THE ISSUANCE OF ANY ADULT USE LICENSES (SEXUALLY ORIENTED BUSINESSES) To Remain in Effect No Longer Than One Year While the City Reviews Appropriate Controls on All Adult Use Licenses to Include Location, Appropriate Liquor Licenses, Hours of Operation, Distance from Other Similar Businesses, Other Businesses, Residential Zoned Property, Schools, Churches, Day Care Centers and Other Appropriate Control Issues.**

Corporation Counsel Randy Ray distributed a communication and an Ordinance declaring a Moratorium on the Issuance of Adult Business Licenses to all members of the City Council.

Council Member Nichting moved to grant Privilege of the Floor to those who wished to address this issue; seconded by Council Member Turner.

Hearing no objections, Mayor Ransburg granted Privilege of the Floor to those who wished to address this issue.

Ms. Sandra Fritz, 2449 W. Imperial Drive, distributed a letter to the Council and a binder regarding Sexually Oriented Business Land Use Studies to all members of the Council. She spoke in support of the regulation of sexually oriented businesses. She said she realized these establishments had the right to exist but not to break the law. She urged the Council to adopt the strongest Ordinances possible allowed by law and the group would want them enacted and enforced. She urged the Council to support a moratorium. She presented the Clerk with Petitions bearing 483 signatures supporting ordinances to be written and enforced regarding sexually oriented businesses, escort and escort services, massage establishments and practitioners.

Council Member Nichting moved to accept the Petitions bearing 483 signatures supporting ordinances to be written and enforced regarding sexually oriented businesses, escort and escort services, massage establishments and practitioners into the permanent record; seconded by Council Member Grayeb.

No objections were heard.

Mr. Merl Widmer, 612 W. Collingwood Circle, stated this was an opportunity for the City and the County to work together regarding laws regulating adult use businesses. He said laws should be upheld and he wanted the community to grow and be healthy. He said the County Board had a great concern for the inner-City and to have better planned growth within the City's boundaries.

Mrs. C. J. Hughes, 200 N. Dearborn, Suite 2606, Chicago, Attorney representing Dave Remington and Scott Wood in their efforts to obtain an adult use license for their bar and restaurant on north University in Peoria, he said he felt there were two items on the Council Agenda that were solely directed to his clients and were unconstitutional. He said there were some direct comments made by the Council Members which were direct evidence of the unconstitutional intent of the proposed legislation. He said his clients currently had an application on file and had been in the application process for a considerable length of time. He said his client would gladly exchange their current Class B for a Class A license but, if they had to reapply only to have it denied, it would cause a legal problem. He said the proposed Club would be good for the economy and would improve the tax base in an area where several businesses had been vacant. He urged the Council to proceed with caution because City government should not expose taxpayers to the expense of needless litigation.

In discussion with Council Member Turner regarding possible litigation on the proposed moratorium, Corporation Counsel Randy Ray said the moratorium approach was not recommended. He said, if the Council still wished to establish a moratorium, he recommended the shortest time period possible. He said a study of this situation could occur in 60 to 90 days. He added a moratorium could be established and certain applications could be exempt, which would be a decision to be made by the Council, or it could be a moratorium for all.

Discussion was held regarding the adult use application for North University and it was determined that this applicant had applied at least five times prior to the application filed on July 25<sup>th</sup>. It was pointed out by Council Member Nichting that the request for a moratorium was made on the same day that the application was made, and the application would have to go through the approval process so there was no guarantee the application would be approved.

Council Member Nichting moved to defer this item for two weeks until the August 12, 2003, Regular City Council Meeting. No second was heard.

Council Member Nichting moved to adopt the Ordinance declaring a sixty-day moratorium on the issuance of Adult Business Licenses; seconded by Council Member Thetford.

Council Member Sandberg said he had performed professional work at the applicant's location on North University, and he had been contacted by the current owners and operators that if a license was granted, he would be considered for additional architectural design services. He said, based on that expectation of future work, he brought it to the attention of the Corporation Counsel, and it was ruled that he could speak on this issue.

Council Member Sandberg expressed concern regarding any moratorium. He said he would not be supporting the concept of a moratorium because he felt it was the wrong concept. He said there were laws and if those needed to be addressed, then change the laws, but he did not support a moratorium for any length of time.

Council Member Thetford stated she did not agree with the ruling that Council Member Sandberg should be allowed to speak to this issue because she felt it was a conflict of interest.

Council Member Grayeb expressed concern regarding possible litigation directed toward the City of Peoria. He suggested that the Council go into Executive Session regarding this issue. He said he did not know there was a possible lawsuit pending until he read Mr. Hughes' letter.

Following further discussion with Council Member Grayeb, Corporation Counsel Randy Ray said there was still a process in place to deal with adult use applications.

Motion to adopt the Ordinance declaring a sixty-day moratorium on the issuance of Adult Business Licenses was DEFEATED by roll call vote.

Yeas: Nichting, Thetford, Turner, Mayor Ransburg - 4;

Nays: Grayeb, Gulley, Sandberg, Teplitz - 4

Clerk's Note: The motion needed six affirmative votes in order to successfully pass.

### UNFINISHED BUSINESS

**(03-415) Communication from Corporation Counsel Recommending Adoption of an ORDINANCE Amending CHAPTER 18 of the Code of the City of Peoria Relating to ADULT BUSINESSES, and with Recommendation to Receive and File the REPORT BACK.**

Following a brief explanation, Council Member Teplitz moved to adopt the Ordinance amending Chapter 18 of the Code of the City of Peoria relating to Adult Businesses, and receive and file the report back; seconded by Council Member Nichting.

In discussion with Council Member Teplitz, Corporation Counsel Randy Ray explained the proposed Ordinance would require any adult oriented business who wished to have a liquor license to have a Class A liquor license, which would prevent people under the age of 21 from patronizing the establishment. He said it would also face the reality of the situation that such an establishment would be extremely unlikely to meet the requirements for a restaurant liquor license. He said it had been indicated by the one adult cabaret license in the City, which had a kitchen and served food, that the establishment did not meet the Class B or Class B-1 liquor license requirements. He said, it was his opinion, it was reasonable that the City of Peoria could require a Class A license for those wishing to sell liquor.

Council Member Thetford expressed concern that the proposed Ordinance was not really helpful in this situation, in her opinion. She said she did not see any further protection than already existed in current Ordinances.

Corporation Counsel Randy Ray further explained an applicant would have to follow both the processes for an adult use permit and a liquor license from beginning to end. He said it would not allow an applicant with a restaurant license to suddenly become a cabaret.

Council Member Nichting said there was the problematic situation of having a license which allowed underage people into an establishment and also having an adult use license. He added he felt this was a conflict in itself and this was the purpose of seeking the resolution for the Class A.

Motion to adopt the Ordinance amending Chapter 18 of the Code of the City of Peoria relating to Adult Businesses, and receive and file the report back was DEFEATED by roll call vote.

Yeas: Grayeb, Nichting, Teplitz, Mayor Ransburg - 4;

Nays: Gulley, Sandberg, Thetford, Turner - 4.

Clerk's Note: The motion needed six affirmative votes in order to successfully pass.

**(03-393) Communication from Interim Director of Planning and Growth Management Recommending DEFERRAL OF THE FOLLOWING UNTIL THE AUGUST 12, 2003, REGULAR CITY COUNCIL MEETING:**

- B. ORDINANCE ANNEXING Territory Contiguous to the City of Peoria – Approximate Address of 7800 NORTH ROUTE 91, Immediately South of a Five-Acre Parcel Previously Annexed;**
- C. ORDINANCE Rezoning a 15-ACRE SHOPPING CENTER for the Property Located at the NORTHEAST CORNER of the INTERSECTION of ROUTE 91 and WAR MEMORIAL DRIVE from the Present Class A-2 (Agriculture) District in the County to a Class C-2 (Large Scale Commercial) District and Granting a SPECIAL USE.**

Council Member Nichting moved to defer these items until the August 12, 2003, Regular City Council Meeting; seconded by Council Member Grayeb.

Motion to defer these items until August 12, 2003, was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-412) Communication from Interim Director of Planning and Growth Management with Recommendation from the Zoning Commission to APPROVE and Recommendation from City Staff to DENY Adoption of an ORDINANCE Rezoning Property at 2610 N. KNOXVILLE AVENUE from the Present Class O-1 (Arterial Office) District to a Class R-4 (Single Family Residential) District and Granting a SPECIAL USE for a DAY CARE CENTER.**

Council Member Thetford moved to Table this item; seconded by Council Member Nichting.

Motion to Table was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

**(03-413) Communication from Interim Director of Planning and Growth Management with Recommendation from the Zoning Commission to APPROVE and Recommendation from City Staff to DENY Adoption of an ORDINANCE Rezoning Property Located at 3312 N. UNIVERSITY AVENUE, from the Present Class R-3 (Single Family Residential) District to a Class C-1 (General Commercial) District and Class P-1 (Parking) District.**

Council Member Sandberg said he would be abstaining from the vote due to a professional relationship with the Petitioner.

Council Member Teplitz moved to concur with the Zoning Commission to adopt the Ordinance rezoning property located at 3312 N. University Avenue from the Present Class R-3 (Single Family Residential) District to a Class C-1 (General Commercial) District and Class P-1 (Parking) District; seconded by Council Member Turner.

ORDINANCE NO. 15,505 was approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Teplitz, Thetford, Turner, Mayor Ransburg - 7;

Nays: None;

Abstention: Sandberg – 1.



NEW BUSINESSREMINDER of NATIONAL NIGHT OUT AGAINST CRIME – AUGUST 5, 2003

Council Member Thetford reminded citizens that the Council Meeting was canceled for Tuesday, August 5, 2003, so the Council could attend National Night Out Against Crime events in neighborhoods. She encouraged citizens to attend events in their neighborhoods.

CITIZEN REQUESTS TO ADDRESS THE COUNCIL

No citizen came forward to address the Council.

EXECUTIVE SESSION

**(03-446) Consideration of a Motion for the City Council to go into EXECUTIVE SESSION to Discuss 2(c)(11) Litigation, when an action against, affecting, or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that such an action is probable or imminent.**

Council Member Thetford moved that the City Council go into Executive Session to Discuss 2(c)(11) Litigation, when an action against, affecting, or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that such an action is probable or imminent; seconded by Council Member Turner.

Approved by roll call vote.

Yeas: Grayeb, Gulley, Nichting, Sandberg, Teplitz, Thetford, Turner, Mayor Ransburg - 8;

Nays: None.

ADJOURNMENT

Council Member Thetford moved to adjourn the Council Meeting; seconded by Council Member Turner.

Approved by viva voce vote.

The Council Meeting adjourned at 8:12 P.M.

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Mary L. Haynes, MMC  
City Clerk of Peoria, Illinois

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